

National Heavy Vehicle Regulator

Approved Guidelines for Granting Access

Version 1.1
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This Approved Guideline has been approved by the responsible Ministers under sections 653(1)(c), 653(1)(d), and 653(1)(j) of the *Heavy Vehicle National Law* as in force in each state and territory (HVNL).

Sections 118(2), 124(2), 139(2), and 145(2) of the HVNL and sections 13(2) and 22(2) of the *Heavy Vehicle (Mass, Dimension and Loading) National Regulation* provide that the National Heavy Vehicle Regulator must have regard to the approved guidelines in deciding whether to grant a mass or dimension authority, make a HML declaration or grant a HML permit.

Section 156(4) of the HVNL provides that road managers must have regard to the approved guidelines in deciding whether or not to give consent to the grant of a mass or dimension authority.

This approved guideline has also been approved for the purpose of paragraph (a)(ii) of the definition of 'road condition' in section 154, sections 156(3)(a)(ii), 163(1), 174(1), 178(1) of the HVNL, and sections 18(1) and 31(1) of the *Heavy Vehicle (Mass, Dimension and Loading) National Regulations*.

To avoid doubt, it is expressly stated that this approved guideline has not been approved for the purpose of granting PBS design approvals and PBS vehicle approvals.

Unless otherwise stated, words and expressions used in this Approved Guideline have the same meanings as in the HVNL or regulations made under the HVNL. The Dictionary also defines expressions used in this Approved Guideline.

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1 Introduction

These guidelines have been developed for the purpose of providing guidance and clarity on aspects of heavy vehicle access decision making under the *Heavy Vehicle National Law* as in force in each state or territory (HVNL).

Section 653 of the HVNL allows the Responsible Ministers to approve guidelines about granting mass or dimension authorities. Both the National Heavy Vehicle Regulator (NHVR) established under section 656 of the HVNL, road authorities and road managers as defined in the HVNL must have regard to any guidelines approved by Responsible Ministers when making access decisions.

The HVNL provides that certain types of heavy vehicle, despite being registered and compliant with HVNL and other legal requirements, may only be used on a public road if the operator has been granted a mass or dimension authority from the NHVR. These heavy vehicles are subject to restrictions to ensure their use does not endanger public safety and to minimise any adverse impact on road infrastructure and public amenity.

These guidelines address three classes of heavy vehicles.

1. Class 1 heavy vehicles: vehicles such as oversize or overmass (OSOM) vehicles, agricultural vehicles and trailers, and vehicles with the ability to carry a large indivisible item (e.g. low-loaders), that exceed prescribed mass or dimension requirements. Also includes special purpose vehicles (SPV) such as mobile cranes.
2. Class 2 heavy vehicles: B-doubles, road trains, long buses (controlled access buses), and high livestock and vehicle carriers that do not exceed prescribed mass and dimension requirements. Also includes Performance Based Standards (PBS) vehicles.
3. Class 3 heavy vehicles: vehicles that exceed prescribed mass or dimension requirements and are not Class 1 heavy vehicles, such as larger truck and dog trailer combinations and B-doubles or road trains that exceed prescribed mass or dimension requirements.

Vehicles that operate under higher mass limits (HML) or concessional mass limits (CML) are, under the HVNL, operating within prescribed mass requirements. For example, a B-double operating under HML is a Class 2 heavy vehicle unless it exceeds another prescribed mass requirement or dimension requirement.

The NHVR may grant a mass or dimension authority and it is responsible for issuing the mass or dimension authority that permits the use of a restricted access vehicle. A road manager cannot grant a mass or dimension authority under the HVNL. Instead the road manager has the role of deciding whether it will consent to a grant of a mass or dimension authority and when that mass or dimension authority will apply to roads for which the road manager is responsible. Road managers can attach travel and road conditions to a grant of consent, and request that vehicle conditions be attached. Before an authority is issued, it must:

- 1) obtain a decision from all relevant road managers
- 2) satisfy itself that use of the vehicle would not pose a significant risk to public safety.

The HVNL is not intended to prohibit the use of restricted access vehicles but to facilitate the use of such vehicles provided that public safety, road infrastructure and public amenity are not adversely affected. The broad philosophy underpinning these guidelines is the encouragement of innovation, productivity and efficiency in the road transport sector, whilst having utmost regard to public safety and minimising the impact of restricted access vehicles on road infrastructure and public amenity.

2 Summary

These guidelines cover the following matters:

- 1) the roles and responsibilities of the NHVR, road authorities and road managers
- 2) guiding principles on access decision making
- 3) guidance on public safety
- 4) guidance on efficiency and productivity
- 5) guidance on public amenity
- 6) guidance on the imposition of vehicle, road and travel conditions to allow access to public roads
- 7) guidance on using conditions to manage risks
- 8) guidance on the process to follow when an access decision is being made under the HVNL
- 9) route assessments.

It is also expected that these guidelines will be used by industry and other persons interested in the access decision making process to understand how and why access decisions are made. The degree to which the NHVR and/or road managers have had regard to these guidelines may be taken into account in reviews or appeals against an access decision under the HVNL.

This document will be subject to review and users of these guidelines are encouraged to provide feedback to the NHVR about any matters that they believe should be included in future versions of the guidelines.

Feedback may be provided to the NHVR by contacting:

Freight and Supply Chain Productivity

National Heavy Vehicle Regulator

PO Box 492

Fortitude Valley QLD 4006

Telephone: *1300 MYNHVR (1300 696 487)*

Email: info@nhvr.gov.au

3 Roles and Responsibilities

Previous state and territory road transport legislation dealing with restricted access vehicles, now replaced by the HVNL, did not always distinguish between the roles and responsibilities of the regulator of heavy vehicles and the road manager.

In practice the regulator, which was usually the road authority responsible for major roads in each state and territory, would engage in different levels of consultation with road managers about allowing restricted access vehicles use of their roads. Road transport legislation did not, however, recognise a specific role for the road manager.

With the commencement of the HVNL the respective roles and responsibilities of the NHVR, the road authority and the road manager are defined. This section of the guidelines explains the roles

and responsibilities of these agencies. [Appendix A](#) contains a high-level conceptual flowchart of the process for applying for an access permit and the roles of various entities.

3.1 Regulator

It is the role of the NHVR to consider requests for access and make the final decision to grant a mass or dimension authority. The NHVR is also responsible for deciding whether vehicle conditions will be included in a mass or dimension authority. This responsibility is consistent with the statutory role of the NHVR to ensure that heavy vehicles comply with the heavy vehicle standards or are safely exempted from these standards.

The NHVR may decide not to grant a mass or dimension authority despite relevant road managers consenting to grant access. If the NHVR is not satisfied that the restricted access vehicle can be used safely then it should not grant a mass or dimension authority. The road manager does not have the power to overrule the NHVR and allow a restricted access vehicle to use its roads.

It is expected that the need for the NHVR to refuse to grant a mass or dimension authority despite road managers consenting to the grant will be rare as it is not expected that a road manager would want to allow a restricted access vehicle to operate in a manner that endangers public safety or road infrastructure.

Although still expected to be rare, it is more likely that the NHVR may grant a mass or dimension authority subject to conditions that may not be requested or supported by road managers (noting that road manager consent will still be required in order for the NHVR to grant the authority). In this scenario, the NHVR is expected to ensure that public safety is not endangered and impose conditions to ensure public safety.

The NHVR is the first point of contact for operators for all heavy vehicle enquiries and access applications. The NHVR is responsible for contacting road managers for access consent and responsible for notifying operators on the status and outcome of their consent application. While the NHVR can issue a mass or dimension authority, the HVNL does not prevent operators and road managers from having direct contact with each other if they wish to do so.

3.2 Road Authorities

In each state and territory there is one road authority. The identity of the road authority will be declared in the application law of each state or territory. In practice, this is the road or transport department or the agency in each state or territory that is responsible for freeways, highways and other arterial roads as well as responsible for transport regulation in general. The road authority will also be a road manager for at least some roads in a state or territory.

Under the HVNL, the road authority has the power to overrule the decisions of road managers in some situations through a request from the NHVR. A road authority can only overrule a decision of a road manager that is a public authority, and is not itself a road authority. The road authority is also responsible for the major road network in each state and territory and therefore will likely be a relevant road manager for many applications for restricted access vehicle access.

3.3 Road Managers

Road managers are declared in the application laws of each state or territory and include road authorities, local governments and usually some other road owners.

The road manager is responsible for deciding whether to consent to the use of restricted access vehicles on its roads and may, when consenting, require that travel conditions and road conditions be included in a mass or dimension authority.

The previous road transport legislation in each state or territory replaced by the HVNL allowed the operation of restricted access vehicles on public roads. The operation of restricted access vehicles was allowed by giving the Minister, transport department or roads agency the power to issue notices and permits.

The HVNL gives the NHVR, road authorities and road managers a significant input into the access decision process for restricted access vehicles. With this power comes responsibility to ensure that such decisions are made according to the law, comply with procedural fairness principles, and with due consideration of the interests of not only the community and road users but also the restricted access vehicle operators and their customers. Further guidance on due process is provided later in this section.

3.3.1 *Consenting to Access*

The HVNL provides that a road manager may decide not to give consent if satisfied that the mass or dimension authority will, or is likely to:

- a) cause damage to road infrastructure; or
- b) impose adverse effects on the community from noise, emissions or traffic congestion; or
- c) pose significant risks to public safety arising from heavy vehicle use that is incompatible with road infrastructure or traffic conditions.

However, before deciding not to give consent the road manager must satisfy itself that it is not possible to grant access subject to road or travel conditions that will avoid or significantly mitigate these relevant risks.

It is the responsibility of the road manager to determine if the use of restricted access vehicles will cause damage to road infrastructure or have adverse impacts on the community (amenity). The road manager is also responsible for determining whether the restricted access vehicle can be used safely on its road network.

The responsibility of the road manager for providing a decision on consent applies to both access granted by mass and dimension authorities.

3.4 **Third Party Entities**

Third party entities that may need to consent, or at least be consulted with, may be different in the states and territories but usually will include the following:

- a) police – especially with respect to the movement of vehicles which exceed dimension requirements due to the potential risks to other road users and possible need for police assistance to control traffic
- b) rail infrastructure managers – the movement of oversize heavy vehicles across level crossings or restricted access vehicles near rail infrastructure may create risks that need to be managed
- c) utilities – restricted access vehicles may have adverse effects on utilities' infrastructure with over height vehicles and telecommunications/power lines being a common concern

- d) private road owners allowing public access – toll roads, ports, airports, hospitals and private estates are potential examples where those road owners, who may not be road managers for the purpose of the HVNL, also need to grant consent to the use of restricted access vehicles
- e) forestry agencies – roads owned by governmental agencies can possess different characteristics that may pose risks not found on typical roads and if the government agency is not a road manager for the purpose of the HVNL may require special consideration to manage risks arising from the use of restricted access vehicles on these roads.

Some road managers will consult with entities in some situations. Those road managers will have existing and ongoing relationships with these entities for other road management activities such as strategic network planning and may take active steps to ensure that the legitimate interests of these entities are taken into account in assessing the risks of damage to road infrastructure, adverse effects on the community and risks to public safety. This should include notifying the NHVR of an entity that may be affected by the application for access and may also include liaising directly with the entity.

Road managers should also be mindful of their obligations with respect to interface agreements with rail infrastructure manager under the Rail Safety National Law as in force in each state or territory or other rail safety legislation.

3.5 Regulator and Road Managers

Both the NHVR and road managers must have regard to their respective roles and responsibilities as explained in these guidelines when making a decision about access. The NHVR must respect the role of the road manager in having the final say, subject to the requirements of the HVNL, about consenting to grants of access and determining whether it is safe for a particular configuration of restricted access vehicle to use their roads.

The road manager must respect the role of the NHVR to make decisions about the vehicle conditions and decide whether it is safe for a restricted access vehicle to be used on roads in general.

An important role of the NHVR is to provide assistance to road managers in making access decisions. Where assistance is necessary, road managers are encouraged to engage with the NHVR to determine how it can assist in making an access decision. The HVNL does not allow for road managers to refuse to consent to a grant of access on the grounds of a lack of resources.

It is recognised that some road authorities, which are also road managers in their own right, may have a capacity to assist other road managers in making an access decision. Such a road authority may decide to provide further assistance to road managers in order to facilitate safe, efficient and appropriate access to state and territory road networks.

3.5.1 Due Process

The HVNL and administrative law principles provide that decisions by both the NHVR and road managers must:

- a) be made by the responsible agency or its delegate and not at the direction of an outside body;
- b) consider the relevant matters specified by the HVNL for each decision – for example the NHVR must decide whether a proposed access decision would pose a significant risk to public safety when making an access decision;

- c) be made without consideration of irrelevant factors – for example a road manager could not decide to deny access after consideration of only the general level of community dissatisfaction about the use of heavy vehicles on roads. Specific aspects of the dissatisfaction, as specified by the HVNL, would need to be cited;
- d) be made in the times required by the HVNL; and
- e) be justified with reasons (in some cases), including relevant evidence, being provided in writing.

Both the NHVR and road managers may develop policies, business rules and similar materials to assist its decisions makers when making access decisions. These documents must however be consistent with the HVNL and particularly with respect to the grounds for deciding not to consent to a grant of access and for deciding to request the imposition of conditions. For a decision under review, the NHVR and road managers must also give applicants for access particulars of any concerns or issues identified by decision makers under the HVNL, and give them the opportunity to respond and be heard.

Decisions made by the NHVR are subject to external review on the merits by a Tribunal or Court. Decisions made by a road manager are subject to internal review on the merits and must be made by a person who is not the original decision maker, and who is of equal or a more senior position within the organisation.

4 Guiding Principles for Access Decisions

There are a number of high-level guiding principles that should be considered by the NHVR, road authorities and road managers when making access decisions. These principles are embodiments and extensions of the objects of the HVNL, those being promotion of public safety, management of infrastructure, environment and public amenity, and promotion of industry productivity and efficiency.

These principles are as follows:

- 1) issue notices rather than permits
- 2) try to minimise the number of notices by grouping like things
- 3) promote vehicles offering higher productivity
- 4) routes are appropriate for vehicle
- 5) consider route and network-wide benefits
- 6) use template conditions on notices and permits
- 7) pro-active approach to managing access.

4.1 Issue notices over period permits over single trip permits

The HVNL does not specify when access should be granted by way of a notice or a permit. Promotion of efficiency and productivity is an object of the HVNL, and a particular efficiency gain sought by the NHVR is reducing the administrative burden on business. Therefore the streamlining of the access decision making process is vital.

When deciding whether access should be granted, the first consideration should be to either expand the routes under an existing notice, or issue a new notice. The issue of a period permit should be the next, with the use of single trip permits generally restricted to situations where the nature of the load or trip is not likely to be replicated by subsequent trips, or it can be established that a significant risk to public safety or road infrastructure would exist if allowing access for restricted access vehicles beyond a limited number of vehicles/trips or a period of time.

It is recognised that there will be many factors affecting the decision to provide access under a notice or a permit, and in particular public safety should not be compromised in order to allow a broader level of access.

Where possible, the NHVR and road managers should use route assessments conducted for the purposes of a road manager consenting to a grant of access as an opportunity to extend a relevant existing network under a notice.

If a significant number of permits are being issued for similar vehicles on a set of routes or networks, the NHVR and road managers should consider creating a notice to service access under a more efficient regime. Similarly, for routes that see a significant number of single trip permits issued, consideration should be given to allowing period permits for these vehicles.

4.2 Try to minimise the number of notices by grouping like things

The HVNL allows for a restricted access vehicle to be subject to a number of notices. For example, an operator of a vehicle carrier or livestock carrier will be subject to two mass or dimension authorities (notices) if their restricted access vehicle is configured as a B-double. This is appropriate in order to simplify the content of the notices.

One objective of the HVNL is reducing the number of notices that apply to restricted access vehicles. Therefore the NHVR and road managers should ideally consider whether an existing notice should be modified to allow for a proposed grant of access rather than issuing a new notice.

If a proposed access decision can be accommodated by making minor or simple amendments to an existing notice then this option should be effected over the option of making a new notice.

This principle should be taken as complementary to the principle in the preceding section on issuing notices over permits where appropriate, and therefore does not aim to stifle the creation of new notices for a new vehicle type.

When the NHVR is deciding whether access should be granted it should seek to include the proposed access in an existing notice. The NHVR may however issue a new notice if including the proposed access will complicate the existing notice due to different conditions or changes between the configurations of the restricted access vehicles subject to the notices.

When a road manager is asked to consent to a grant of access that is related to an existing notice and it wishes to require additional travel or road conditions, it should explain why the conditions of the existing notice are inadequate to address the relevant risk it wishes to manage. This information is only required from the road manager if the NHVR advises the road manager that it may be possible to include the proposed access in an existing notice.

4.3 Promote vehicles offering higher productivity

When considering access for restricted access vehicles, initial consideration should be given to heavy vehicles offering higher productivity over other restricted access vehicles. The NHVR

recognises the impacts of emissions, traffic congestion and road wear and requires road managers to consider these matters when deciding whether it will consent to a grant of access.

As an example, if a restricted access vehicle offering higher productivity, such as a B-double, can satisfy the safety, infrastructure and other relevant requirements, a road manager should not refuse to consent to a grant of access on the sole ground that semi-trailers could do the task.

Notwithstanding safety considerations, the efficiencies and savings that can be achieved by allowing vehicles offering higher productivity to operate on the road network should be acknowledged by the NHVR and road managers.

Therefore the NHVR and road managers may take into account as the possibility that an operator of a restricted access vehicle may use other vehicles for their transport task but should be able to explain why the likely increases in traffic congestion and emissions resulting from a denial of access can be justified.

This may include an analysis or comparison of the costs of allowing access to vehicles offering higher productivity to the network against the potential lost benefits. This may include considerations of safety, infrastructure, amenity, congestion, emissions, social and business implications, amongst other factors.

If however, the NHVR has concerns about the safety of the proposed vehicle configuration or operation of the vehicle and reasonably believes that the PBS process will help it assess whether the vehicle may be used safely on roads it should notify the applicant that the restricted access vehicle should be referred to the PBS scheme and may reject the application for a class 3 mass or dimension exemption. In this case, the NHVR must supply an information notice to the applicant outlining the basis of the safety concerns.

The NHVR has published more PBS information on its website at: <http://www.nhvr.gov.au/road-access/performance-based-standards>.

A PBS information pack for road managers is available at: <https://www.nhvr.gov.au/files/201810-0924-pbs-a-guide-for-road-managers.pdf>

4.4 Routes must be appropriate for the vehicle desiring travel

When considering access decisions road managers should be mindful also of network wide considerations on asset protection, public safety and public amenity. As a result, consideration of strategic transport planning issues is reasonable when making access decisions.

Where the road manager has a strategic network designed for restricted access vehicles, it is reasonable for the road manager to propose alternative routes which make use of the strategic network. A strategic plan may be grounds for a decision not to consent to a grant of access or a decision to request the imposition of conditions provided that the plan fulfils the criteria required for a decision under the HVNL. The granting of access outside of strategic networks should generally be limited to where access to origins, destinations or loading and unloading locations outside the strategic network is required, or for one-off or rare movements.

When considering a request for consent to a grant of access, a road manager must consider the following:

- where a road managers' initial assessment is that the restricted access vehicle is unsuitable or that the route is not capable of handling the transport task, the road manager must consider

whether the application of road, travel, or vehicle conditions, and the compliance monitoring of them, would allow the vehicle to undertake the required task;

- the road manager may need to undertake some sort of risk assessment or analysis to do this and if a decision is made to refuse access or apply conditions the road manager will need to document the rationale for their decision in a statement of reasons, which will be provided to the permit applicant; or
- the road manager should have regard to the historic performance of similar vehicles on the route, to the extent relevant considering changes to the route itself over time.

4.5 Consideration of the whole-of-route and whole-of-network benefits

A route may consist of many individual elements or sections of a network and cover significant distances. Where possible, a detailed assessment of each element should be undertaken to determine its capacity and appropriateness for the vehicle requesting access.

However, the overall decision for access should take into account the importance of the whole route, including the importance of that route within a wider network (e.g. connectivity issues, defined routes for restricted access vehicles). It is expected that defined routes and networks will continue to be developed. Many factors will influence these including location of industry and freight hubs, land-use planning, volumes of traffic and community considerations, and costs to maintain specific networks. The NHVR should consider providing access to a route based on the benefits of the whole network.

4.6 Use template conditions on notices and permits

The use of template conditions in mass or dimension authorities is encouraged to ensure equity, fairness and consistency for restricted access vehicle operators and to prevent them from incurring unreasonable compliance costs. It is not acceptable to require operators to comply with slightly different conditions that have the same intent or outcome.

The NHVR maintains, in consultation with road managers and other stakeholders, template conditions for the most common types of conditions imposed on vehicle access. These are grouped into sets for common vehicle types.

It is expected that when requiring a road or travel condition, or requesting a vehicle condition, road managers use template conditions unless an appropriate condition has not been developed or there are justifiable reasons for the template condition not to be used for the particular access decision.

As with all conditions imposed by a road manager, the road manager is required to give a statement of reasons for imposing conditions, including template conditions.

The NHVR maintains template conditions on the NHVR Road Manager Portal at: <http://www.service.nhvr.gov.au>.

An NHVR best practice guideline for applying conditions is available at: <https://www.nhvr.gov.au/files/201603-0316-road-managers-best-practice-guideline-for-applying-conditions.pdf>

4.7 Proactive approach for managing access

The majority of day-to-day activity in heavy vehicle access will be reacting to and managing applications. It is expected however, that the philosophy of pro-actively managing heavy vehicle access to the network will be engendered in practice.

The NHVR, road authorities and road managers should, wherever possible, pro-actively plan strategies for restricted vehicles to enable safe and efficient access to be realised. This can occur, for instance, through the analysis of access applications to identify routes and areas where a suitable network may be established and certain vehicles put under a longer duration permit or notice.

To complement the analyses, effective consultation with industry, community and other parties with a legitimate interest in heavy vehicle access should be undertaken.

A pro-active approach should also be adopted with industries and operators that are commonly involved in exceptionally large and/or heavy loads to allow insight to be gained into upcoming complex movements, early input into elements of the movement and a reduction in last minute requests.

To ensure that global best practice approaches are being utilised in policies, procedures and technology related to the regulation and management of access, the NHVR and, where possible, road authorities and road managers should actively participate in relevant research programmes (including conferences, seminars and the like) and strive to continually collate and apply the latest proven research findings, outcomes and methodologies in a manner that optimises improvements in the safe, productive and efficient movement of road-based freight.

5 Guidance on Significant Risk to Public Safety

Both the NHVR and road managers are required to consider public safety when making access decisions. This section of the guidelines provides guidance to both the NHVR and road managers about issues to consider when assessing the impact of a proposed grant of access to a restricted access vehicle.

5.1 What is a significant risk?

A risk is significant if it has a high likelihood of occurrence or will have a serious or major consequence. A risk that is unlikely to occur or will have a minor impact is not a significant risk.

With the use of heavy vehicles it is acknowledged that an accident or misuse may cause death or serious injury to a person or major damage to property (including the road network).

The size and weight of heavy vehicles often makes the consequences of accidents more serious than accidents involving other vehicles. The impact of an accident does not depend on who is responsible for, or causes, the accident.

When the NHVR or a road manager is deciding whether there is a significant risk they need to consider both the likelihood that the potential risk will occur and the consequence if the risk is realised.

A risk cannot be significant simply because it may happen. There must be a reasonable likelihood that the risk will eventuate from the use of the restricted access vehicle.

As a point for comparison, if the level of risk posed by general access vehicles is considered acceptable (that is, not significant), use of restricted access vehicles posing the same, or a lower, level of risk is not to be taken as significant.

5.2 What is public safety?

The HVNL defines public safety as being the safety of persons or property. This includes, but is not limited to, the safety of drivers and passengers of vehicles, the safety of persons such as pedestrians and people near the road-related area, and the safety of property such as vehicles, loads and property on or near the road-related area.

Public safety is about ensuring that the use of a restricted access vehicle does not cause harm to other people using the roads or to property on or near the road. All road users have a legitimate expectation that they can use the road without being put at unreasonable risk of harm by another road user.

The NHVR, road authorities and road managers should adopt the Safe Systems approach, where applicable, when considering aspects of public safety and with the aim of safe travel on the network. This approach suggests (amongst other things) that road users will make mistakes, and vehicles and road infrastructure need to be 'forgiving' of them.

5.3 National Heavy Vehicle Regulator

The HVNL requires that the NHVR must be satisfied that the restricted access vehicle will not pose a significant risk to public safety before it grants a mass or dimension authority. In particular, it is the role of the NHVR to assess the capability of the restricted access vehicle to operate as a vehicle safely.

The NHVR is also expected to consider whether the restricted access vehicle can be used safely in known traffic environments, noting that its assessment will complement the assessment done by the road manager.

Matters that the NHVR should consider include, but are not limited to, the following:

- a) size and mass of the restricted access vehicle;
- b) security of couplings;
- c) distribution of mass;
- d) dynamic stability and tracking characteristics;
- e) acceleration and braking performance;
- f) manoeuvrability;
- g) visibility to other road users;
- h) suitability of vehicle to task;
- i) type of load to be carried and how it is secured;
- j) the risk of rollover; and
- k) performance of the vehicle in different road environments.

The NHVR may consider the crash history records available about the type of restricted access vehicle or a similar vehicle. This information can be used as part of the assessment process to help

identify not only whether there are significant risks to public safety but also to identify what vehicle and other conditions could be imposed to manage these risks and allow for a grant of access if the risk can be managed.

The NHVR does not necessarily need to consider the crash history of the relevant roads as this may be undertaken by the road manager. It may consider, if possible, the crash history of the type of restricted access vehicle in similar road environments if such information is available.

5.4 Road Managers

It is the role of the road manager to assess whether the restricted access vehicle can operate safely in the environment of the roads for which it is responsible. Under the HVNL the road manager may refuse a grant of access if it is satisfied that the proposed grant will pose significant risks to public safety arising from heavy vehicle use that is incompatible with road infrastructure or traffic conditions.

Matters that the road manager should consider include, but are not limited to, the following:

- a) the vehicle's ability to interact with surrounding traffic;
- b) the vehicle's ability to interact with the infrastructure and road environment;
- c) dimensions of the road such as its width and the length of stretches of the road;
- d) location of infrastructure on or near the road pavement;
- e) usual traffic conditions of the road – such as what types of vehicles use the road;
- f) the use of properties near the road – for example does the road pass a property used by vulnerable road users such as children;
- g) sight distances for other road users;
- h) clearance zones for the road;
- i) the results of road safety assessments and audits; and
- j) whether the road is suitable for the safe transport of dangerous goods.

Road managers may consider both the crash (to be taken to include near-misses where available) history of the relevant roads and the outcomes of road safety audits, route assessments and similar reviews. This information may identify potential risks to public safety or may provide an assurance that the use of heavy vehicles on the road has not previously caused safety problems.

The road manager is entitled to consider the complete crash history of relevant roads and not just crashes involving heavy vehicles. It is expected that particular attention will be given to crashes involving heavy vehicles and, so far as is possible, crashes involving restricted access or similar vehicles. The road manager does not need to consider whether the restricted access vehicle is by itself safe. That determination will be made by the NHVR.

5.5 Use of crash history

Both road managers and the NHVR may consider crash history records, where available, in making an assessment about the potential risks to public safety resulting from the use of restricted access vehicles. However the following matters need to be taken into account when considering crash history.

1. Current and appropriate data: Only recent history should be considered, generally that within the previous five years. Older history may however be considered if the crash has circumstances that correlate or are relevant to the expected use of the restricted access vehicle.
2. Changes to the road environment: The road manager, when considering the crash history of the road, should identify whether there have been any significant changes to the road, road infrastructure or environment, or adjoining properties within recent times, generally within the previous five years.
3. Changes to the use of the road: The road manager should also consider whether there have been significant changes to the use of the relevant roads, such as material increases or decrease in traffic volumes.
4. Frequency and significance of crashes: The crash history records may not be significant due to low numbers of crashes. While single incidents should be taken into account in assessing the risk to public safety it is important that undue weight not be given to a single incident. It is possible that the causes of that single incident may not be easily replicated.

In addition, any recommendations made in available coroners findings, court judgments, independent investigations, police reports and road safety audits should be considered.

5.6 Applicant compliance history

A key purpose of the HVNL is public safety, which is the responsibility of the NVHR. The NHVR is accountable for compliance arrangements under HVNL. Where the NHVR holds a reasonable concern arising from the compliance history of an applicant, the NHVR may consider addressing this in the approval process for the application.

6 Guidance on Efficiency and Productivity

Subject to public safety and other relevant considerations, access should be granted to vehicles that can provide improvements to efficiency and productivity compared to existing arrangements. Considerations in this context can include, but are not limited to, vehicles that:

- a) reduce the number of overall trips for a freight task;
- b) reduce emissions;
- c) with respect to infrastructure deterioration (i.e. pavements, bridges and other structures);
 - i. reduce absolute or overall deterioration;
 - ii. reduce the rate of deterioration;
 - iii. 'consume' the asset at a more efficient rate for the freight being transported;
- d) reduce traffic congestion on the network;
- e) reduce trip times for users on the network; and
- f) reduce crash risk.

For a road manager to be satisfied that a proposed grant of access to a restricted access vehicle will impose adverse effects on the community, it should be able to justify the likely increase in traffic

congestion and emissions from operators being required to use less productive vehicles rather than the proposed restricted access vehicle(s).

As an example, a road manager considering an application for a B-double on a route that is currently used by semi-trailers (i.e. general access route) would consider that:

- number of overall trips would decrease (for the freight task)
- depending on the actual route, emissions per trip would likely increase slightly, however overall they would likely decrease due to the reduction of trips
- overall deterioration of pavements would likely decrease due to more efficient movement of the freight
- depending on the route and conditions, traffic congestion may decrease as congestion decreased, trip times for other road users will likely decrease
- exposure to crash risk (likelihood) will decrease with number of overall trips required. The potential severity and impact of crashes would need to be considered, which would depend on the route and other factors.

7 Guidance on public amenity

The HVNL does not explicitly require the NHVR to consider public amenity issues when deciding whether to grant access to restricted access vehicles. The requirement for the NHVR to be satisfied that the grant of access will not pose a significant risk to public safety does however require the NHVR to consider the impact of the use of the restricted access vehicle on the community when assessing whether safety may be adversely affected.

Consideration of such public amenity matters, insofar as it is allowed by the HVNL, is primarily the responsibility of road managers.

A road manager may decide not to consent to a grant of access if noise, emissions, traffic congestion or dust from use of restricted access vehicles under the proposed grant will impose adverse effects on the community and it is not possible to mitigate these effects by imposing road or travel conditions.

In all cases, consideration must be given to the relative difference between the current state and the proposed access, utilising a risk assessment where appropriate.

The NHVR and road managers must have regard to any approved guidelines or tools for assessing amenity when making an assessment.

7.1 Noise

The noise from restricted access vehicles should not be used as sole ground for refusing a single trip permit, unless the level is considered extreme and only after consideration of conditions to manage the risk of an adverse impact from noise on the community. Noise could, however, be a reason for refusing a period permit or adding a route to a notice.

If the road manager decided to not consent to a grant of access, or requests conditions to be placed on the access, it would need to demonstrate that there had been an analysis of the likely noise and that possible mechanisms for minimising noise had been considered (for example, alternate routes,

lower speed limits near built up areas, no engine brakes, time of travel restrictions, erection of noise barriers).

7.2 Emissions

Emissions from a restricted access vehicle should not be used as sole ground for refusing a single trip permit, unless the level is considered extreme and only after consideration of conditions to manage the risk of an adverse impact from emissions on the community.

For period permits, forecast traffic volumes would need to be very high and consideration also given to whether the route passes sensitive areas such as schools and other areas where the large numbers of people or people potentially more affected by emissions may use the road or adjoining areas.

If the road manager decided to not consent to a grant of access, or requests conditions to be placed on the access, it would need to demonstrate that there had been an analysis of the likely emissions and that possible mechanisms for minimising emissions had been considered.

The road manager is entitled to take into account the emission control system used for the restricted access vehicle. While it cannot compel the NHVR to impose a vehicle condition requiring a specific emissions control system, the road manager should consider the lesser impact on emissions resulting from the use of more modern emissions control systems in assessing the impact of the use of the restricted access vehicle on emissions.

7.3 Traffic congestion

When deciding whether to consent to a grant of a period permit or notice consideration may be given to the existing and forecast traffic volumes and mix of traffic.

The potential for the use of the restricted access vehicle to block traffic or otherwise cause traffic congestion due to the vehicle's size, speed of travel, or use of pilot and escort vehicles may also be considered by the road manager. However, where possible, the road manager must seek to mitigate this risk by imposing travel conditions about the time of operation of the restricted access vehicle. It may also be possible to mitigate through the use of an alternative route.

If a road manager decides not to consent to a grant of access, or requests conditions to be placed on the access, it would need to demonstrate that there had been an analysis of the likely congestion and that possible mechanisms for minimising congestion had been considered.

For example, the adverse decision statement could include information about the current traffic volumes and related information about the use of the relevant road(s).

Large one-off moves should be manageable with plenty of notice, time restrictions and transport management plans approved by road managers. Transport management plans may require detours for other traffic and police assistance.

7.4 Dust

Dust from restricted access vehicles travelling on unsealed roads should not be used as sole ground for refusing a single trip permit, unless the level is considered extreme and only after consideration of conditions to manage the risk of an adverse impact from dust on the community.

The potential for the travel on unsealed roads by the proposed restricted access vehicle to create significantly greater levels of dust than general access or other restricted access heavy vehicles may also be considered by the road manager. However, where possible, the road manager must seek to mitigate this risk by imposing conditions about the operation of the proposed restricted access vehicle. It may also be possible to mitigate through the use of an alternative route.

For period permits or the declaration of areas or routes under a notice, the forecast increased levels of dust due to travel on unsealed roads would need to be high and consideration also given to whether the route passes sensitive areas such as schools and other areas where the large numbers of people or people potentially more affected by dust may use the road or adjoining areas.

In considering the potential effects of dust, road managers should also consider the potential impacts on safety, infrastructure, noise, emissions and congestion if an operator of a restricted access vehicle was to unhitch components of that vehicle in order to travel along the route.

If the road manager decides to not consent to a grant of access, or requests conditions to be placed on the access, it would need to demonstrate that there had been an analysis of the likely dust compared to alternative heavy vehicle use on that route and that possible mechanisms for minimising dust had been considered.

8 Conditions

The HVNL introduces the concepts of vehicle, road and travel conditions. The road transport legislation that preceded the HVNL did not distinguish between different types of conditions as the one agency was responsible under the legislation for access decisions.

Under the HVNL vehicle conditions are primarily the responsibility of the NHVR while road and travel conditions are the primarily the responsibility of road managers as they have the responsibility of managing their roads and ensuring that they are maintained and available for safe use by all road users.

8.1 Road and travel conditions

Road conditions are intended to ensure that the use of a restricted access vehicle on the roads for which the road manager is responsible does not endanger road infrastructure, impose adverse effects on the community or pose significant risks to public safety. A road condition may for example require the following:

- a) the vehicle does not use particular bridges or sections of the otherwise approved route;
- b) the vehicle only carries particular loads;
- c) the vehicle is limited to a particular speed (which may be at or under the posted speed zone);
- d) the vehicle position on the road (e.g. travel in certain lanes may be restricted);
- e) the vehicle's operator participates in an intelligent access program including the requirement for certain components or equipment to be installed such as on-board mass measurement devices.

Travel conditions ensure that the movements of restricted access vehicles are undertaken at stated times or in a stated direction. A travel condition may for example require the following:

- a) the vehicle cannot travel at certain times of the day to avoid peak hour traffic conditions; or
- b) the vehicle cannot reverse into or out of a road or depot.

Road managers are limited in the kinds of road condition that may be imposed on restricted access vehicles operating under a class 2 notice (refer to Schedule 9 of the *Heavy Vehicle (Mass, Dimension and Loading) National Regulation*). Class 2 permits are not subject to these restrictions on the kinds of road conditions that may be imposed.

The reason for the distinction between a road and travel condition is to ensure that restricted access vehicles operating under a class 2 notice may be subjected to time and direction restrictions.

8.2 Vehicle conditions

Vehicle conditions are intended to ensure that the restricted access vehicle is able to operate safely on a public road. A vehicle condition may for example require that the vehicle:

- a) be configured in a certain manner;
- b) be subject to particular mass or dimension requirements;
- c) has certain components or equipment installed;
- d) be limited to a particular speed;
- e) has noise mitigation equipment fitted; or
- f) has particular safety features.

If a vehicle condition is inconsistent with the heavy vehicle standards then the NHVR may have to grant a separate exemption from heavy vehicle standards under sections 61 or 68 of the HVNL.

These vehicle conditions are the responsibility of the NHVR since it is the agency responsible for vehicle standards and ensuring that heavy vehicles are able to be safely operated. Road managers are able to request vehicle conditions, which the NHVR must consider and decide whether or not to impose them (with or without modification).

8.3 The NHVR and road or travel conditions

While the NHVR has the power to impose any type of condition on a mass or dimension authority it should usually only impose vehicle conditions. One reason for the NHVR having the power to impose road or travel conditions is to allow it the discretion to harmonise mass or dimension authorities in circumstances where a majority of road managers for a proposed access decision require such conditions but others do not.

The NHVR should only impose road or travel conditions on a mass and dimension authority of its own volition and without a requirement from at least one road manager where it is necessary to impose the condition to manage a significant risk to public safety.

The condition(s) must not contradict or negatively impact those imposed by road managers. If the NHVR decides to impose a road or travel condition without a requirement from road managers it should notify the relevant road managers of its decision and the reasons for this decision. That explanation should include an explanation about what significant risk to public safety will be addressed by the road or travel condition and how the condition will manage that risk. This explanation will also need to be in the information statement if there has been an application for a permit.

8.4 The road manager and vehicle conditions

The HVNL provides that a road manager may ask the NHVR to impose vehicle conditions and the NHVR must notify the road manager of its decision. A road manager may request that a vehicle condition be imposed to manage a relevant risk, being:

- a) potential damage to road infrastructure;
- b) adverse effects on the community arising from noise, emissions or traffic congestion; or
- c) significant risks to public safety arising from the use of the restricted access vehicle in a manner incompatible with road infrastructure or traffic conditions

The NHVR may decide to modify or not impose the vehicle condition and should only impose the vehicle condition requested by the road manager if it believes that:

- a) the condition is necessary to manage or mitigate a significant risk to public safety;
- b) the vehicle condition is necessary to manage a relevant risk identified by the road manager and that risk cannot be managed by a road or travel condition.

For example, a road manager may request that noise mitigation equipment be fitted to a restricted access vehicle to prevent noise from the use of the vehicle imposing adverse amenity impacts on the community.

If a road manager requests a vehicle condition it should provide reasons to explain to the NHVR why it believes that the condition is necessary. The explanation should include an explanation about what relevant risk will be addressed by the proposed vehicle condition and how that condition will manage that risk.

A road manager cannot impose a road condition that requires equipment to be fitted to the restricted access vehicles, except for equipment required for an intelligent access condition. This is properly the subject of a vehicle condition, which may be imposed by the NHVR at the request of a road manager.

8.5 Conditions about consultation with third parties

Third party consultation and approvals are those required with and by entities under laws other than the HVNL. An example is a requirement for the operator of an over-height heavy vehicle to receive approval from the operator of overhead electrical transmission lines. While these requirements stem from laws other than the HVNL – the HVNL makes requirements about how they must be accounted for in assessing and granting heavy vehicle access.

Third parties include:

- rail infrastructure managers – the movement of oversize heavy vehicles across level crossings or restricted access vehicles near rail infrastructure may create risks that need to be managed
- utilities – restricted access vehicles may have adverse effects on utilities' infrastructure with over height vehicles and telecommunications/power lines being a common concern
- private road owners allowing public access and who are not road managers under the HVNL – e.g. operators of toll roads, ports, airports, hospitals and private estates
- forestry agencies who are not road managers under the HVNL but who manage risks arising from the use of restricted access vehicles on forest roads.

The HVNL does not specify who must consult or request approval from a third party. Responsibility practically falls on permit applicants. Guidance is provided here for how access decision makers should account for circumstances in which third parties:

- Have been consulted by an applicant and:
 - Have granted consent
 - Have refused consent
 - Are yet to decide whether to consent or not
- Are yet to be consulted by an applicant, or that fact is unknown to decision makers

Where a third party has granted consent, that requirement can be considered met by the NHVR and relevant road manager. There may be multiple third party requirements for a given application.

Where a third party has refused consent, the NHVR and/or road manager should discontinue (refuse) the permit application.

Sometimes there are delays in a third party being consulted, or determining whether to consent to an access request. In this case, the relevant road manager may:

- refuse consent for that sole reason; or
- consent to access – leaving responsibility for compliance with third party requirements to the applicant.

Where the road manager has consented, the NHVR may issue a permit. A standard condition of the permit would be that the applicant complies with all third party requirements.

A list of known third parties known to the NHVR is published at: <https://www.nhvr.gov.au/road-access/access-management/third-parties-and-other-entities-contact-information>.

8.6 Conditions in class 2 notices

Class 2 heavy vehicles are heavy vehicles that comply with the prescribed mass and dimension requirements but need to be subject to restricted access because of their size and mass.

Only particular types of heavy vehicle can be class 2 heavy vehicles. These vehicles are now relatively common on the road network, are subject to specific provisions in the HVNL and National Regulations, and therefore should not be subject to many kinds of conditions.

For this reason, the HVNL restricts the types of road conditions that may be required by road managers when asked to consent to a grant of access (notice) for class 2 vehicles. Only road conditions of the kind prescribed in Schedule 9 of the *Heavy Vehicle (Mass, Dimension and Loading) National Regulation* can be applied to class 2 notices. As with all conditions imposed by the road manager, the road manager is required to provide a statement of reasons.

The list of allowable road conditions is published at:

<https://www.legislation.qld.gov.au/view/whole/html/inforce/current/sl-2013-0077#sch.9>

8.7 Conditions for PBS vehicles

The HVNL recognises Performance Based Standards (“PBS”) vehicles as class 2 heavy vehicles. Ideally PBS vehicles will operate under a class 2 notice but there will be circumstances where it is appropriate for a PBS vehicle to operate under a class 2 permit.

The PBS approval process includes an opportunity for each state and territory Minister to require conditions on a PBS design approval. If the Minister requires conditions the NHVR is required to include these conditions in the PBS vehicle approval and in any class 2 notice that authorises the use of the PBS vehicle.

When the NHVR is considering whether to grant access to a PBS vehicle it should ensure that it does not impose conditions that are inconsistent with the PBS design approval and any Ministers' conditions.

When a road manager is considering whether to consent to a grant of access for a PBS vehicle it should have regard to the decision of the state or territory Minister to allow the PBS design approval and any conditions required by the Minister. Road managers should not be imposing road or travel conditions on a class 2 notice authorising PBS vehicles unless there is clear evidence that the Minister's conditions do not address the relevant risks.

It is expected that the NHVR will develop a class 2 notice for the different levels of PBS vehicles to effectively declare the approved routes for these vehicles. If a class 2 notice is not applicable for a PBS vehicle, the NHVR and road managers should grant access by issuing a mass or dimension authority that uses routes that have regard to the road classifications in the Network Classification Guidelines for the PBS scheme.

PBS vehicles requiring a Tier 3 bridge assessment should only operate under permits due to the vehicle-route specific assessments required. Travel, road and vehicle conditions that will manage risk to public safety and infrastructure not already covered on the final approval may be attached to the permit.

In the case where one or more state or territory Ministers have not permitted a PBS vehicle to operate in their jurisdiction, a class 2 permit should not be issued where travel would be entirely within those jurisdictions. Alternatively, a class 2 permit may be issued with appropriate conditions to restrict travel to only those jurisdictions where Ministers have not disallowed operation. Similarly, class 2 notices for PBS vehicles should only include routes in those jurisdictions where Ministers have not disallowed operation.

8.8 Standard OSOM and SPV conditions

Schedule 8 of the *Heavy Vehicle (Mass, Dimension and Loading) National Regulation* includes standard conditions for class 1 vehicles (sometimes called oversize or overmass vehicles or OSOM vehicles, and also including special purpose vehicles (SPV)) operating under a mass or dimension exemption. These standard conditions were implemented by states and territories in road transport legislation or instruments before the commencement of the HVNL.

The HVNL provides that the standard conditions are to be imposed on a class 1 mass or dimension exemption unless the notice or permit provides otherwise. Therefore the NHVR has the discretion to not apply or modify these standard conditions. This discretion should only be exercised by the NHVR in the following circumstances:

- a) the NHVR believes that the vehicle does not pose a significant risk to public safety;
- b) the NHVR believes that a significant risk to public safety needs to be addressed; or
- c) a road manager has required that a road or travel condition be imposed on the mass or dimension exemption and that condition is inconsistent with a standard condition.

A road manager should only require a road or travel condition that is additional to or inconsistent with a standard condition when the road manager is satisfied that a standard condition is not adequate to manage a relevant risk. When providing its adverse decision statement the road manager should explain why the standard conditions were regarded by the road manager as not being adequate or relevant to address the relevant risks.

The list of standard conditions for class 1 vehicles is published at:

<https://www.legislation.qld.gov.au/view/whole/html/inforce/current/sl-2013-0077#sch.8>.

9 Using Conditions to Manage Risks

As explained in the previous section, the HVNL allows for the NHVR and road managers to impose conditions on access decisions. This allows for access to be granted despite concerns about potential risks to public safety or damage to infrastructure. It is expected that both the NHVR and road managers will consider imposing conditions on mass or dimension authorities to allow for restricted access vehicles to operate once significant risks to public safety and relevant risks have been properly managed.

9.1 Road managers need to consider using conditions

Where road managers hold concerns about providing access because of one or more relevant risks, the road manager is required by the HVNL to consider whether conditions will manage these perceived relevant risks through the application of conditions.

The HVNL imposes an obligation on road managers to consider imposing conditions to avoid or significantly minimise the impacts linked to a granting of access. It is expected that consideration be given to conditions that can be effectively complied with and enforced.

9.2 The NHVR should consider using conditions

When the NHVR has concerns about providing access the HVNL does not require it to impose conditions to manage any risks it perceives to public safety. Unlike with road managers, there is no positive obligation in the HVNL for the NHVR to consider whether to impose conditions before denying access. It is expected however that the NHVR will consider whether the imposition of vehicle conditions will manage these risks.

A decision by the NHVR to deny a grant of access because the access would pose a significant risk to public safety should be accompanied by an explanation in the information notice about why the imposition of vehicle conditions would not manage this risk. The NHVR should provide this explanation to the applicant even if road managers had also refused to consent to the access decision.

9.3 Managing the risk of road infrastructure damage

A road manager may decide not to grant consent if it is satisfied that the proposed access would cause damage to road infrastructure and it is not possible to avoid or significantly minimise this risk by road or travel conditions.

When deciding what types of road or travel condition may be appropriate the road manager could consider imposing the following types of conditions, noting that this list is not exhaustive.

- 1) A condition requiring that the restricted access vehicles only carry particular loads to ensure that only restricted access vehicles that need to use the road will operate. For example, a mass or dimension authority intended to facilitate access to an abattoir or farm property might include a condition that the load must be livestock.
- 2) A condition requiring that the restricted access vehicle not carry a load or be subject to lower mass limits when it is entering or leaving a property adjoining the road. This type of condition would mitigate the impact of restricted access vehicles by limiting the carrying of a load when necessary for the purpose of the mass or dimension authority.
- 3) A condition requiring the operator(s) of relevant restricted access vehicles to reimburse or pay the road manager for repairs to or additional maintenance of road infrastructure to mitigate the use of these vehicles.
- 4) A condition requiring the lowering of speed when crossing a structure, such as a bridge.
- 5) A condition requiring travelling in a certain lane, or even in opposing lanes (with appropriate traffic control) to avoid a certain structure (e.g. culvert) or section of pavement.

9.4 Managing adverse effects of noise, emissions, traffic and dust

A road manager may decide not to grant consent if it is satisfied that the proposed access impose adverse effects on the community arising from noise, emissions, traffic congestion or dust and it is not possible to avoid or significantly minimise this risk by road or travel conditions.

When deciding what types of road or travel condition may be appropriate the road manager could consider imposing the following types of condition, noting that this list is not exhaustive.

- 1) A condition restricting the use of engine brakes on certain roads or at certain times to prevent excessive noise adversely affecting residents.
- 2) A travel condition preventing the operation of the restricted access vehicle at certain times of the day to avoid peak hour traffic conditions and the vehicle aggravating traffic congestion or adding to emissions from other traffic.
- 3) A condition prohibiting the use of the restricted access vehicle in poor weather conditions to prevent the vehicle adding to traffic congestion.
- 4) A condition that an approved Transport Management Plan is followed during the course of the journey.

9.5 Managing incompatible vehicle use

A road manager may decide not to grant consent if they are satisfied that the proposed access would pose significant risks to public safety arising from heavy vehicle use incompatible with road infrastructure and traffic conditions and it is not possible to avoid or significantly minimise this risk by road or travel conditions.

When deciding what types of road or travel condition may be appropriate, the road manager could consider imposing the following types of condition, noting that the list is not exhaustive.

- 1) A condition requiring that the restricted access vehicle be accompanied by a pilot or escort vehicle during a trip.

- 2) A condition that the restricted access vehicle has its headlights turned on at all times to increase its visibility to other road users.
- 3) A condition requiring the operator of the restricted access vehicle to consult with other entities, such as telecommunications providers, before undertaking a trip to ensure that infrastructure will not be damaged.

The use of the most appropriate vehicle for the task should also be considered. The NHVR should not issue a permit for a class 1 vehicle to transport an indivisible load if the load can be transported on another regulatory vehicle combination without the need for an exemption.

10 Guidance on Process

The operators of restricted access vehicles and the public have an expectation that access decisions will be made in a timely and efficient manner with careful assessment of the matters required by the HVNL and these Guidelines to be considered when such decisions are made. *Appendix A* contains a high-level conceptual flow-chart of the process for an application for access.

10.1 Interaction with other legal requirements

A restricted access vehicle that is operating under a mass or dimension authority is subject to other requirements of the HVNL, including the requirement to comply with the heavy vehicle standards unless otherwise exempted.

A restricted access vehicle must also be registered or exempted from the requirement to be registered. Until Chapter 2 of the HVNL commences and the national heavy vehicle registration scheme becomes operational, restricted access vehicles, like all other heavy vehicles, must be registered with the state or territory registration authority where the vehicle is garaged.

In the interests of ensuring processes are in place to facilitate vehicle safety, the NHVR should ensure that the restricted access vehicle is registered, or exempted from registration, before granting a mass or dimension authority.

There will be circumstances, however, where it is appropriate for the NHVR to grant a mass or dimension authority despite the restricted access vehicle not complying with registration or HVNL requirements.

For example, an operator of a restricted access vehicle that requires access for the purposes of registration, repair or inspection related to the exemption from vehicle standards may apply for a mass or dimension authority.

Potential operators of vehicles that are unique or unusual may want to be certain that they can use that vehicle under a mass or dimension authority before they register the vehicle or apply for an exemption from vehicle standards. In these circumstances the NHVR should consider an in-principle support letter after consultation with the road authority for states and territories where the vehicle may operate.

Generally, it will not be appropriate for a mass or dimension authority to be issued to a vehicle that has not been constructed. In cases where the vehicle is being considered for an exemption from heavy vehicle standards, it may be appropriate to consider whether to grant the mass or dimension authority subject to a condition that the authority is not effective unless the vehicle is compliant with heavy vehicle standards and registered or otherwise exempted from these requirements.

10.2 Timing of NHVR decisions

The HVNL does not impose time limits on the NHVR's role in access decision making. It is expected however that the NHVR will make decisions within a reasonable time to minimise the impact of delays on restricted access vehicle operators. Many applications for access should be routine transactions and it is expected that such applications should be processed quickly.

The expedited approval process in the HVNL for replacing mass or dimension authorities that have been previously granted should be used as much as possible. The *Heavy Vehicle (General) National Regulation* provides that instruments under repealed road transport laws that correspond to mass or dimension authorities are to be treated as authorities issued under the HVNL for the purpose of deciding whether the expedited approval process is available.

10.3 Timing of road manager decisions

The HVNL provides that road managers are required to respond to a request to consent to a grant of access within 28 days unless an extension is agreed with the NHVR. Further guidance about the extension of time process is found later in this section and in section 11 about route assessments. Road managers are encouraged to process routine applications for access in the shortest time possible.

The time period for the road manager to make an access decision starts once the NHVR makes the request to relevant road managers for consent. The NHVR will provide adequate information to the road manager to allow it to make a decision and therefore it is important that the NHVR ensures that adequate information is provided to the road manager when the formal request for consent is made. If the NHVR has doubts about whether it has adequate information it should contact the road manager first without making a formal request for consent.

A road manager is expected to have administrative, support and management processes in place to ensure that it can make access decision within the time required by the HVNL. This may require that internal delegations for facilitating access decisions be sufficient to ensure that decisions can be made in a timely fashion.

10.4 NHVR agreeing to extension due to consultation

The power to extend the 28 day period to allow for consultation with another agency is subject to agreement from the NHVR. The NHVR is expected to agree to an extension provided the road manager is able to justify the need for consultation.

The NHVR may not agree to the extension if the consultation with another entity is not required under a law of the state or territory, excepting the case where the road manager is the road authority and considers that a local government authority not required by a jurisdictional law should be consulted.

It is understood that road managers may wish to engage in consultation with other stakeholders and the community before making an access decision. However, unless a law expressly requires that consultation is required with another entity the road manager is required to make its decision within 28 days. The HVNL does not allow lack of ability to engage in community consultation as a ground for denying an access decision.

Road managers are encouraged to consider alternative ways to engage with the community about proposed use of roads by restricted access vehicles. Provided that information of the applicant that

is protected by law is not used without appropriate consent, the road manager may provide information to the community about how an application for access may potentially impact the network, to inform community and elicit feedback. Commercial-in-confidence data should also be appropriately managed in any consultation process.

10.5 Information notices

An information notice is a document that explains to an applicant what decision has been made, why the decision has been made, and explains the applicants review and appeal rights. It is expected that information notices provided by the NHVR to applicants will be sufficient to allow the applicant to understand why access has not been granted or why conditions are being imposed.

The HVNL only requires that information notices be provided to applicants for permits. If however a person has suggested that the NHVR consider a grant of access by a notice the NHVR will provide the same information as is required for an information notice for a permit application. Information from adverse decision statements provided by road managers can be used for this purpose as these statements are required regardless of whether the proposed access will be by way of a permit or gazette notice.

10.6 Adverse decision statements

Road managers are required by the HVNL to provide adverse decision statements regardless of whether the NHVR proposed to grant access by way of a permit or notice.

An adverse decision statement must provide information about the finding on material facts as determined by the road manager, give reasons for the road manager's decision, and include information about the evidence or other material on which these findings were made.

Documents used for the decision making process must also be identified in the adverse decision statement.

The purpose of the adverse decision statement is to allow both the NHVR and applicant to understand how a road manager made the decision that it could not consent to a grant of access or had to impose road or travel conditions.

The NHVR has an obligation to consider the content of the adverse decision statement from a road manager that is not a public authority and may request further explanation or detail from a road manager if there is doubt about the reasoning or supporting content. While the NHVR does not have the power to reject an adverse decision statement it should take reasonable action to work with all road managers to ensure that applicants receive a clear response to their application that complies with the HVNL. If the NHVR is not satisfied with an adverse impact statement provided by a road manager that is a public authority, it may consider requesting that the relevant road authority overrule the road manager.

10.7 Higher Mass Limits (HML) declarations

The NHVR may grant access for a HML heavy vehicle through the use of a HML declaration or a HML permit. For the purposes of these guidelines, references to notices also include a reference to a HML declaration.

The processes for granting access and obtaining consent are the same as for a mass and dimension authority. However if conditions of any type are imposed on a HML declaration or a HML permit, they must be consistent with the higher mass limits.

Further information on HML is available at: <https://www.nhvr.gov.au/road-access/mass-dimension-and-loading/higher-mass-limits>

11 Route Assessments

The HVNL recognises that the 28 day limit for a road manager to respond to a request for consent to a grant of access may be extended by agreement with the NHVR for up to six months if the road manager considers that a route assessment is necessary to decide whether to grant the consent.

A route assessment is an assessment of the impacts, or likely impacts, of relevant restricted access vehicle use on road infrastructure in the areas or on the routes requested in the application for access.

This can include structural assessments on bridges, pavements, culverts, tunnels and the like, as well as geometrical assessments such as swept paths at intersections, stacking distances and overtaking provision. It does not include assessment of non-road infrastructure elements including amenity issues or public consultation processes.

11.1 NHVR agreeing to extension

The power to extend the 28 day period to allow for a route assessment is subject to agreement from the NHVR. The NHVR is expected to agree to an extension provided the road manager is able to justify the need for a route assessment. The NHVR should not agree to the extension if:

- a) the road manager is not able to explain why a route assessment is required;
- b) the road manager is not able to provide information about any fee for the route assessment (noting that it may be reasonable for the road manager to provide an estimate of the fee as the actual fee may not be known until the scope of the route assessment is settled);
- c) the road manager or the road authority has, to the knowledge of the NHVR, conducted a route assessment on the route previously which would be adequate to allow the road manager to make an assessment about the proposed grant of access;
- d) the road manager states or suggests that the route assessment cannot be completed within six months; or
- e) the relevant road authority informs the NHVR that a route assessment is unnecessary.

When considering whether a previous route assessment would be adequate, the NHVR should consider the following matters:

- a) how much time has passed since the previous route assessment was conducted;
- b) have there been significant changes to the roads or the environment around the roads since the last route assessment; and
- c) the similarities and differences between the dimensions and mass of the restricted access vehicle for which access is now sought and for which the previous route assessment was conducted.

11.2 Route assessment process

The road manager should engage with the NHVR, any applicant and potentially, other restricted access vehicle operators when conducting the route assessment.

This engagement should include the road manager providing information about how and when the route assessment is to be undertaken. This information should ideally be provided at the same time as information about any fee is provided to the NHVR.

A road manager may conduct the route assessment using its own staff or by engaging a contractor. A road manager may also allow an applicant to engage a contractor consistent with any policies and legislation of that road manager. A road manager may allow the applicant to engage a contractor to conduct the route assessment. A list of approved contractors may be developed by a road manager, a group of road managers or the NHVR to ensure that only contractors with the appropriate skills and qualifications are engaged.

The NHVR and road managers must have regard to any approved guidelines or tools for assessing routes when conducting a route assessment.

11.3 Field trials

A field trial of a restricted access vehicle on a proposed route should only be required by a road manager if the result of an initial route assessment is inconclusive, or if it will potentially be more efficient (cost and/or time) for the road manager and applicant to undertake a field trial.

The road manager, when notifying the NHVR of its desire to undertake a field assessment, may notify that a refusal to participate in a field trial may result in a decision to refuse to consent to a grant of access.

If the road manager wishes to undertake a field trial it should provide the following information:

- a) why the field trial is required;
- b) when the road manager would like to conduct the field trial;
- c) what is required from the applicant to progress the field trial;
- d) how the field trial will be conducted; and
- e) who may be invited to attend the field trial.

The NHVR should always be invited to attend a field trial; noting that it is not mandatory for the NHVR to attend. It may be appropriate to invite other road managers, other entities, and other interested parties to attend the field trial.

When notified of a proposed field trial the NHVR may elect to notify other relevant road managers and suggest that they participate in the field trial or arrange complementary field trials.

Dictionary

Terms used in this document are as defined in the Heavy Vehicle National Law (HVNL), unless otherwise specified below:

Access decision: a decision by the NHVR about whether to grant a mass and dimension authority or a decision by a road manager about whether to consent to a grant of a mass and dimension authority by the NHVR.

Adverse decision statement: the statement that a road manager is required to make under section 172 of the HVNL when it decides not to consent to the grant of a mass or dimension authority or decides to consent to a grant subject to road or travel conditions.

Applicant: a person who has applied for a permit or a person who has asked the NHVR to consider issuing a notice.

Class 2 notice: a class 2 heavy vehicle authorisation (notice) issued under section 138 of the HVNL.

General access vehicle: a heavy vehicle that is not a restricted access vehicle.

Higher productivity vehicle: a PBS vehicle or a vehicle combination such as a B-double or B-triple.

Mass or dimension authority: a notice or permit. A single notice or permit may refer to a mass and/or a dimension exemption and/or authority. For the purposes of this document, HML declarations and HML permits are also covered by this terminology.

Notice: a mass and dimension exemption (notice), a class 2 heavy vehicle authorisation (notice) or a HML declaration as defined in the HVNL.

Other entities: agencies that may be affected by an access decision such as police, rail transport operators, utilities and telecommunications providers.

Permit: a mass and dimension exemption (permit), a class 2 heavy vehicle authorisation (permit) or a HML permit as defined in the HVNL.

Period permit: a permit that is issued for a period of up to three years.

Procurement legislation: state or territory legislation that regulates the procurement and contracting arrangements for road managers to ensure value for money is achieved.

Relevant risks: the matters that a road manager may consider when deciding whether to consent to a grant of access, being:

- a. potential damage to road infrastructure
- b. adverse effects on the community arising from noise, emissions or traffic congestion
- c. significant risks to public safety arising from the use of the restricted access vehicle in a manner incompatible with road infrastructure or traffic conditions.

Relevant roads: the roads for which the road manager has been asked to grant consent to access.

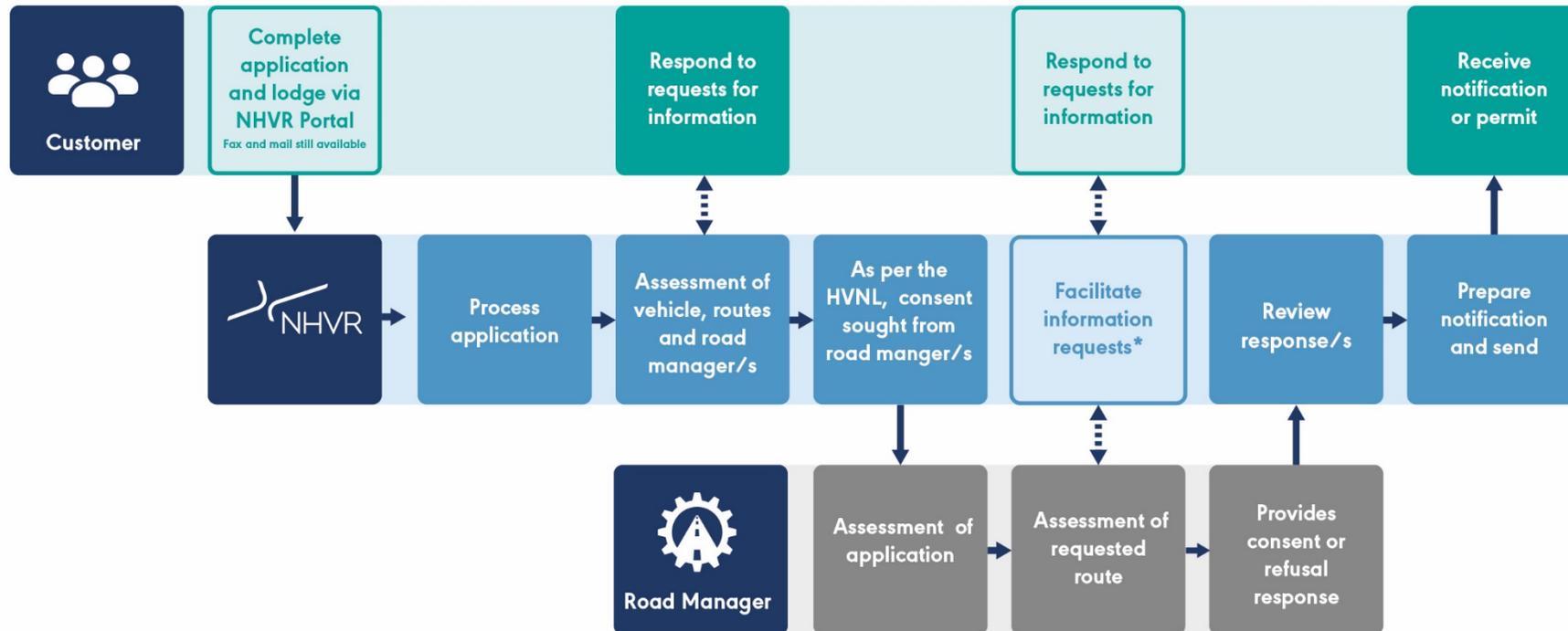
Restricted access vehicle: a heavy vehicle that is a class 1, 2 or 3 heavy vehicle as defined in the HVNL – or under the conditions of a HML declaration.

Single trip permit: a permit that is issued for one trip by a restricted access vehicle.

Transport Management Plan: a document detailing how the impacts of the journey on the road, environment, other road users and other relevant factors are to be mitigated.

Appendix A: High-level simplified conceptual flow-chart for application for access

Permit Workflow – current process



* Road Manager information request may go directly to customer



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