National Transport Commission

Easy Access to Suitable Routes

Issues Paper

MAV Submission

15 August 2019

National Transport Commission, Easy Access to Suitable Routes issues paper has been prepared by the Municipal Association of Victoria (MAV) following discussion with member councils.

The MAV is the statutory peak body for local government in Victoria. The MAV engaged with councils across Victoria to assist the Association undertake this work. The MAV would also like to acknowledge the contribution of those who provided their comments and advice.

While this paper aims to broadly reflect the views of local government in Victoria, it does not purport to reflect the exact views of individual councils.

MUNICIPAL ASSOCIATION OF VICTORIA

Table of contents

1 Executive summary

The Municipal Association of Victoria (MAV) welcomes the opportunity to make a submission to the National Transport Commission (NTC) Easy Access to Suitable Routes issues paper. The goal of the Heavy Vehicle National Law (HVNL) review is an entirely new law that aims to assess assumptions underpinning the existing law. The issues paper reviews and analyses access under the HVNL and then considers aspirations for a new HVNL. The terms of reference for the paper require the NTC to explore inefficiencies with the current arrangements including:

- operators still having to apply for permits where journeys are low risk or routes are pre-approved and risks are already known
- the heavy vehicle classification expertise of road managers not always being sufficiently high enough to match vehicle classes to network access
- the current access decision-making process is described as prescriptive and inflexible with under-resourced road managers unable to delegate the access decision-making process, with no external review process for decisions

The issues paper also seeks views around aspirational access arrangements, decisions and how responsibility and accountability could be better articulated within a new HVNL.

Local roads play an essential role in the efficient movement of freight. Councils are both statutory transport and planning bodies and manage 85 per cent of Victoria's road network. Council local road infrastructure is vital to economic performance at both national and state level, particularly for the first and last mile of the freight task.

It is challenging for councils to assess roads, bridges and culvert infrastructure within existing resources, yet these assets are an important part of delivering a safer freight task with the potential to deliver higher productivity. The introduction of new technology to the future freight task is crucial to improving freight productivity and safety. However, the technical capacity and knowledge of the road network by road managers, the variety and capability of heavy vehicles and infrastructure capacity and the data systems used by councils varies widely.

Easier access could be achieved through infrastructure investment, developing the technical capability and capacity of road managers and more dialogue between levels of government and industry, without making significant changes to the HVNL.

2 Introduction

The MAV is the peak representative and advocacy body for Victoria's 79 councils. Formed in 1879, the MAV is the official voice of local government in Victoria under the Municipal Association Act, 1907.

Today, the MAV is a driving and influential force behind a strong and strategically positioned local government sector. Our role is to represent and advocate the interests of local government, ensure the sector's long-term security and provide policy and strategic advice, capacity building programs and insurance services to local government.

Since it was introduced in 2014, the HVNL has required every road manager to consent to heavy vehicle access on roads. As local road managers, councils are the custodians of this critical infrastructure on behalf of all road users including residents, visitors, business and industry. The HVNL was a significant change for local government and many councils feel they have not been sufficiently supported or resourced to undertake their role.

The most significant challenge facing councils which has a direct impact on freight access, productivity and safety remains lack of investment in local road infrastructure and associated maintenance costs.

Councils are the managers of local roads, responsible for decision-making, investment and maintenance. Councils have expressed a strong view that they should continue to be the decision-maker for general and restricted access to local roads through notices, pre-approvals and permits. The lack of internal resources and knowledge of some councils can cause delays for granting access decisions. For example, the first and last mile of a freight task is primarily on council roads. A greater willingness to work through access request concerns with councils would assist the approval process timeframe.

The provision of increased support to council road managers to access and utilise data and technology, as they develop such as the NHVR Road Manager portal, will assist councils to better understand frequency and type of vehicles using their road network, enabling them to issue better informed pre-approval permits.

The complexities of the vehicle classification system and lack of knowledge some councils have regarding the capacity of their road networks could be supported by training for council road managers. The potential approach of a new HVNL to access decision reviews, generalised access authorisation and implementation all require councils to be engaged to ensure issues such as community safety and land use planning are appropriately considered from a council perspective.

MUNICIPAL ASSOCIATION OF VICTORIA

3. Response to Consultation Questions

Question 1: **why do access decision timeframes vary so significantly? To what extent does the HVNL cause or allow access decision delays?**

The issues paper specifically addresses the performance of council road managers and refers to NHVR reports that suggest councils which process a higher volume of permits tend to have less delays in reaching access decisions and that councils with more resources do not necessarily perform better than those with less. The issues paper states the NTC has found a significant variation in council performance by jurisdiction, although councils in Victoria show the highest level of consistently good performance.

Councils that process a higher volume of permits are likely to be larger. Better resourced councils can have a more detailed asset database against which to match vehicle types to their road network. Smaller councils are often not sufficiently resourced to process multiple permit applications or provide access consent as quickly as industry would like. If councils were able to access a fee for processing permit applications, this would help them to increase internal capacity and ultimately process more applications in the required timeframe.

The volume of permits received by council road managers has increased dramatically, particularly within high growth areas where capacity has become more of an issue for councils. Councils have received no additional resource and staff have had to add the permit approval task to their existing wider duties. In smaller councils where there is no dedicated staff resource to assess permit applications, this is a significant challenge.

Applications provided to councils by operators are not always of a high standard, which impacts on how quickly they can be processed. A minimum requirement for operators to provide more details in a permit application, including the reason local road access is required, could speed up approvals. The key considerations for councils will always be the impact of freight on their road assets, safety and amenity of their community.

However, despite these capability challenges, as question 2 acknowledges, most permits are approved within seven days, and 96 per cent of permit applications are approved with or without conditions.

The access decision timeframe can vary for a number of reasons including the complexity of an access request, which may require further information from the operator. Actions proposed in the developing NHVR Heavy Vehicle Freight Access Strategy to support councils including data identification, acquisition and sharing, may help increase the number of notices issued by councils in the future in place of low-risk permits.

The current law does not allow councils to refuse a consent for planning reasons. For example, a council is unable to refuse an application based on the destination site having planning conditions which prevent specific vehicle types from accessing the site. Such a scenario can result in road safety risks and illegal access.

Access disputes can force councils to make a decision that may not otherwise have been made due to lack of provision under the HVNL for issues such as a conflict with community interests. This is a significant consideration for councils.

The HVNL may contribute to access decision delays due to insufficient support for councils to understand the complexity of the law itself. Knowledge of required vehicle standards varies across councils and can impact the authorization of access, particularly for Over Size Over Mass (OSOM) vehicles.

Question 2: **most road managers can grant consent within seven days. Given this is the case, should we reduce the 28 day timeframe currently in the HVNL? Should we introduce a mechanism to deal with a nil response?**

Reducing permit timeframes will not address the capacity issues outlined in question 1. Any review of the 28 day consent timeframe would need to reflect the various complexities of permit applications and the type of vehicle and access being sought. For example, the route assessment for an OSOM vehicle permit requires a more in-depth consideration of safety issues such as potential lane closures.

The issues paper refers to the NHVR having no power under the HVNL to help resolve a delay in permit approval. Some councils receive access requests for routes and sites they do not believe are feasible or desirable. However, when council road managers provide feedback on concerns to the NHVR, the focus tends to be on processing an approval as quickly as possible rather than negotiating alternative route options. This back and forth scenario experienced by councils has often led to delayed processing times.

Councils are increasingly being expected to fund level 3 bridge and culvert structural assessments for specific NHVR access requests, in particular for OSOM and class 1 special purpose vehicle applications. Funding and scheduling of assessments causes significant delays to a council's processing time of an access request.

Some councils have found that the NHVR mapping system often includes errors, for example, road names and that the NHVR can have a prescriptive approach and lack of understanding of local road networks. This can make it challenging for councils to discuss complex issues associated with a permit application.

While industry may support a penalty for failing to grant access within a specific timeframe, a local road manager may be the only authority with access to information required for thorough assessment of the challenges of a particular route. There is also scope for the NHVR to provide further support to councils which is outlined in subsequent question responses.

Question 3: **is vehicle classification useful? Does the new HVNL need a vehicle classification system and if so, should it be different from the current system?**

Councils generally find the vehicle classification system useful and utilise the specific sub-classes to help determine vehicle access. An assessment of how a vehicle moves on local roads and at intersections is influenced by vehicle dimensions and turning movements more than the weight of the vehicle.

Improved education for councils on the complexities of the vehicle classification system and access to enhanced data could help councils better identify Performance Based Standards (PBS) vehicles:

- by type and level, for example dimensions and mass

- what other decision makers are doing, for example access to information on other road manager approvals and refusals

- specific network issues relevant to a vehicle

A more detailed level of knowledge would help to ensure council road managers have a better understanding of the permit applications they are assessing for access to their road network.

Any changes to the vehicle classification system needs to ensure that road managers can identify the vehicle so they can be confident any route pre-approvals and gazettals are assessed correctly. This can be an issue when new notices are released for road managers to agree, but the notice does not provide loading information such as axle and mass arrangements.

Question 4: **what are the challenges road managers face under the HVNL access decision-making framework? Which road managers do it well, and why? Why are some road managers struggling with access?**

Road managers face a significant number of associated challenges which ultimately impact on access decision making within the HVNL framework. Although some of these challenges are referred to by the issues paper, a closer examination is necessary to fully appreciate the complexity of factors councils must consider when assessing access requests.

The Australian Local Government Association (ALGA) report National State of the Assets Project states that $30 billion is needed to renew and replace ageing infrastructure, much of which is deteriorating from wear and tear worth $5.5 billion a year. This is a fundamental long-term challenge facing councils and their ability to authorise freight access.

A crucial issue for councils is the capacity to assess roads, bridges and culvert infrastructure, which will deliver higher productivity, particularly for identified strategic freight routes and deliver a safer freight task in the future. Councils would be able to utilise updated intelligence to inform their bridge capital works programs and planning for maintenance and renewal. A better

evidence base and understanding of the road network could potentially lead to councils gazetting and pre-approving more access permits.

The issues paper highlights some of the inconsistencies in route assessments and decision-making processes under the HVNL. For example, there is no consistent route assessment process applied by road managers, with only some using the Restricted Access Vehicle Route Assessment Tool (RAVRAT). For operators and the NHVR to be able to track how permit applications are progressing, updates to the current NHVR manager portal are required. Introducing a tool for council road managers to create summary reports on statistics, such as the number of applications received and processed in a given month, would be of value to the NHVR and councils

The challenges of ensuring compliance and enforcement within the HVNL and adherence with permit conditions is another concern for councils. Vehicles will often use local roads that run through residential areas to access arterial roads, contrary to the permit conditions. Councils have no power to enforce the conditions. Consideration should be given to granting council officers the powers to be able to enforce access infringements on their local road networks. It is also well known that some industry operators run 'hot' without appropriate permits, which is a serious safety concern for councils.

The first and last mile of the freight task is crucial for industry, but the interplay of roads and their environments creates challenges for councils linked to the amenity and safety of residents. Freight journeys tend to start and finish within a congested road network posing safety concerns for residents.

Land use planning and infrastructure design do not as yet include first and last mile considerations to ensure future levels of freight access will be accommodated – especially for higher productivity vehicles. Some metropolitan councils are reviewing their long-term land use framework plans to minimise heavy vehicle traffic on local roads. Councils can play a key role in brokering potential solutions to liveability issues including managing congestion, after-hours curfews and trialing innovative road surfaces.

Question 5: **should the law allow for external review of access decisions?**

Although the HVNL does not prevent councils using third parties to assist them with route and infrastructure assessments, councils may not wish to take this approach. The cost of this would be prohibitive for many councils.

The issues paper states that 96 per cent of permit applications are approved with or without conditions, therefore it is a logical conclusion that 4 per cent of the road network may be inaccessible to certain heavy vehicles.

If the HVNL developed an option relating to an external review of access decisions, this should have no cost implications for councils, considering the already significant administrative burden granting access consents places on councils. An initial arbitration process between an operator and council may be a preferred suggestion to review a disputed access decision. An external

review process would need to incorporate well defined criteria that accurately reflect the safety and amenity considerations a council has to apply to access requests.

Question 6: **have we covered the issues with access under the current HVNL accurately and comprehensively? If not, what else should we consider?**

Councils have highlighted examples where they take on the risk for allowing access over structures which are a State Government responsibility e.g. a sewer located under a local road that has presented a load-bearing risk for freight access.

Third party assets such as underground structures that support pavement and overhead structures should also be considered. This includes bridges and culverts that are the responsibility of utility and service providers such as Melbourne Water and rail related structures. The current HVNL makes it the responsibility of the pavement owner to act as road manager, however this does not put any onus on the owner of the structure to play their part in the access process.

This scenario can result in a council road manager not being able to approve access as they cannot assess the asset (nor do they have the responsibility to ensure the asset is in good condition). Consideration should be given to including these assets on the NHVR portal. Third party asset owners could be directly included within the NHVR permit approval process to provide their own feedback, responses and conditions as deemed necessary.

Engaging asset owners to work with council road managers could reduce access decision times by defining response expectation, increasing confidence that assets along heavy vehicle routes are being appropriately managed and increase the opportunity for pre-approved and gazetted networks.

Question 7: **how can the new HVNL work, most likely with other reforms, best support optimised use of our transport assets and vehicles?**

The HVNL review should consider the final recommendations made by the Productivity Commission for National Transport Regulatory Reform (due in April 2020), which is considering councils and their role in road access and experience of dealing with the HVNL. The MAV made a submission to the first issues paper in June.

There are also supporting reviews and strategies that have the potential to support the HVNL and deliver better use of transport assets and vehicles. The OSOM review recommendations suggested the NHVR works with State road managers to provide guidance on access and resources to council road managers, including independent bridge and route assessments.

The MAV is currently working to support the NHVR develop their Heavy Vehicle Freight Access Strategy, which will primarily focus on the use of technology to reduce access approval times. The implications of data and technology for regulatory purposes are significant and have the potential to improve safety and the ability of council road managers to better plan the road

network for heavy vehicle access. GPS tracking could also provide data on where heavy vehicles are travelling and assist with enforcement.

The Freight and Supply Chain Strategy being developed by the Commonwealth Department of Infrastructure, Regional Development and Cities, will provide a policy framework for the HVNL through an integrated national approach to increase the productivity of freight for Australia. The Transport and Infrastructure Council has oversight of all these developing areas of work.

Question 8: **how can the new HVNL expand as-of-right access and generalise access authorisation? Can we remove time limits for notices, for example?**

The issues paper refers to a draft regulatory principle of access decisions that apply as broadly as possible. The proposed expansion of as-of-right access over individual authorisation is questioned by councils. The Federal system of road asset investment and management gives councils a clear role to play. The concept of as-of-right access is primarily serving the interests of industry and raises concerns for councils about what would count as a valid rejection of a permit application.

The freight industry criticises councils for being overly focused on road protection, but councils are primarily answerable to their communities and rate payers who pay for local roads. Many permit access applications relate to the last mile of a trip and often involve construction deliveries or heavy equipment through congested local streets, which a council needs to assess carefully for safety implications. Councils have a deeper understanding of their respective road networks than any other body.

Generally, time limits should not be required for notices. Road managers should only need to know when there is a change to the notice. Otherwise there should be mechanisms for the network changes to be implemented quickly to accommodate urgent and emergency access changes.

Question 9: **do we have the right tools to implement access decisions? How can we modernize the tools for access authorisations?**

Councils do not always have the data and expertise needed to process access applications efficiently, or evaluate the impact of road access decisions.

The level of knowledge and understanding of the role data and technology could play in the future freight task varies widely across councils. There are significant differences in the sophistication of asset knowledge, database types and assessment techniques employed by different council road managers. For example, some councils have robust asset management systems with data relating to their road management and operations whereas other councils use paper based systems.

The MAV supports the recommendations made by the OSOM review regarding the NHVR supporting councils to introduce technology options. Telematics has the potential to enable

councils to get meaningful real time data across all heavy vehicle categories, to track movements on their network, assist road management, maintenance planning and increase data sharing to demonstrate evidence of compliance.

The NHVR needs to better understand what data councils require to make access decisions, which should include a review of the Austroads Data Standard for Road Management and Investment project. Better support for councils through enhanced NHVR technology management systems to collect and analyse data would be beneficial. This could include building on the existing RavRat and Road Manager portal.

The NHVR could provide support to councils to develop better systems to collect and analyse data to inform decisions on heavy vehicle access to the network and progress towards a consistent standard of data across the local government sector. If councils were able to view freight volumes and see which routes freight transport is using, this would assist councils in determining what projects are required to improve the freight network and what impacts they would have on the broader local road network, including the identification of pinch points.

Question 10: **how can the new HVNL accelerate access decisions? Is a proactive approach possible?**

The issues paper refers to a draft regulatory principle of simple, consistent, fair and transparent access decision-making which would improve the process and include:

- set conditional decision parameters
- a prescribed maximum timeframe for road managers to provide or deny consent with incentives and consequences
- providing councils with the power to partly or wholly delegate responsibilities as a road manager to another party.

In the absence of significant funding to improve local road infrastructure and internal permit approval capacity within councils, it is difficult to see how access decisions could be accelerated.

The MAV is aware that the NHVR is currently discussing with jurisdictions the potential replication of an innovative and proactive approach, which has been funded and implemented by the Tasmanian State Government. They have invested in the development of a Heavy Vehicle Reference Guide which tests and interprets standards and activity against the road network. There are 2942 bridges in Tasmania which were assessed at a cost of $1.7 million to the State Government. The Tasmanian approach has significantly benefitted councils by providing OSOM access and promoted a single road network joint approach across councils, State Government and industry.

The Tasmanian model has supported council road managers to make collaborative access decisions with State Government road managers and increased the knowledge of councils about their key road corridors, how often bridges are used and by which vehicles, to enable quicker and safer freight movement. The approach taken by Tasmania has reduced the

number of permit requests significantly from when the HVNL first came into effect. Tasmanian councils now have a more thorough understanding of their assets and infrastructure, enabling them to issue access permits quickly.

The potential of more sophisticated mapping for road networks is significant. Freight routes often use roads which are managed by different road authorities at State and council level. Once a road manager has made a decision on an access request on the NHVR portal, other road managers along a freight route cannot suggest alternative routes, even when it is a benefit to the community for safety and congestion reasons.

If a State road manager has made a decision regarding the arterial roads first, it may impact on localities and can prevent councils from redirecting vehicles to utilise arterial roads. Some councils have experienced scenarios where a heavy vehicle access route has been proposed along local roads rather than a State arterial road, which is more suited and better designed for the vehicle. This can lead to the rejection of an application by a council.

Question 11: how should the new HVNL implement access decision-making? Should it specify process and roles? What role is there for the operator? What improvements to access decision-making can be made?

The current access decision making is generally working and most issues are process and resource related. Better clarification of existing roles and expectations within the access decision process could be helpful, and should include operator responsibilities. The operator should be responsible for proving that the route is appropriate to the satisfaction of the road manager.

The majority of improvements that can be made rely on increasing resources at all levels and improved education. It would also be more efficient if the journey planner tool on the NHVR portal gave greater weighting to pre-approved and gazetted routes, even if it results in a slightly longer trip, as this can be a source of delay when the request is not sent by the road manager.

Question 12: **how do we reach consistent and predictable risk-based access decision-making? How can we make sure decision-making is transparent and fair?**

Improvements to the NHVR portal to allow road managers to easily view previous decisions for roads, for example pre-approved roads, would greatly improve consistency. Pre-approved and gazetted networks (including conditions) can assist with providing consistency and improving the approval time.

Most decisions are documented within the NHVR portal which provides some transparency. It may be possible to provide a database of decisions for roads so all parties can see what has previously been decided and easier identification of what additional information is required.

The access requests councils receive from the NHVR do not include information regarding the quantity or frequency of trips proposed on local roads, or show how many permits are active for a particular route or road. This lack of information limits the ability for the cumulative impact of a permit application to be understood by a council. In the absence of this information, councils may be understandably cautious in issuing access permits for a longer timeframe.

Some councils have also advised that the list of conditions against which a permit application can be denied does not allow sufficient space for justification for why an application has been rejected, or approved with conditions.

Question 13: **how do we best share the risk management responsibilities between parties with a role in heavy vehicle access?**

Asset managers are ultimately responsible for assessing if a route is suitable for the proposed vehicle. This includes third party asset managers such as utility companies that should be treated the same as road managers and take responsibility for ensuring their asset is suitable. Third party asset owners may be able to have the option of entering into an arrangement with a road manager to manage this responsibility. Vehicle operators have a responsibility to follow any conditions and ensure their vehicle complies with details in the permit.

Question 14: **how do we manage the accountability of parties with a role in heavy vehicle access?**

As outlined in responses to previous questions, councils would be supported to be more accountable for their future access decisions by:

- investment in local roads

- assessment of associated infrastructure such as bridges

- better resourcing of councils to deliver access decisions

- development of current NHVR data systems to better inform councils of the use of their roads by freight operators.

4. Conclusion

Significantly revising the current HVNL is unlikely to address the issues facing councils outlined within this submission. Improvements to systems, processes and data are already occurring under the current HVNL, for example, the targeted approach the Tasmanian Government is taking in partnership with councils and industry to increase OSOM vehicle access.

Councils are part of the solution to current issues facing the freight task, but all key stakeholders including Federal and State Government, the NHVR as the regulator and industry need to collaborate more effectively to address system and knowledge gaps.

Vehicle classification in the future would benefit from the provision of support to council road managers to access anonymous telematics data, that will assist in developing knowledge of what vehicle moves where, when and how often. By providing support to council assessment of new categories of vehicles, councils will be better prepared for the newest and safer heavy vehicles being introduced to the network. Faster permit decisions are more likely when a road manager understands the capacity of their road network.

Road managers face challenges when making access decisions under the HVNL. Councils face a balancing act in supporting productivity by increasing heavy vehicle access and their responsibility to preserve community safety and the local road network for all road users with only limited funding.

Many of the barriers to local road access for higher productivity freight vehicles can be more effectively addressed through a targeted response via collaboration, increased transparency and data sharing and by addressing knowledge gaps and resourcing issues in councils, rather than by increased regulation.

It is essential for local government to be engaged in further HVNL planning. Councils will play a key role in the crucial challenge of brokering potential solutions to liveability issues, when managing the safety and amenity challenges of freight, particularly within congested urban areas.