



HEAVY VEHICLE
INDUSTRY AUSTRALIA



HVIA Submission

On the NHVR's Discussion
Paper for PBS 2.0

February 2023

Heavy Vehicle Industry Australia
Represents and advances the interests of manufacturers
and suppliers of heavy vehicles and their components,
equipment and technology.



www.hvia.asn.au



hvia@hvia.asn.au



07 3376 6266

Background

Heavy Vehicle Industry Australia (HVIA) represents and advances the interests of the entire industry involved in the design, manufacture, importation, distribution, modification, sale, service and repair of on-road vehicles with a gross vehicle mass or aggregate trailer mass over 3.5 tonnes as well as their components, equipment and technology.

The industry directly employs over 70,000 people and provides some of the world's most efficient, safe, innovative and technologically advanced vehicles. HVIA seeks to work with government and industry stakeholders to promote an innovative and prosperous industry that supports a safe and productive heavy vehicle fleet operating for the benefit of all Australians.

A significant number of HVIA members are involved in the design, assessment, certification and manufacture of PBS vehicles.

Summary of HVIA response

HVIA is committed to working with the NHVR and road managers to improve the PBS scheme as a mechanism for promoting the uptake of safer high productivity vehicles. In HVIA's view PBS 1.0 was successful in sparking innovative approaches to vehicle designs but was less effective at opening access for those vehicles.

To be successful, PBS 2.0 needs to tackle this issue. Greater adoption and commitment to the PBS scheme on the part of road managers, and greater national consistency is urgently required. There are also opportunities to learn from the experience gained from PBS 1.0 to reduce costs for industry. The discussion paper's main proposals in these areas may deliver incremental benefits but are unlikely to deliver the transformational change that the industry requires.

HVIA broadly supports the PBS 2.0 Guiding Principles. It is understood that changes to PBS cannot all happen at once, however, we would prefer an approach that is:

- more focussed on continuous improvement to the scheme,
- funded on an ongoing basis rather than a series of projects which need to be developed on an individual basis.

In addition, HVIA believes the original 2006 COAG-endorsed principles should have more attention and practical discussion in the paper, particularly in the areas of certainty of access, national consistency, and reduced compliance costs. In that sense, the discussion paper represents a missed opportunity.

A summary of HVIA's responses on the discussion paper's 14 questions follows.

Question	HVIA response
1	Support transferring responsibility for the vehicle standards and assessment rules from the NTC to the NHVR, subject to approval of the NHVR Board and Ministers.
2	Support an accelerated process for updating standards.
3	Support the introduction of interim standards, but believe more work is required.
4	Support the 'notice and template' approach, but do not believe it is likely to be effective in increasing access unless there is a substantial change to road manager behaviour.
5, 6	Do not support the creation of a new HPF category.
7	Support further investigation, based on demonstrated safety, infrastructure, and productivity performance, underpinned by suitable metrics and units of measurement.
8	Support the digitisation of the PBS process.

9, 10, 11	Do not support delegation of responsibilities, outside of opening certification to manufacturers and assessors, and suggest 'default' access decisions by the NHVR in the case of 'overdue' consent requests with road managers.
12	Do not support additional quality/performance/capability assessments outside of those already imposed on assessors/certifiers under current rules.
13	Do not support expansion of audits/penalties outside of those already imposed on assessors/certifiers under current rules.
14	Support for objectives and guiding principles, but more consideration of original 2006 COAG-endorsed objectives and principles is required.
15	Support for Option 2.

Answers to the specific questions posed in the discussion paper

Question 1

The NHVR suggests that it should take responsibility for owning and maintaining the Standards and Vehicle Assessment Rules and the Performance Based Standards – Network Classification Guidelines. The NHVR proposes two options, described below. Is there an option that you prefer and why? Is there an option that the NHVR has not considered? Refer to section 5.2.1 for further detail.

- *Option 1: The NTC retains ownership and responsibility but may delegate responsibility to the NHVR. Decisions continue to be made by ITSOC for minor changes, and Ministers for major changes.*
- *Option 2: The HVNL, its subordinate regulations, section 21 of the Standards and Vehicle Assessment Rules should and section 5 of the Performance Based Standards – Network Classification Guidelines be amended to introduce a tiered approval process. The NHVR has full ownership and responsibility. Minor changes are decided by the NHVR Board. Major changes continue to be decided by responsible Ministers via ITSOC.*

HVIA response: HVIA is supportive of transferring responsibility for the vehicle standards and assessment rules from the NTC to the NHVR, subject to approval of the NHVR Board and Ministers. Further work is required to define which changes would be considered minor and therefore able to be approved by the NHVR Board. HVIA would be interested in participating in this discussion.

Question 2

The NHVR suggests that an accelerated process be established to update the Standards to ensure PBS vehicles remain at the forefront of innovation. This process may be initiated by any interested stakeholder, must be supported by a robust and rigorous proposal and engagement process, and PAG should provide an advisory function. Do you support this approach (why/why not)? Is there an option the NHVR has not considered?

HVIA response: HVIA is supportive of an accelerated process for updating standards. In HVIA's view this needs to include both updates to assessment methods and current 'deemed to comply' provisions. HVIA is supportive of industry stakeholders being able to make submissions suggesting changes to the standards or methods. Discussion with members raised the issue that in many cases the PBS standards are a mechanism for obtaining exemptions from prescriptive standards. The key focus needs to remain on simplifying the process of bringing higher productivity vehicles into the fleet, not necessarily on adding additional items to the standards framework itself.

In the discussion paper a comment is made that submissions must be "technically and procedurally sound" and that a "robust and rigorous proposal and engagement program" is needed. HVIA agrees with those sentiments and is keen to work with the NHVR to develop the underpinning detail to ensure that the

criteria and procedures used are workable and will achieve the goal of accelerating the development of standards. HVIA also supports the proposal to transition the PRP from its current form to broader advisory body (PAG) to allow the process to be streamlined.

Undertaking the work required to fully develop and test new innovations could be expensive. HVIA suggests that the NHVR set up a fund, (e.g. the Heavy Vehicle Productivity Initiative), analogous to the Heavy Vehicle Safety Initiative Scheme. Such a fund would be a useful step to promote productivity innovations.

Question 3

The NHVR suggests the adoption of interim standards to temporarily enable field testing of technology not already in the PBS scheme. What are your thoughts on the soundness of this concept and how interim standards could potentially be developed (particularly in reference to the below aspects).

- *The proposal development process and governance arrangements*
- *Decision making and risk management framework.*
- *Liability and responsibility (e.g. if a crash occurred)*
- *How an interim standard would transition to permanent inclusion in the PBS scheme.*

HVIA response: In relation to introducing interim standards, HVIA is broadly supportive but believes this proposal needs more detailed consideration. The framework needs to ensure that there is:

- clarity on why the interim standard has been proposed.
- clarity on the specific benefits the interim standard is expected to produce (e.g. more weight or more flexibility in dimensions to improve access without increasing safety risks) and the mechanism for measuring whether the interim standard is effective in realizing these benefits.
- consideration of how the vehicle is managed as it ages (e.g. Will there be ongoing maintenance or testing requirements on vehicles fitted with a certain technology? What happens to an approved vehicle if the interim standard does not meet the criteria for approval?)
- a path for “normalizing” the standard once the trial has been completed or removing it if it is not deemed essential/impactful (i.e. to avoid “bloating” the scheme unnecessarily). If an interim standard has met its goals, the assumption should be that the interim standard will be formalized as a “normal” standard.

This work could also potentially be funded through the proposed Heavy Vehicle Productivity Initiative Scheme. HVIA is interested in working with the NHVR to further develop this proposal.

Question 4

Is a single notice, speaking to many templates, schematics and networks, an appropriate approach to access for PBS and PBS like vehicles? Is there an alternative approach that has not been considered?

HVIA response: The use of a template to facilitate the development of notices to enable access is proposed, yet how those templates would facilitate greater access is not explained. HVIA supports the ‘notice and template’ approach, but notes that access is still a road manager decision. It is not evident that having a template would improve or expedite those decisions or would provide the intended benefits to operators, without any changes to the existing access decision making arrangements. As such, HVIA is not convinced that the use of templates as proposed by the paper would increase the overall level of access. Access certainty is a major hindrance to uptake of PBS, and it is considered unlikely that the NHVR’s proposal will deliver the transformational change needed.

In contrast, this specific proposal seems focused on simplifying NHVR internal processes and simplifying the structure of notices. While this may simplify the notices, unless road managers unify their treatment of PBS, prescriptive, and proven PBS designs by providing equivalent access, it also carries the distinct risk of

further entrenching the “access by lowest common denominator” approach that the paper specifically warns against.

Question 5

The Access and Transition Framework pursues two complementary streams, comprising four potential pathways, to deliver industry network access for PBS and PBS-like vehicles. These streams and pathways intend to avoid PBS processes as much as practicable within the boundaries of the current HVNL, or what could be achieved with changes to the HVNL. Are there other reasonable pathways that have not been considered?

HVIA response: This question should be considered alongside Question 6, due to their common themes. Hence, the HVIA response examines Questions 5 and 6 together, below.

Question 6

The NHVR is proposing a High Performance Fleet as a separate, quasi-prescriptive category of heavy vehicle, providing the opportunity for mature PBS vehicles to transition out of the PBS scheme. Do you support the transition of PBS vehicles out of the PBS scheme? Is there a particular pathway that you support? Is there a pathway that you would not be willing to support? Please justify your response.

HVIA response to Questions 5 and 6: HVIA does not support the creation of a separate High Performance Vehicle (HPV) fleet as it will result in three categories of vehicles, and potentially three separate sets of access decisions made by road managers.

The original intention of the scheme was that PBS vehicles would access the same network as the equivalent prescriptive vehicles. In practice, numerous road managers have not adopted that approach, resulting in a complex parallel set of regulatory instruments for PBS vehicles.

HVIA believes that PBS vehicles should be treated identically to prescriptive vehicles for access decisions. This is essential for the future of PBS and that the focus should be on achieving that goal. The creation of another category (HPV), is likely to be a significant backwards step.

Some HVIA members noted that bringing vehicles out of PBS using Class 3 notices (i.e. Pathway 2) has created some confusion around potential for inconsistency in compliance between vehicle types, notably in relation to the Bridge Formulas. As such, any move to allow designs to exit PBS must be accompanied by compliance systems covering both prescriptive, and ex-PBS vehicles.

Question 7

At what point do you believe PBS vehicles should transition out of the PBS scheme, if at all? How should that decision be made, and what role should the PAG, road authorities and road managers have in this process?

HVIA response: The first attempt at taking vehicles outside of the PBS process was the gazettal of the Class 3 Notice for 3 Axle Truck and 4 Axle Dog Trailers. This has raised concerns over a range of compliance issues. These compliance issues need to be addressed.

Therefore, while the criteria for bringing vehicles out of PBS must be based on operational experience demonstrating, at a minimum, that:

- safety performance is no worse than the corresponding prescriptive vehicles
- the vehicles do not cause additional infrastructure wear/damage
- the vehicles demonstrate expected productivity improvements;

The NHVR also needs to ensure that it has adequate compliance mechanisms in place to ensure that PBS, non-PBS, and prescriptive vehicles are compliant with the required regulations and standards.

Suitable metrics and units of measurement (e.g. incidents per tonne-km in the case of safety) would be required in these areas. HVIA is interested in working with the NHVR to further develop this proposal.

The timeframes and criteria for demonstrating these characteristics need to be agreed by the PAG. Once the criteria have been agreed and the PBS combination has demonstrated meeting the criteria the transition should be straightforward, and road managers should not be able to make exceptions.

Question 8

Do you agree that additional PBS scheme processes should be digitised in the NHVR Portal to further improve the PBS approval process? What enhancements could be made that the NHVR has not already delivered or mentioned in this Discussion Paper?

HVIA response: The paper proposes digitisation in the context of enabling external delegation. In a practical sense, it means that aspects of the PBS approval process currently completed by the NHVR outside of the PBS portal, would be delegated to parties external to the NHVR, and be completed within the PBS portal.

Whilst some of these suggestions have clear merit, the focus of the discussion of digitisation seems to be on simplification of the task for the NHVR rather than making the overall process more streamlined. A more comprehensive approach to automation of the process is required.

It is difficult to properly examine the proposal to digitise PBS processes without jointly considering the proposal to delegate those processes, which is explored in Questions 9 and 10 in the paper. Hence, the HVIA response examines Questions 8, 9 and 10 together, below.

Question 9

Would the barriers to participation in the PBS scheme be mitigated if PBS approval processes performed by the NHVR were delegated to assessors, certifiers and/or manufacturers? Why/why not?

Question 10

Do you agree with the list of potential responsibilities that the NHVR could delegate to other PBS stakeholders? Why/why not? Are there others that the NHVR has not considered?

HVIA response: The premise of Questions 8, 9 and 10 is that the PBS process itself is a barrier to greater industry adoption of PBS, and that delegation of current NHVR responsibilities will lead to lower costs, fewer processes, quicker processing, and more control for applicants.

Rather than delivering those benefits, the changes appear likely to increase the administrative burden for the industry, possibly generating additional costs and administrative effort, borne by industry, which would again be a backwards step.

Australia's heavy vehicle industry is at its best when designing and manufacturing innovative heavy vehicle concepts, and solving technical issues related to safety, productivity, and the environment. Conducting administrative tasks on behalf of Australia's national regulator does not align well with that remit.

Notwithstanding, there are benefits and opportunities available through automation that are worthy of further discussion. HVIA's assessment of the likely impact of digitisation and delegation of responsibilities against each of the NHVR's predicted benefits, and HVIA's suggested actions, are provided below.

Costs

Engaging with PBS is largely regarded by the industry as an expensive exercise. While the NHVR does not charge a fee to process applications, the assessor, certifier, and route assessment fees (if deemed required by road managers) can amount to tens of thousands of dollars. The NHVR proposal does not address this

issue. It proposes opening the application submission, processing, issuing, and certification of PBS approvals to assessors and manufacturers. Both parties operate on a commercial basis – assessors need to charge for their time, and manufacturers must employ and/or allocate administrative resources. In both cases the outcome is *additional costs* for industry.

The exception to the above is the scenario of manufacturers conducting their own PBS certifications, which is readily achievable and can be completed using existing resources at time of vehicle manufacturing inspection and sign-off. The HVIA has previously advocated for this change. However, it is important to automate that process and streamline it as much as possible.

Better publication of the results of applications for access would provide industry with better information about the access that has previously been approved or rejected on various parts of the network. This may reduce access requests by allowing operators to make a better assessment of the likely success of their access applications.

Fewer processes

The proposal does not adequately explain how delegation will result in fewer processes. It will depend on the level of automation that is built into the PBS process when it is digitised, which is considered critical and worthy of detailed discussion. HVIA consider the following opportunities exist:

- PBS assessors load vehicle details into their own systems to assess performance. Re-entering those same details into the PBS Portal repeats that data entry step.
- There are many manual steps in the PBS process that lend themselves well to automation via a set of rules or assessment criteria.
- There are several manual, document-based steps that exist outside of the PBS portal.
- No defined linkage exists between the NHVR's Route Planner and the PBS Portal.

HVIA suggests that:

- The PBS Portal should improve its data transfer interface to allow data already entered into other systems (Assessors and Manufacturers) to be readily uploaded.
- Design Approval Assessment/Review functions be automated to the greatest extent practicable, and the set of evaluation rules/criteria shared with industry.
- The issuing of Design Approval documents be automated.
- The vehicle certification documents be digitised to allow certifications to be completed and submitted directly into the portal, with minimal manual data entry and chances for error (i.e. using auto-populated forms, and check-boxes or drop-down menus as appropriate), including photo (i.e. evidence) upload capability.
- The PBS Portal and the Route Planner be linked, such that immediately following the issue of a Design Approval, all accessible routes under notices/gazettes/permits be displayed.
- Where access is requested for a currently unavailable route, the Portal should automatically request access from the road manager, and send key operational data supporting the application (e.g. reduction in road injuries/deaths, reduction in pavement wear, impacts on bridge lifespan) to the road manager.
- When assessing access requests road managers should be given the following options:
 - accept the request for access with no conditions.
 - accept the request for access with conditions (and provide drop-down boxes for justifiable conditions).
 - request additional information from the applicant.
 - refuse the application, with supporting justification (within the permitted reasons under legislation)
 - delegate the decision to another authority, or the regulator.

- All automated notifications be supported by regular follow-up notifications at sensible time intervals (e.g. 2 days, 5 days, 10 days).
- NHVR collect data on length of time taken to approve access, requests for additional information conditions and reasons for refusal. This data should be analysed to identify opportunities to provide feedback to road managers, identify inconsistencies and look for opportunities to educate and influence road managers to improve access decisions.

Notwithstanding the above, the introduction of delegation as per the discussion paper is considered likely to result in a *net increase* in administration and processes for industry (and also the NHVR), if the additional assurance mechanisms described elsewhere in the paper are implemented.

Summary of HVIA response to Questions 8, 9 and 10

Any effort to automate a current manual process to remove the need for human intervention (on either the regulator or the industry side) is supported. Removing system/process ambiguity and chances for data entry errors is supported. In this context, digitising the PBS process is supported. There are many opportunities for digitisation and automation that will deliver incremental benefits. Opening certification to assessors and manufacturers is supported.

HVIA acknowledges that shifting some data entry processes to industry requires a robust assurance process but is of the view that the NHVR is ultimately responsible for the integrity of the process and cannot outsource that responsibility. HVIA is mindful that the NHVR has previously committed to developing an assurance framework for third parties undertaking work on behalf of the NHVR (e.g. Authorised Vehicle Examiners) yet has made little progress.

Delegating other NHVR responsibilities to the industry is not supported, as it is considered likely to have the opposite impacts to those intended by the NHVR and is a relatively poor use of the time and skill available within the heavy vehicle industry. Overall, HVIA recommends the NHVR focus its improvement efforts on:

- elimination/reduction of the processing and administration tasks required under PBS
- allocation of adequate NHVR resources to ensure PBS is managed efficiently and promptly.

One area of delegation that has not been explored, yet has substantial merit, is the role of road managers in making access decisions. The HVNL requires road managers to respond to a request for consent from the NHVR within 28 days, unless an extension is agreed with the NHVR. Often, the NHVR does not receive a response within that timeframe, and the request becomes 'overdue'. HVIA recommends that in such cases, the access decision is automatically delegated to the NHVR by default. If that is not acceptable the suggested process for automation of the access process should provide a database to address ongoing delays. HVIA is interested in working with the NHVR to further explore this proposal.

Question 11

Do you agree with the phasing in section 7.2.1 and section 7.2.2? Fundamentally, are the below appropriate 'enablers' for external delegation of responsibilities from NHVR to other PBS stakeholders? Why/why not? How else could delegation work?

- *Establishing contractual obligations and associated penalties for non-conformance.*
- *Increasing the minimum eligibility requirements to undertake additional responsibilities.*
- *Amending the Rules to specify and describe the broader range of responsibilities.*
- *Establishing more robust application, review and approval process for appointment to undertake broader responsibilities.*
- *Undertaking more stringent audits of assessors and certifiers, including associated documentation and procedures (predetermined schedules and random). The level of risk, past performance, and nature of responsibility will influence the type and frequency of audits.*

- *Stakeholders that do not meet minimum standards, and continue to fail to do so after improvement notices and plans are initiated, will be terminated (relative to the severity and frequency of the risk and behaviour). This aspect not only relates to additional responsibility, but base responsibilities and expectations of all assessors and certifiers under the various PBS Rules – this is already a contractual obligation.*

HVIA response: As per previous comments, the HVIA does not agree with the approach of delegating functions.

Question 12

Do you agree that a minimum level of demonstrated quality of work, performance and capability is required to undertake an assessment or certification function in the PBS scheme? Why/ why not?

PBS assessment and certification is presently covered under the NHVR's PBS Assessor Accreditation Rules, and Vehicle Certification Rules, respectively. These rules already cover quality of work, performance, and capability, and are supported by HVIA.

HVIA is not aware of any specific issues where the current rules are not satisfying quality of work, performance, and capability requirements. HVIA supports having a clearly defined set of requirements in relation to these matters and a robust system for maintaining them at suitable levels.

In relation to potential new responsibilities suggested by HVIA, opening certification to assessors and manufacturers need not trigger an increased level of scrutiny, nor additional regulatory oversight.

Manufacturers already work competently within a complex regulatory environment encompassing Australian Design Rules for vehicles and Type Approvals for components and should not be subject to additional scrutiny to simply prove that they can manufacture a vehicle to a set specification. HVIA would prefer that NHVR and the Department of Infrastructure harmonise their requirements for manufacturers in relation to Quality Management Systems (QMS).

Question 13

Is the NHVR's proposed scaled approach to auditing and penalties, commensurate to activity and risk, appropriate – in particular relating to improvement notices and plans, and potential termination of ability to participate as an assessor or a certifier. Why/why not?

HVIA response: The existing NHVR PBS Assessor Accreditation Rules, and Vehicle Certification Rules already include scope for assessors and certifiers to be audited and penalised in the form of termination of approved status. In both cases, parties must allow NHVR authorised persons to conduct an on-site inspection of the assessor/certifier's activities, equipment, record, and internal audit system. This is supported by HVIA. Notwithstanding, HVIA does not consider any need for audits/penalties to be expanded in-line with its recommendations for opening certification to assessors and manufacturers and does not believe that any evidentiary justification for doing so exists.

Question 14

Are the objectives and principles for the PBS scheme and PBS 2.0 appropriate? How could they be improved? Has appropriate consideration been given to these in the proposed improvements to the PBS scheme?

HVIA response: HVIA supports the original objectives for PBS, and guiding principles for PBS 2.0, but believes that appropriate consideration has not been given in the paper to the original 2006 COAG-endorsed objectives and principles, as outlined below.

Certainty of access

Certainty of access has been the enduring limitation of the PBS scheme, and its underlying reasons are well-known. The HVIA will not discuss that further in this response, as it has been covered extensively elsewhere. Nevertheless, failure to address it will continue to profoundly hinder the effectiveness of PBS, and HVIA consider it a significant missed opportunity that it is not addressed in a meaningful way in the paper, despite the following underlying themes being listed as in scope:

- the role and responsibilities of road managers
- using the HVNL and HVNL review as mechanisms to deliver improvements to the PBS scheme.

National consistency

Previous efforts to achieve national consistency in PBS applications have yielded only partial success, and the current regulatory approach remains alarmingly fragmented at all levels. On a national level, there are actually two separate, but similar PBS schemes in Australia, being the NHVR's PBS scheme, adopted by HVNL member states, and the Western Australia PBS scheme, active only in Western Australia. There is no formal mutual recognition between the two schemes.

At the state level, access arrangements for identical vehicles differ substantially. At the local level, councils may simply 'opt out' of providing access to certain networks for specific vehicles, resulting in a 'patchwork' network map within state borders. This situation will also continue to critically hinder PBS, yet is not given any meaningful discussion in the paper.

Improved operational flexibility

One of the outcomes of the PBS scheme is that operators of PBS vehicles have far *less flexibility* than they would have if they operated vehicles in the traditional 'as-of-right' access scheme. In some instances, this is necessary in order to maximise the productivity benefits.

Nonetheless, PBS vehicles are built and constructed in unique combinations, their permits list specific truck and trailer VINs for all approved units, and access can often be limited to one route, or a small set of routes, with additional strict operating conditions. In that context, PBS can be limiting and restrictive, and is another area that the paper is completely silent on.

Reduced compliance cost

For operators, the costs of operating compliant vehicles are numerous, and include registration fees, regular servicing for maintenance and roadworthiness, training for drivers and operators, the use of technologies to manage speed, fatigue, and mass, and the employment of administrators to conduct regular internal compliance checks. PBS participation reduces none of these costs, and conversely, introduces more – the costs of the assessment, certification, and in some cases, road/bridge assessments and additional technology required for permits.

While HVIA does not recommend cost reductions should be a primary objective of the PBS scheme and the focus should remain on productivity improvement, it is important to remove unnecessary cost burdens. Again, the paper is completely silent on these topics.

Improved operator industry participation

While some sections of the paper offer proposals that are aimed at improving industry participation and are likely to yield some benefit, no meaningful gains will be achieved provided that the above barriers remain.

Question 15

What is your preferred option for how the PBS scheme should be managed into the future? Are there any other options the NHVR has not considered and how would they work?

HVIA response: In relation to the three 'Options' for PBS 2.0 outlined in Table 3 of the paper, HVIA broadly supports Option 2, within the context of the comments and recommendations made in this response paper. HVIA does not support Option 1, as it ignores many of the improvement opportunities available. Similarly, HVIA does not support the complete removal of the prescriptive regime as suggested in Option 3. While innovative designs are very useful for promoting high productivity and safety outcomes in some segments of the industry there are many situations where they are unnecessary (e.g. non mass constrained urban pickup and delivery). In those situations, prescriptive rules are a better option.