

# **LGNSW Submission on *Productivity Commission Draft Report – National Transport Regulatory Reform***

January 2020

## Table of contents

<b>1. Opening</b>	<b>3</b>
<b>2. Background</b>	<b>3</b>
<b>3. LGNSW and ALGA Advocacy Priorities</b>	<b>3</b>
<b>4. Comments on Select Key Points, Draft Findings and Draft Recommendations Pertaining to Local Government</b>	<b>4</b>
<b>5. Conclusion</b>	<b>7</b>

## 1. Opening

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State.

LGNSW welcomes the opportunity to make a submission to the Australian Government Productivity Commission's *National Transport Regulatory Reform - Draft Report*.

This is a draft submission awaiting review by the LGNSW Board. Any revisions made by the Board at that time will be forwarded to the Committee in the form of an updated submission.

## 2. Background

The Australian Government Productivity Commission is assessing the economic impact of reforms to transport regulation agreed to by the Council of Australian Governments (COAG) in 2008-09. The reforms relate to heavy vehicle safety and productivity, rail safety and maritime safety. The Commission is making recommendations to the Government on further reforms towards a more integrated national market for transport services.

According to the National Heavy Vehicle Regulator<sup>1</sup>:

... local government is recognised in legislation<sup>2</sup> as being responsible for consenting to access to restricted access vehicles on their roads, and the conditions under which they will operate. The HVNL requires local government [as the legislated road manager] to formally consent to operation on their roads before a permit can be issued. This is intended to empower local government to ensure safety for all road users, protect and efficiently manage access to important council infrastructure, such as roads and bridges, and to preserve and manage public amenity.

As such, it is vital that local government is treated as an equal partner in the legislative reform process. LGNSW is concerned that some aspects of the reform agenda are being driven by an industry-first perspective that is distorting the debate around the perceived need for change in the current heavy vehicle law, particularly relating to heavy vehicle access. At stake is the long-term sustainability of the road network, particularly in the important first and last mile corridors managed by councils. With councils in NSW responsible for around 90 percent of the road network (163,850km) with an estimated value of \$65.7 billion<sup>3</sup>, the views of councils must be given equal consideration, particularly where legislative reform impinges on role of councils as road managers.

## 3. LGNSW and ALGA Advocacy Priorities

This submission aligns with current LGNSW and the Australian Local Government Association (ALGA) Advocacy Priorities. LGNSW urges the Commission, in making its deliberations and recommendations, to recognise local government's priorities and legitimate role particularly in relation to road access arrangements for heavy vehicles.

LGNSW Policy Platform (June 2019)<sup>4</sup> details our policy 'Position Statement' highly relevant to this submission:

---

<sup>1</sup> <https://www.nhvr.gov.au/road-access/local-government-road-managers/local-government-under-the-hvnl>

<sup>2</sup> <https://www.nhvr.gov.au/law-policies/heavy-vehicle-national-law-and-regulations>

<sup>3</sup> [https://crm.roadsdirector.org.au/sites/default/files/uploaded-content/field\\_f\\_content\\_file/infrastructure\\_nsw\\_discussion\\_paper\\_0.pdf](https://crm.roadsdirector.org.au/sites/default/files/uploaded-content/field_f_content_file/infrastructure_nsw_discussion_paper_0.pdf)

<sup>4</sup> [https://lgnsw.org.au/files/imce-uploads/581/LGNSW\\_Policy\\_Platform\\_-\\_060719.pdf](https://lgnsw.org.au/files/imce-uploads/581/LGNSW_Policy_Platform_-_060719.pdf)

Position Statement 6 (Infrastructure) highlights our view that local government is best placed to plan for essential local infrastructure and calls for increased infrastructure funding in order to meet the needs of local communities and shared service responsibilities.

ALGA's 2019 Federal Election Initiatives<sup>5</sup> also details an initiative highly relevant to this submission:

Initiative 2 calls on the federal government to 'Realise the potential of Australia's Freight Routes' by addressing the bottlenecks and pinchpoints on first and last mile roads to bring them up to the standard required to support freight movement on local roads.

**Recommendation 1:** That the Commission recognises that local government is an equal partner in supporting improved freight access and plays a vital role in maintaining road safety and the ongoing sustainability of the local road network for all road users.

**Recommendation 2:** That the Commission recognises that current first and last mile bottlenecks and pinchpoints on local road networks will result in permit applications for restricted vehicle access being declined on occasions. Productivity gains sought by industry in this regard will not be realised from changes to the permit approval process or the legislation, but through the necessary investment from federal and state governments to bring aging bridge and road infrastructure up to a standard capable of supporting the movement of restricted access heavy vehicles in a way that is efficient, safe and sustainable.

#### 4. Comments on Select Key Points, Draft Findings and Draft Recommendations Pertaining to Local Government

Whilst LGNSW supports in principle most of the findings and recommendations pertaining to local government in the Commission's Draft Report, LGNSW has concerns about the following Key Points, Draft Findings and Draft Recommendations:

**Key Points:** The Commission's Draft Report states that "approval processes for access to local roads can still be inconsistent, slow and lack transparency"<sup>6</sup>. This position appears to be more reflective of anecdotal evidence offered by the heavy vehicle industry but is not supported in the hard data. As part of its review of the Heavy Vehicle National Law, the National Transport Commission published an issues paper exploring this, titled *Easy Access to Suitable Routes*<sup>7</sup>. The data produced in the paper showed that 96 percent of permit applications submitted to councils by the industry are approved and that 93 percent of these applications are completed within 7 days. This would suggest rather than being 'inconsistent' or 'slow', the permit approval process is in fact consistent and efficient. If there is any inconsistency, it is not the result of inadequacies in approval processes or the legislation, but the inevitable result of a local road networks that vary in condition and suitability for access. The Commission appears to recognise, later in the report, that changes to procedural efficiency alone are not the solution, and that resourcing and funding are critical to enable road managers to make informed decisions:

---

<sup>5</sup> <https://alga.asn.au/alga-2019-federal-election-initiatives/>

<sup>6</sup> Productivity Commission Draft Report, p 2

<sup>7</sup> <https://hvnireview.ntc.gov.au/suitable-route>

“Resourcing for road managers goes beyond the procedural efficiency of approval processes. Funding mechanisms should help road managers make informed decisions, providing a better balance between sometimes competing objectives.”<sup>8</sup>

**Recommendation 3:** That the Commission reviews this ‘Key Point’ to ensure its accuracy or deletes it from the Draft Report as it is not supported by the evidence provided by the National Transport Commission in its review of the Heavy Vehicle National Law.

**Draft Findings:** The Commission’s Draft Finding 6.2 states: “The complexity of the vehicle classifications has limited the progress of faster approvals, through permits, pre-approvals and notices”. In our submission<sup>9</sup> to the National Transport Commission’s Easy Access to Suitable Routes LGNSW recommended that:

As there continues to be a mismatch between roads and a wide range of vehicle types with varying mass limits and dimensions, there will always be an unavoidable and inherent requirement to conduct case-by-case route assessments. Councils play a critical role in maintaining the useful life of public assets and road safety and therefore are best positioned to understand the suitability of their road networks to sustainably and safely support restricted access vehicle movements.

This is why it is also essential to maintain a vehicle classification system that makes it easy for councils to align vehicles with road networks suitable to support their movement. However, we support the simplification of the classification system so that it reflects a similar ‘performance envelope’ approach as identified and recommended in the recent Oversize Overmass Inquiry.<sup>10</sup>

Rather than completely overhauling the current heavy vehicle classification system as implied in the Commission’s Draft Finding 6.2, grouping heavy vehicles according to performance envelopes as a tool for councils using the existing classification system is a potentially simple and cost-effective solution for helping council road engineers assess permit applications more efficiently.

**Recommendation 4:** That the Commission considers recommending that the NHVR develop a tool for councils that simply sorts the current heavy vehicle classifications according to performance envelopes as proposed in the Department of Infrastructure, Regional Development and Cities recent Review of Oversize Overmass Access Arrangements.

**Draft Recommendations:** While LGNSW supports the Commission’s proposal in Draft Recommendation 6.1 that councils could be encouraged to share engineering expertise (where possible), it is problematic to suggest that local governments should “agree to consistent access arrangements for shared roads.”<sup>11</sup> We understand that there may be instances of inconsistent access arrangements between local government areas (LGAs), however, it must be understood that the condition and suitability of the local road network for freight movement varies within and across LGAs. This is due to a range of factors including: systemic and ongoing underfunding; topography; corridor constraints, or bridge loading concerns. Further complicating matters is that not all councils have equal levels of funding to address these issues. Therefore, it cannot be assumed that the issue with consistent access arrangements for shared roads will simply be solved through improved cooperation between

---

<sup>8</sup> Productivity Commission Draft Report, p 327

<sup>9</sup> [https://www.lgnsw.org.au/files/imce-uploads/581/LGNSW\\_submission\\_HVNL\\_Issues\\_Paper%20\\_1\\_FINAL\\_June\\_2019.pdf](https://www.lgnsw.org.au/files/imce-uploads/581/LGNSW_submission_HVNL_Issues_Paper%20_1_FINAL_June_2019.pdf)

<sup>10</sup>

[https://www.infrastructure.gov.au/vehicles/vehicle\\_regulation/files/Oversize\\_Overmass\\_review\\_September\\_2018\\_FINAL\\_REPORT\\_sans\\_appendices.pdf](https://www.infrastructure.gov.au/vehicles/vehicle_regulation/files/Oversize_Overmass_review_September_2018_FINAL_REPORT_sans_appendices.pdf)

<sup>11</sup> Productivity Commission Draft Report, p 186

councils - local governments need funding and access to data/evidence to enable informed decisions.

**Recommendation 5:** That the Commission considers revising its draft recommendation 6.1 to reword or remove the reference that local governments “should agree to consistent access arrangements for shared roads”. While there is potential to facilitate more effective sharing of expertise and collaboration between local governments, a more critical aspect of enabling and informing shared access decisions is local governments having access to funding and better data/evidence.

The Commission’s Draft Recommendation 6.4 is related to the Draft Finding 6.2 discussed above and is reproduced here:

DRAFT Recommendation 6.4

The Council of Australian Governments should direct road managers (including the state road authorities) to work with the National Heavy Vehicle Regulator to rapidly expand key freight routes covered by notices and allowing as-of-right access for larger vehicle types. The focus of this work should include:

- expanding the networks available for heavy vehicles with performance characteristics equivalent to B-doubles (including Performance-Based Standards (PBS) level 2A and 2B B-doubles) and type 1 and 2 road trains (including PBS equivalents)
- where there are classes of vehicles for which permit applications are almost universally approved, developing notices covering these vehicles
- meeting infrastructure requirements such as truck stops and logistics centres near major urban centres, allowing larger vehicles to be broken down into smaller units where required by urban road network constraints.

Whilst LGNSW supports in principle the concept of expanding networks available for heavy vehicles with performance characteristics equivalent to B-doubles, it is vital that the term ‘equivalent’ is strictly adhered to. If for example, this was to be altered to ‘similar’, it could lead to unintended road safety consequences. LGNSW is a member of the Transport for NSW Level Crossing Strategy Council which has noted with considerable concern that there exists in NSW several instances of B-double routes that have been pre-approved but can result in instances of ‘short stacking’ at level crossings as there is insufficient roadway leading up to a level crossing to accommodate a 26 metre B-double. This can result in either the B-double blocking a rail line, or the rear of the vehicle blocking an adjoining road, creating safety hazards for both trains and cars. Strictly speaking, from a road safety perspective, these pre-approved B-double routes should be closed to heavy vehicles where short stacking occurs. Automatically expanding these same routes to PBS level 2A vehicles (up to 26 metres in length) and 2B vehicles (up to 30 metres in length) has the potential to exacerbate this serious road safety issue.

**Recommendation 6:** That the Commission carefully considers the generalised nature of any ‘as-of-right’ access recommendation/s as there are road safety implications that do not appear to have been factored into the Draft Report.

Further, while in principle it seems reasonable to suggest, as the Commission has, that the focus of work should include developing notices covering these vehicle types “where there are

classes of vehicles for which permit applications are almost universally approved”, this should only ever occur in strict consultation on a council road manager-by-road manager basis. Road networks are dynamic and constantly changing due to wear and tear as well as in response to climatic and environmental conditions. B-doubles and similar heavy vehicle configurations inflict 20,000 times the damage to road networks per kilometre travelled<sup>12</sup> compared with the average family car. As a result, there are instances where road managers allow access to certain types of restricted access vehicles on the understanding that a part of the local road network can support limited freight movements. To automatically develop a notice in these instances may not be sustainable and a road manager should be consulted on the viability of entering into a notice on a case-by-case basis.

**Recommendation 6:** That the Commission acknowledges that each local government road manager is best placed to understand the performance capacity of its local road network. As such, notices should only be applied on a road manager-by-road manager basis.

## 5. Conclusion

Local government understands the importance of developing an efficient end-to-end freight network and is acutely aware of the shortcomings of local road networks and issues affecting first and last mile access. However, local government is in the best position to understand the issues at hand and must be closely consulted and engaged throughout any reform process, particularly as local government is the legislated road manager for these road networks. While there are opportunities to improve ‘as-of-right’ access, this is best achieved through the cooperation of the heavy vehicle industry, the NHVR and individual councils. While there are always improvements that can be made to systems and processes, as outlined in our response, the data demonstrates that the permit approval process is working as intended. A more critical issue is access to suitable funding and data/evidence to enable informed decision making.

For further information in relation to this submission, please contact Sanjiv Sathiah, Senior Policy Officer Roads and Transport, on 02 9242 4073 or [sanjiv.sathiah@lgnsw.org.au](mailto:sanjiv.sathiah@lgnsw.org.au)

---

<sup>12</sup> <http://theconversation.com/trucks-are-destroying-our-roads-and-not-picking-up-the-repair-cost-79670>