



Productivity Commission Issues Paper National Transport Regulatory Reform

MAV Submission

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Productivity Commission Issues Paper, National Transport Regulatory Reform, June 2019 has been prepared by the Municipal Association of Victoria (MAV) for 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.

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1 Executive summary

The Municipal Association of Victoria (MAV) welcomes the opportunity to make a submission to the Productivity Commission (the Commission) *Issues Paper - National Transport Regulatory Reform*, covering the regulatory regimes for maritime safety, rail safety and heavy vehicle safety and productivity. The terms of reference for the inquiry require the Commission to:

- investigate the long-run benefits of the Council of Australian Government's (COAG) transport regulatory reform agenda
- examine the implementation and development of the national regulators and the extent to which the objectives of the agenda have been achieved
- identify opportunities to further integrate and harmonise the national freight market and the current focus and remit of the three national regulators.

Victorian councils have a strong interest in the impact of reforms to transport regulation and supporting national laws relating to heavy vehicle safety and productivity, rail and maritime safety. Councils are both statutory transport and planning bodies and manage 85 per cent of Victoria's road network. The level of direct engagement councils have with the national regulators varies. This is reflected by the focus of the MAV submission on the National Heavy Vehicle Regulator (NHVR) and heavy vehicle access.

More funding for councils to assess roads, bridges and culvert infrastructure is a crucial part of delivering a more dynamic freight task in the future. The NHVR could play a role in advocating to the Commonwealth the need for investment in a range of road infrastructure to assist productivity and increase the safety of the freight task. If councils were able to access a fee for processing the increasing volume of permit applications, this would enable them to increase internal capacity and process more applications in the required timeframe.

The introduction of new technology to the future freight task is key to improving freight productivity. However, the technical capacity of road managers and the data systems used by councils varies widely. The provision of support by the NHVR to council road managers to access and utilise NHVR data and tools as they develop will assist councils to better understand frequency and type of vehicles using their road network, enabling them to issue better informed pre-approval permits. While council staff are qualified to make access assessments, the NHVR could provide more regular training, particularly for new council staff. This could help achieve higher productivity with councils being able to process access applications faster.

Councils have highlighted excessive processes the interface agreements can require to undertake routine maintenance activities on council assets. The Office of the National Rail Safety Regulator (ONRSR) could provide enhanced capability and capacity development to support councils deliver their role. The effects of maritime freight and leisure activity on beach safety and water quality can be problematic for councils, particularly where State legislation varies, for example the absence of practical competency based testing for personal water craft in Victoria.

2 Introduction

The Municipal Association of Victoria (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 by 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 advice, strategic advice, capacity building programs and insurance services to local government.

Councils are the managers of local roads, responsible for decision-making, investment and maintenance. Freight movement can be affected by council permit processing and access to local roads. The most significant challenge facing councils, which has a direct impact on freight access, remains investment in local road infrastructure and associated maintenance costs.

The MAV is feeding into development of the Commonwealth National Freight and Supply Chain Strategy and has provided feedback on the Oversize Overmass (OSOM) inquiry recommendations.

The MAV is currently supporting the National Heavy Vehicle Regulator (NHVR) to develop its Heavy Vehicle Freight Access Strategy through the NHVR local government association working group. The NHVR has the potential to play a key role in supporting councils, particularly relating to freight access on local roads. All national and state level freight strategies refer to the future significance of data across the freight task, but do not specifically articulate how data will be sourced and used to provide better access.

The regulatory frameworks of ONRSR and The Australian Maritime Safety Authority (AMSA) regulators also affect councils. The maintenance implications for councils of rail interface agreements and maritime freight, beach amenity and water quality are key considerations outlined further in section 3.

3. Response To Consultation Questions

Freight considerations:

The MAV submission will focus on the following matters highlighted in the issues paper: local road access, the role of council road managers in safety, data identification, acquisition and sharing and the experience of councils in dealing with regulators and national laws.

Road access/permits

Has the involvement of local government in heavy vehicle access approvals contributed to efficiency improvements or better investment decisions?

Where disputes about access arise, are these being resolved in an effective way?

What practical changes would lead to more effective regulatory arrangements involving local government approval processes?

Councils play a key role in heavy vehicle access approvals, including essential first and last mile links between State-managed highways, freight origins and destinations such as farms, distribution centres and industrial parks. The Victorian Freight Plan identifies an ongoing partnership with local government and existing regional freight strategies as critical to achieving the efficiency and economic development aims of the plan. However, there are a range of challenges facing councils:

- variance in council capacity and staff resource to process permit applications
- first and last mile challenges
- land use planning
- education and consultation across council communities
- lack of funding from Commonwealth/State levels to perform strength tests on bridges and culverts

It should be noted that the first three points above are supported in the first Heavy Vehicle National Law (HVNL) review issues paper 'A risk-based approach to regulating heavy vehicles' (April 2019).

The MAV recognises the significance of data and utilisation of technology to address future freight challenges and the inextricable link to road access and safety. In principle, the MAV supports the recommendations made by the OSOM review that the NHVR supports councils with the introduction of an asset management framework to ensure consistency and a system for recording important infrastructure data. This would have to be done in partnership with State and Territory Governments to avoid duplication of effort and inconsistency between jurisdictions.

The OSOM review also recommends the NHVR works with State road managers to provide guidance on access and resources to council road managers, including independent bridge and route assessments.

Councils are not sufficiently resourced to process multiple permit applications and provide access consent as quickly as industry would like. The volume of permits received by council road managers has increased dramatically, particularly within high infrastructure growth areas and major projects. However, councils have received no additional resource and staff have had to add the permit approval task to their existing wider duties. If councils were able to access a fee for processing permit applications, this would enable them to increase internal capacity and ultimately process more applications in the required timeframe.

The access requests that 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 commented they often receive access requests for routes and sites they do not believe to be feasible or desirable. However, when council road managers highlight such a concern to the NHVR, the focus tends to be on processing an approval as quickly as possible rather than negotiating route options. A greater willingness to work through access request concerns would assist the approval process.

The first and last mile of the freight task is crucial, but creates a range of challenges for councils linked to the amenity and safety of their residents. Freight journeys tend to start and finish within a congested road network posing safety concerns for residents and sensitive areas such as schools and hospitals. In addition to this, councils have a range of amenity concerns, for example, loading zones are disappearing with road space being used more intensively for on-street parking.

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. Councils can play a key role in brokering potential solutions to liveability issues including managing congestion, after-hours curfews and trialling innovative road surfaces.

There could be a role for councils to help communities living along freight corridors better understand the environmental and safety benefits of higher productivity vehicles, as well as the strategic economic development role of freight. Some metropolitan councils are reviewing their long-term land use framework plans to minimise heavy vehicle traffic on local roads.

The NHVR could support councils through the provision of improved data to develop a regional freight approach and more effectively identify and prioritise freight routes. Some councils have organised themselves into freight strategy groups that take a strategic view of their combined road network along freight corridors. Some Victorian councils see a need to better use rail

freight assets and port capacity to reduce the impact of road freight movement on supply chain costs and their communities.

More funding for councils to assess roads, bridges and culvert infrastructure is a crucial part of delivering a more dynamic freight task in the future. Many councils do not know the engineering and design standards of their local roads. Councils would be able to use updated intelligence to inform their bridge capital works programmes to better plan 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 and assessing the safety for heavy vehicles, especially cranes, special purpose and OSOM vehicles.

The MAV is aware that the NHVR is currently discussing an innovative approach with jurisdictions, which has been funded and implemented by the Tasmanian Government. The Tasmanian approach has significantly benefitted councils to provide heavy vehicle access across the road network.

The Tasmanian approach 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.

Case study – Tasmanian State Government freight approach

The Tasmanian State Government has 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. Councils contributed to the cost of more detailed assessments for special purpose vehicles.

The Tasmanian reference guide includes a load carrying network section on their website where simply entering the length and width of a vehicle will map a recommended safe route for a freight task, including night and day options.

This approach also places a responsibility on freight operators to do their due diligence and planning rather than the current NHVR approach of road managers being wholly responsible for this task. The Heavy Vehicle National Law Review is going to include the Tasmanian model as a case study.

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, other road managers along a freight route cannot suggest alternative routes. In this scenario where 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. This can lead to the rejection of an application by a council.

The high turnover of council traffic engineers is another resourcing issue facing councils which needs further consideration, particularly in rural areas.

The MAV welcomes recommendation 34g of the OSOM review which advised the NHVR to replicate the Local Government Association of Queensland (LGAQ) funding model to provide a dedicated officer in each state association to work with councils to provide timely advice on OSOM assessments and to better understand and deliver proactive approaches to OSOM access.

Data identification, acquisition and sharing

Does local government have the resources, access to data and expertise needed to process access applications efficiently, evaluate the impact of road access decisions on the supply chain, or to take into account broader demographic and technological shifts? If not, what options might be available to support local government to perform these functions?

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 some 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, to track movements on their network, assist road management and 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 support systems to collect and analyse data would be beneficial. This could include building on the existing Restricted Access Vehicle Route Assessment Tool (Rav Rat) and Road Manager portal.

The NHVR will need to provide support to some 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.

The role of council road managers in safety

Where are the biggest opportunities for future safety and productivity gains in the transport sector, and what impediments exist? What new challenges may arise?

What role should the regulators play in achieving these outcomes and how might they need to change to do so? How might local government need to change to make the work of the regulators more effective e.g. council road managers?

What role should national safety regulators play in the management, collection, sharing and usage of logistical data?

The chain of responsibility for freight access safety rests with road managers and council works departments. An upgrade to road infrastructure and intersections, including bridges that are not designed for heavy vehicles (particularly high productivity vehicles) are key safety considerations. The NHVR could play an influential role in advocating to the Commonwealth the need for investment in a range of road infrastructure to assist productivity and increase the safety of the freight task.

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 provide data on where heavy vehicles are travelling and assist with enforcement.

The lack of current infrastructure knowledge and available road data can lead to road managers sometimes refusing permit approval due to perceived safety risks. It is well known that some OSOM industry operators run 'hot' without appropriate permits, which may be due to their frustration and delays with the current OSOM permitting system.

Improved data could identify Performance Based Standards (PBS) vehicles (by type and level, for example dimensions and mass) and the roads they travel on, what other decision makers are doing (for example access to information on other road manager approvals and refusals) and specific network issues relevant to a vehicle to better support council road managers granting access to their road network. Councils have introduced a range of measures over the years to try and mitigate some of the safety and amenity concerns such as imposing after-hours curfews on heavy vehicle access.

Providing council road managers access to anonymous telematics data will assist 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 in the future.

Council's experience of dealing with regulators and national laws? How can these be improved and harmonized?

Are the current roles and responsibilities (for transport regulation) of each level of government clear and appropriate? If not, what changes (if any) to the roles of the different levels of government would support a safer national system of transport?

Is the National Heavy Vehicle Regulator working effectively with local government?

Does the current regulatory framework achieve an appropriate balance between local and national interests? Issues could include the level of truck traffic on local roads or the reservation of corridors for future freight traffic. Are decisions made at the right level of government?

Some councils have advised the NHVR mapping system often includes errors e.g. road names and that NHVR colleagues can have a prescriptive approach and lack of understanding of local road networks which can make it challenging to discuss some complex issues. There is room for improvement in the way the NHVR engages with councils, including more consistent communication and more frequent visits to regional areas, as it is perceived by some to be Brisbane-centric.

Councils experience a range of issues with the current Heavy Vehicle National Law (HVNL), for example the current regulatory framework does not sufficiently consider the planning framework within which it operates. While national and local interests can generally be balanced within the regulatory framework, there is a lack of ability to balance industry behavior and safety requirements within the current HVNL for the last mile of the freight trip. For example, a council is unable to refuse an application based on the destination site having planning conditions preventing specific vehicle types from accessing the site, which can result in road safety risks and illegal access. The current law does not allow councils to refuse a consent for planning reasons.

Several councils have highlighted examples where they take on the risk for allowing access over a structure which is a State Government responsibility e.g. a sewer which is located under a local road and has presented a load-bearing risk for freight access. The NHVR should consider that in some circumstances it may be appropriate to include third parties in access decisions.

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

Rail considerations:

Is the process of completing interface agreements working effectively?

Rail Safety National Law commenced in Victoria in 2014 requiring Interface Agreements to manage the risks to safety at interfaces between a local road and a railway. This transition from State legislation (Rail Safety Act 2006) to National Rail Safety Legislation triggered a review and update to the wording of the interface agreements.

As a road authority, councils now have a legislated responsibility to identify and assess risks to safety that may arise from the existence or use of any rail or road crossing that is part of the road infrastructure of the road under their authority.

VicTrack worked with stakeholders including the MAV to update the *Interface Agreement Template* in 2018 to ensure that any additional infrastructure maintenance responsibilities and associated liability is not shifted to local government. Councils are required to determine measures to manage risks and for the purposes of managing the risks, seek to enter into new interface agreements with rail infrastructure managers. The template also has the capacity to include site-specific conditions to capture any historic or alternative maintenance arrangements.

The MAV is aware of concerns some councils have regarding interface agreements. Councils have encountered issues in negotiating interface agreements and recognise the potential of the legislation to transfer risk and existing maintenance responsibilities of rail operators to the council, without authority for councils to influence decisions.

Maritime considerations:

Maritime concerns which are of relevance to the issues paper and where the perspective of councils will add value include public safety, environmental safety, the powers and obligations of safety inspectors and general incident reporting.

Some comments councils have shared with the MAV include maritime freight and related concerns with bigger ships coming into bays and ports which has an impact on the need for additional dredging and associated expenditure for councils. The Association of Bayside Municipalities (ABM) in Melbourne is opposed to any further capital works dredging in the Bay and have held that position with State Government for the past five years.

Another issue for councils regarding maritime freight is the potential impact of wash and surge effects. The ships create their own wave energy that hits beaches and can cause erosion, damage, wear and tear to marine and foreshore assets such as piers and jetties. Similar impacts should be considered for bays where the wake and surge erosion affects the beach amenity, safety of swimmers and beach users.

Little reference is made to maritime incidents in terms of the impact they may have on beaches and foreshores where councils are the coastal Crown land managers. Adverse impacts for councils could include poor water quality, vegetation loss, beach contamination and a risk to public health.

Councils have also offered feedback on their experience with the maritime regulator and maritime law. Coastal councils have a high concentration of leisure maritime activity, a role around public safety and addressing public concern. CoPP is one of only several councils to have implemented integrated safety and emergency marker signage in Victoria which are particularly targeted at the increased numbers of personal water craft. However, this has required additional council funding to help ensure the safety of residents and visitors to beaches, particularly swimmers.

The MAV has had insufficient feedback from the sector to make definitive comments in relation to the regulator, although councils have expressed concern around issues regarding safety, environment and amenity.

4. Conclusion

Within the last year the Commonwealth Government has commissioned a National Freight and Supply Chain Strategy, released the OSOM review, announced a review of the Heavy Vehicle National Law and developed pilot programs as part of the Heavy Vehicle Road Reform. Each initiative acknowledges the importance of all levels of government working closely to coordinate efforts and target investment. However, there is a need for State and Federal governments to facilitate more local input to freight policy decisions.

Victoria's freight task is rapidly growing and is critical to state and national economic development. The MAV recognises that delivering streamlined, integrated and cost-effective heavy vehicle permit arrangements at the local level is a high priority for Victoria's road freight industry. If councils were able to access a fee for processing a significantly increasing volume of permit applications, this would enable them to increase internal capacity and ultimately process more applications in the required timeframe.

The technical capacity of road managers and the data systems used by councils varies widely and there is scope to continue building an effective relationship between the NHVR and councils. For example, more frequent and targeted NHVR communication and dedicated local government training events to support heavy vehicle network access decision-making by councils would also be beneficial.

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

While council staff are qualified to make the access assessment, the NHVR could provide more regular training, particularly for new council staff, in relation to supply chain and broader demographic and technology developments could achieve higher productivity by councils being able to process access applications faster.

Councils will play a key role in brokering potential solutions to liveability issues when managing the safety and amenity challenges of freight, particularly within congested urban areas.

The MAV advocates a state or national fund similar to the Tasmanian model to strength test all council bridges and culverts and provide a whole of road network service to industry. This level of freight network intelligence and collaborative access decision making between State and council road managers would significantly reduce the administrative burden on councils, enable them to utilise a strong evidence base to support permit applications and ensure safe freight movement across council and State borders.

As a road authority, councils have a legislated responsibility to identify and assess risks to safety that may arise from the existence or use of any rail or road crossing the road infrastructure under their authority. Councils have highlighted excessive processes the interface agreements can require to undertake routine maintenance activities on council assets

in close proximity to rail assets. The absence of capability and capacity development from the ONRSR to support councils deliver their role as part of national reforms, should also be considered further.

Bayside and coastal councils have a number of roles and responsibilities linked to maritime safety. Some councils have land management responsibility around ports and foreshore and coastal councils have an increasing concentration of leisure maritime activity. The potential effects of maritime freight on beach safety, amenity and water quality are evident where councils are the coastal Crown land managers. The examples of environmental and safety concerns outlined should be considered further by the National Maritime Safety Regulators.

It is essential for local government to be engaged in further reforms to transport services where they have a direct or indirect impact on local roads or council managed foreshores and to be consulted on changes to the focus and remit of national transport regulators.