# Attachment A: Reform Propositions

Table 1 Overall Reform Propositions

| Proposition | NTC Leg Reforms | Cost Benefit Analysis | Additional Work Streams[[1]](#footnote-1) |
| --- | --- | --- | --- |
| * 1. Retain current objects of the law.   *Comment*: The suitability of productivity improvement as an object of the law has been tested with RAC+ and while some stakeholders would like to see the objective removed with the law becoming a safety focused law like the National Maritime and Rail laws and others would like to see the objective strengthened, the pragmatic position is to leave it as it is. | No Policy Change | - | - |
| 1.2. Participating jurisdictions should be required to report every three years on improvements made to heavy vehicle productivity, including infrastructure and regulatory settings, based on metrics and templates set by Ministers. Participating jurisdictions should also produce a three-year forward program for future access improvements; and these plans are to include information for local government bodies within their jurisdiction.  *Comment*: The 2020 Productivity Commission report acknowledged that road managers hold the most government levers in terms of heavy vehicle productivity. If Road Managers have the levers to improve road access, then they should also be accountable and subject to reporting obligations, including details and evidence of improvements to access. The Productivity Commission report acknowledges that road managers have the most government levers in terms of heavy vehicle productivity. | - | - | ✓ |
| 1.3. The law and/or other relevant supporting documents should make clear the roles of the respective government parties with respect to heavy vehicle productivity.  *Comment*: A description of the roles of the various parties will be developed (other than NHVR which is described in 1.4 below). | - | - | ✓ |
| 1.4. The NHVR’s role in productivity is specific to:   1. Facilitating productivity improvements without compromising safety 2. Creating and maintaining a national integrated access decision making process and system, including the production of statistics 3. Support and encourage the uptake of safer and higher productivity vehicles 4. Collaborating with road managers and industry to proactively drive national harmonisation of vehicle access and operating conditions to enable safe and seamless movement of goods and passengers by heavy vehicles across state and territory borders. | No Policy Change | - | ✓ |
| 1.5. To the maximum extent possible the new law be outcome based while also allowing for a prescriptive approach. | ✓ | - | - |
| 1.6. To the maximum extent possible, the new law should place detail into regulations and subordinate instruments as set out in several better regulation guidance documents | ✓ | - | - |

Table 2 Access

| Proposition | NTC Leg Reforms | Cost Benefit Analysis | Additional Work Streams[[2]](#footnote-2) |
| --- | --- | --- | --- |
| Key points   * The message for improving heavy vehicle network access is clear – we need a positive game changer to improve the efficiency and transparency of the decision-making system and improve network access. * To progress, parties need to treat roads as an economic asset, recognising that road mangers are the asset owner and ultimately responsible for access decision-making and performance of the road asset. * A step change to improve productivity and safety can be achieved by investing in a new system to automate access decision-making (to the maximum extent possible) akin to the Tasmanian model, which appears to be well regarded by all parties. * It is acknowledged that this is an ambitious national reform that will require strong partnership with and significant support for local councils. * The key proposals include:   + Establishing a Steering Committee of road managers, Australian Local Government Association and the Regulator to advance the new system:     - Advise on what system can be implemented and how it should be delivered for a successful national rollout     - Assess the benefits, costs and risks of the new IT system     - Detailed Implementation plan developed within 6 months for consideration by Ministers   + Set a target that a new automated access system will be in place within 3 years and the number of access permits required is reduced by 50% within 3 years and 90% within 5 years for all classes of heavy vehicles.   + Conduct a cost benefit and safety risk analysis (as part of the HVNL impact assessment) of expanding general access from GML to CML and vehicle length from 19m to 20m. * It is recommended that a proposal put forward by the ATA to open up as-of-right-access along specific routes on a National Road Transport Network (connecting major cities) be subject to a rapid economic assessment. * A major barrier to the growth of new safer and more efficient PBS vehicles in the fleet is the lack of certainty on access, which could be addressed with the automated access system. |  |  |  |
| 2.1. Re-affirm that road managers are the ultimate access decision makers in their role as road asset owners and managers but need to make those decisions in an efficient, transparent, and accountable way. | No Policy Change | - | - |
| 2.2. Retain the existing decision-making criteria for access, however, update ministerial guidelines on access decisions to consider the productivity benefits of the application and require decision makers when considering rejecting an access application to consider the impact of alternative means of moving the freight which is the subject of the application. | - | - | ✓ |
| 2.3. That a target be set for all jurisdictions to implement upgraded access arrangements within 3-5 years including:   1. Automated real time decision making within 3 years 2. Implementation of automated access assessment supported by access under notice such that the number of access permits required is reduced by 50% within 3 years and 90% within 5 years for all classes of heavy vehicles (including PBS).   *Comment*: While the specific numbers may be debated (e.g. at RAC+ industry suggested 95% within 5 years target), setting targets will help to focus efforts to achieve reform. | - | - | ✓ |
| 2.4. That within the next 6 months a national implementation plan for upgraded access arrangements be prepared for ITMM endorsement by independent consultants and overseen by a small independently chaired jurisdictional/regulator Steering committee which should include all jurisdictions and must include Local Government representation (e.g. ALGA). The implementation plan includes:   1. The most effective operating model and systems arrangements to address access requirements and jurisdictional asset data requirements. Options may include one national system incorporating all relevant assessment tools and data or a federated system with a seamless front end. 2. Ensuring that whatever systems architecture is chosen it is accessible via the NHVR portal. 3. Appropriate mechanisms for incorporating risk appetite for road managers (consistent with asset management plans into the system. 4. The costs, benefits, and risks of the full implementation. 5. Methodology for data gathering and asset assessments in a time and cost and time efficient manner. 6. Leveraging existing investments in initiatives, platforms, databases and data collection processes. 7. Any required legislative or regulatory change to support the implementation   *Comment*: A small oversight group, supported by independent experts, is needed to drive this reform agenda. The implementation plan will enable clarity on what system can be implemented and how, and the costs, benefits, and risks. The outcome will be to expedite a proposed detailed implementation plan to Ministers on the reform needed to achieve a step change in access. | - | ✓ | ✓ |
| 2.5. The National Heavy Vehicle Access Policy Framework (being led by NSW), be expedited, and be brought to the next ITMM for approval. The Framework should:   * Include the proposal approved by ministers in 2020 that comprises strategic policy principles to improve access and deliver national harmonised arrangements * Include identifiable and tangible policies and principles as solutions * Include a working group comprised of industry and jurisdictions to oversee implementation of the policies. | - | - | ✓ |
| 2.6. As part of the final RIS economic analysis for the HVNL (and/or supporting regulations) that a cost benefit analysis and safety risk analysis be prepared on the merits of making any or all the following changes to mass and dimension:   1. GML increase to CML 2. Overall Length increase from 19 to 20 metres (note: thus, removing many approvals required) 3. Overall height to increase from 4.3m to 4.6m. 4. Ensure general access width automatically reflects relevant changes in Australian Design Rules   *Comment*: CML is available to all operators now if they are part of the mass module of NHVAS, there is no logic that says being in the accreditation scheme means the truck does less damage to the road. Vehicles up to 20 metres are commonplace now on the network, what is proposed here is that they should not need a special permit (i.e. this is red tape reduction). | - | ✓ | - |
| 2.7. That a rapid economic appraisal be conducted on the costs and benefits of an ambitious reform agenda of opening up as-of-right access to specific routes along the National Road Transport Network and that subsequent business cases be prepared where benefits outweigh costs. The routes proposed for appraisal are the Hume Highway productivity upgrade (NSW, VIC & ACT), Queensland Inland Freight Route, Port Wakefield-Adelaide Duplication (SA), Great Northern Highway upgrade (WA), Northern Tasmanian Road Freight upgrade, Stuart Highway Flood Immunity. | - | ✓ | ✓ |
| 2.8. That Performance Based Standards (PBS) approvals be better linked with access to networks:   1. Provide certainty of access for PBS Design Approvals. 2. Provide transparent and certain access for PBS vehicles (real and/or design concepts) by providing a similar approach to the Tasmanian HVAMS approach which has been successfully applied to SPV’s and OSOM. 3. Recognise common and proven PBS combinations under gazette or in regulations and provide certainty of access through designated networks (i.e., take them out of the PBS process). 4. Improve effectiveness and efficiency of the PBS design review process by requiring applicants to submit PBS approvals in digital form (not PDF) to the Regulator (to share with road managers). | - | ✓ | ✓ |
| 2.9. Provide corresponding access networks for PBS vehicles to a standard vehicle, general access (up to 50.5t GCM) for PBS Level 1 vehicles, and B-double access for PBS Level 2 vehicles.  *Comment*: An original intention of the PBS scheme was for certain types of PBS vehicles to have corresponding access to a standard vehicle. In practice, the way access has evolved, the B-double network is different to the PBS Level 2 network. This issue would be addressed under an automated access system. | - | - | ✓ |
| 2.10. Proposed improvements to the PBS Scheme:   1. Enable manufacturers of PBS vehicles to self-certify that the build is as per the design. *Comment*: Technically, there are different interpretations involved in certifying that the design is the same as the build (e.g. actual masses) which create challenges for access approvals. Acceptance of\agreed tolerances should be considered. 2. Type approval of component vehicles for the PBS Scheme.   *Comment*: The purpose of this proposition is to enable approval of individual PBS vehicle units and encourage fleet interchangeability in some circumstances.   1. Update PBS standards to reflect learnings over the last 20 years and recognise technologies where appropriate (NHVR has started this work – it should accelerate if possible). 2. Streamline governance of PBS scheme (Nearer term) and continue to gazette networks for PBS vehicles, until online notices are developed 3. Allow transfer of approvals with sale of a PBS combination.   *Comment*: Approval is associated with access to a network which is a potential constraint as the new owner may have different access needs. NHVR is examining certification of individual units and fleet interchangeability. | - | - | ✓ |
| 2.11. Enable businesses to rely on official network maps and automated approvals, instead of needing to refer to gazette notices for legal certainty. | ✓ | - | - |
| 2.12. Empower the Regulator to amend gazette notices to reflect changes to the ADRs or vehicle standards HVSOs/Regulations, without needing the consent of road managers. | ✓ |  | - |
| 2.13. Regulatory instruments and decisions on access issues e.g., mass, dimension and PBS requirements should always be tested for the impact on buses.  *Comment:* The specialised characteristics and requirements of buses would be addressed under an automated access system. | - | ✓ | - |

Table 3 Fatigue Management

| Proposition | NTC Leg Reforms | Cost Benefit Analysis | Additional Work Streams[[3]](#footnote-3) |
| --- | --- | --- | --- |
| Key points   * All vehicles over 4.5 tonne are by default considered fatigue regulated heavy vehicles, however, regulations would allow for categories/classes/types of vehicles to be excluded from certain provisions (e.g., record-keeping). This proposal should be tested by a consultation regulatory impact assessment. The default exclusions should mirror the present exclusion, with any changes to be validated through the regulatory impact assessment process. * There is recognition that until technology allows for roadside detection of fatigue, work and rest rules will need to be applied as a proxy for managing fatigue. Continue to pursue technology as a mechanism for managing fatigue and distraction. * While there is industry support to move to EWDs (digital record keeping), the views on mandating EWDs currently are mixed. Industry is of the view that the current fatigue regulatory framework is a barrier to voluntary uptake of digital record keeping, which can be overcome by removing prescriptive rest breaks and administrative work diary offences and penalties. * A two-tiered regulatory regime for fatigue is proposed:   + General schedule of prescriptive rules is maintained with the option of some flexibility on rest breaks for all operators and some further flexibility for those with EWDs.   + A second tier Fatigue Certification Scheme with greater flexibility, alternative compliance options and regulatory concessions for certified operators, starting with SMS as a minimum, will be further developed by the NHVR. * Fatigue enforcement and compliance should focus on patterns of behaviour, risk profiles, systemic issues, and serious deliberate breaches. * That the number and type of penalty offences and the level of penalty that attaches to them be streamlined and reviewed to ensure that they are risk based and proportionate. Administrative offences should be minimised in the design of the law and a formal warning system be developed and adopted for administrative offences.   The new fatigue regime should be tested through pilots in real world conditions. |  |  |  |
| 3.1. That fatigue detection and distraction technology should be pursued as a mechanism for actively managing fatigue. | - | - | ✓ |
| 3.2. Enable the scope of Fatigue-regulated heavy vehicle (FRHV) to be expanded in the law, such that all vehicles over 4.5 tonne are by default considered fatigue-related heavy vehicles. Conduct a Regulatory Impact Assessment which would include testing exemption options for classes of vehicles or areas of operation from being covered by fatigue regulations (e.g., removing the exemption for vehicles between 4.5 and 12 tonnes and/or removing the 100km exclusion).  *Comment*: This proposition would make a law change so that administratively the expanded scope of FRHV could be implemented.  This proposal is likely to impact on new industry sectors and other impacts e.g., enforcement, so detailed consideration through a consultation regulatory impact assessment process is required. This includes developing and testing exclusions to FRHV to be placed in regulation e.g., present 100-kilometre exclusion; recreational vehicles; vehicles below 12 tonne GVM. The benefit of placing exclusions in regulation, rather than incorporated into the FRHV definition in primary law, is that they can be changed more easily over time, with those changes being subject to consultation requirements.  Issues with implementation will require detailed consideration of the process of consultation and a transition pathway to support industry. Exemptions would need to be prescribed by regulation, so they would require Ministerial endorsement. | ✓ | ✓ | - |
| 3.3. Introduce a two-tiered Fatigue management regime consisting of:   1. Tier 1 Fatigue General Schedule.  * Outer driver hour limits per 24 hours, per week and per fortnight will remain as per the existing General Schedule. * Work and rest rules for fatigue management for drivers, which are an improvement to the current General Schedule with a simpler set of rules. * More flexible rest break requirements. Drivers should take a one-hour break (may consist of multiple short rest breaks) over a 12-hour period and should not work for more than 5 ¼ hours without a break. * The 15 minute “blocks” of rest time be replaced by minute-by-minute counting rest time for those using EWDs, with no 15-minute minimum. * The issue of overlapping 24-hour periods is addressed by initial testing and, if suitable, progressing the permitting the 24-hour period to reset after 10 hours of continuous break.  1. Tier 2 Fatigue Certification Scheme.  * That additional flexibility be provided to drivers working through operators who can demonstrate active safety management in their business (have a certified SMS) and, where appropriate, to use EWDs to record driver work and rest hours digitally. [It is noted that document management for business operations may vary (e.g., paper-based systems, a mix of digital/paper-based systems) and there are no requirements for these systems to be electronic.] * The NHVR will work with operators to set up flexible scalable certification options/levels within the scheme and corresponding business rules. Operators will present the tools and technology solutions to manage fatigue based on risk. * Outer legislated limits should be prescribed, aligned with the current AFM outer limits.   *Comment*: Most of the flexibility required by operators (e.g., an additional one hours’ work in exceptional circumstances, split shifts etc) will be able to be accommodated in the graduated second tier that will ensure that flexibility is achieved in a safe way. Long transition arrangements will be made available to current BFM and AFM certified operators. | ✓ | ✓ | - |
| 3.4. Record Keeping   1. Adequate records are needed to ensure the HVNL is enforceable and provides safety and fairness for the heavy vehicle industry. However, record keeping requirements should not exceed what is necessary to ensure the law is enforceable. 2. The new HVNL should allow for (but not require) record keeping requirements to be prescribed by regulation. This would allow for the form and format of fatigue records to be changed over time, or for the regulations to prescribe different record keeping formats to suit different operations. 3. The regulatory system should where possible incentivise the uptake of electronic fatigue records e.g., Electronic Work Diaries (EWDs). | ✓ | ✓ | - |
| 3.5. Fatigue Enforcement  A review of offences and fines should be undertaken in consultation with jurisdictions, the NHVR, Police and industry. The review should consider the following:   1. Roadside enforcement and issuing of infringement notices for fatigue should focus on the immediacy of fatigue risks, rather than historical breaches; historical breaches should be considered through the lens of other regulatory tools (e.g., improvement notices). 2. The time frame for issuing infringements for fatigue breaches should be amended to 14 days (except where the timeframe for the fatigue measure exceeds 14 days). 3. Infringements for work/rest breaches should shift from focusing on specific incidents to focussing on overall breach risk profiles. A fatigue breach risk profile would consider both the number and severity of individual work/rest breaches. 4. The fines for administrative offences should be proportionate with the risk. 5. Administrative offences should focus on deceptive conduct e.g., providing false, misleading, or omitting information where that omission is misleading. It should not be an offence to omit information if it does not result in ambiguity.   The rectification of administrative oversight at the roadside should be the primary mechanism for addressing administrative errors. If a driver does not rectify administrative errors at the roadside this should lead to issuing a penalty infringement notice. | ✓ | - | - |
| 3.6. The new Fatigue Regime proposed in 3.2, 3.3., 3.4, and 3.5 should be tested against existing industry operations and piloted under real world conditions, and subject to expert safety advice as required, to ensure it delivers reduced complexity without affecting safety. | ✓ | - | - |
| 3.7. Duties and Driver Health.   1. The commercial standards in Australian Fitness to Drive (AFTD) Guidelines should be upgraded to include risk-based screening tests for diabetes, sleep apnoea and cardiovascular issues.   *Comment*: Note that this project should be pursued outside the HVNL process as part of the new AFTD. Expect that a benefit cost analysis will be conducted on the impacts of mandatory health screening prior to implementation. There are some concerns about waiting times for access to health services for rural and remote operators that would need to be considered. It should be noted that this proposition is presently being actioned by the NTC at the request of ITMM.   1. All heavy vehicle drivers should be required to have regular medicals against the standards as part of the driver licensing process,   *Comment*: Expect that a benefit cost analysis will be conducted on the impacts of mandatory medicals if the requirement will apply to all drivers (assume a similar approach to current commercial passenger vehicle licensing/accreditation requirements).   1. Extend the duty to avoid driving while fatigued (s 228) to include a duty not to drive a HV if not fit to do so for other reasons. Amend the primary duty to clarify requirements relating to driver competency and fitness to work. | ✓ (For c.) | (For a. & b.) | ✓  (For a. & b.) |

Table 4 Enforcement, Penalties and Offences

| Proposition | NTC Leg Reforms | Cost Benefit Analysis | Additional Work Streams[[4]](#footnote-4) |
| --- | --- | --- | --- |
| 4.1. That the shift to risk-based safety-focused law (while maintaining some prescription), needs to be supported by requisite skills and resourcing for effective and appropriate enforcement and compliance. On road enforcement action requires training and resources. NHVR risk-based profiling and chain of responsibility investigations and prosecutions should also be supported as appropriate. | - | - | ✓ |
| 4.2. That Road Managers in participating jurisdictions need assurance that there is adequate enforcement and compliance for restricted access vehicles across the national network. As part of the Implementation Plan for the new access arrangements outlined in recommendation 2.3 and 2.4, a review of compliance and the enforcement of access permission should be conducted. | - | - | ✓ |
| 4.3. That record keeping systems be overhauled so that the number and type of penalties being issued by each enforcement body can be readily ascertained and collated at a national level. | - | - | ✓ |
| 4.4. A national regulatory forum be convened once per year by the NHVR to for all enforcement agencies to discuss with industry strategies for ensuring enforcement is more consistent. | - | - | ✓ |

Table 5 Accreditation

| Proposition | NTC Leg Reforms | Cost Benefit Analysis | Additional Work Streams[[5]](#footnote-5) |
| --- | --- | --- | --- |
| Key Points:   * A single voluntary certification scheme will give operators flexibility to meet compliance obligations, administered by the NHVR. * The new certification scheme will be an improvement on the current NHVAS:   + create a base level which includes a Safety Management System (SMS) requirement   + allow development of a more diverse range of alternative compliance options to better support operator diversity   + introduce a better compliance regime including a National Auditing Standard to help to reduce the need for multiple audits requested by customers to meet their chain of responsibility obligations. |  |  |  |
| 5.1. That improvements are made to the existing NHVAS for a single, modular, opt-in (voluntary) certification scheme, administered by the NHVR.[[6]](#footnote-6) | ✓ | - | - |
| 5.2. The overall aim of this reform is to improve safety and productivity outcomes for the NHVAS:   * 1. Align NHVAS accreditation with the primary safety duty in the law.   2. Recognising operator diversity, increase the flexibility for operators to meet compliance obligations to run their businesses now and into the future.   3. Reduce compliance costs for operators to achieve and demonstrate compliance, including reducing the need for multiple audits requested by customers to meet their chain of responsibility obligations.   Suggest leave out these propositions as key focus is on the proposed scheme | ✓ | ✓ | - |
| 5.3. Key elements of the improved voluntary NHVAS are:   1. Safety Management System (SMS) Core Module. The compulsory module will be scalable and specifically designed to support compliance with the primary duty. 2. More flexible and diverse alternative compliance. The regulatory framework supporting the improved NHVAS will also enable a greater range of alternative compliance options, underpinned by Ministerial Directions[[7]](#footnote-7). The framework should be scalable to support different levels of sophistication of operations. Operators with less sophisticated business operations who enter the scheme would be eligible for relatively small concessions and operators with more sophisticated operations would be eligible for highly flexible alternative compliance options. 3. Electronic documentation will replace NHVAS paper-based requirements, with operators retaining the option to carry paper copies of documents. 4. Less administratively burdensome. 5. Reduce the reliance on audits by customers to meet their chain of responsibility obligations. 6. National Audit Standard. A National Auditing Standard will be recognised in law as part of the scheme. The standard will be outcomes-based, designed so that it can be adopted by other assurance schemes. The National Auditing Standard could also be used for non-certification audits intended to establish adherence/compliance with the primary duty. The law will also specify that a Court may consider an audit conducted under the Standard as part of determining whether the Primary Duty has been met. | ✓ | ✓ | - |
| 5.4. Transitional arrangements for NHVAS participants will allow operators accredited under the current NHVAS to have their accreditation and associated regulatory concessions recognised until the operator’s first scheduled audit three years from commencement of the new certification scheme. | ✓ | - | - |

Table 6 Technology and Data

| Proposition | NTC Leg Reforms | Cost Benefit Analysis | Additional Work Streams[[8]](#footnote-8) |
| --- | --- | --- | --- |
| Key Points:   * Technology and data provisions are currently hard-wired into the law. * Heavy vehicle operators who invest in data-generating technology are not able to use those systems as a way of demonstrating compliance with prescriptive obligations. * Current compliance and enforcement provisions enable authorized officers to access heavy vehicle generated data (from operators or third parties) for enforcement purposes (e.g., data mining for offences). This is acting as an impediment to industry investing in technology to improve safety and productivity. * The new law could facilitate a flexible and responsive legal mechanism for adopting technology and data sharing. |  |  |  |
| 6.1. The new law to have enabling provisions to provide for:   1. developing technology standards or adopting international standards 2. the protection of on-board data 3. ensuring that privacy is protected 4. a process for certifying technologies as being compliant, including recognition of technologies approved internationally 5. new specific provisions to clarify the legal status of data generated by certified technologies 6. a specific provision to make it clear that a person can present to court with evidence of complying with the HVNL based on a non-certified technology system. It would be up to the court to decide what weight to place on that evidence. | ✓ | - | - |
| 6.2. The law should enable but not require that Ministers can by regulation establish a Technology and Data Framework/s and a Technology and Data Framework Administrator/s (one or more appointed by ITMM from time to time or for specific regulatory purposes).  *Comment*: A legal mechanism that enables data sharing schemes does not in and of itself create a regulatory or cost burden for industry. The regulatory or cost burden is created by the individual data sharing schemes (e.g., technology acquisition and data transmission costs).  Data sharing schemes that are mandatory for some or all heavy vehicles (i.e., where costs will be incurred by industry) will be subject to a regulatory impact statement process so that a cost benefit analysis (CBA) for any proposed scheme is undertaken.  Data sharing schemes that are voluntary in nature (e.g., a scheme being sought by an industry participant for more cost effective compliance with law) will not be subject to a RIS process or CBA. The decision to invest in a voluntary data sharing scheme are a business investment decision. | ✓ | - | - |

Table 7 Safety Obligations and chain of responsibility

| Proposition | NTC Leg Reforms | Cost Benefit Analysis | Additional Work Streams[[9]](#footnote-9) |
| --- | --- | --- | --- |
| Key Points:   * There are limited examples of cases where parties further up the chain have been investigated and prosecuted. It is still easier to go after the driver or operator. The future law will seek to address current accountability gaps for off-road parties that influence the safety of heavy vehicle transport activities by creating discrete offences for off-road parties.   The future law will set out a non-exhaustive list of risk areas to which safety obligations will apply under the primary duty. |  |  |  |
| 7.1. The future law should introduce a regulatory head of power for *Heavy Vehicle Safety Obligations,* which wouldbe made as regulations and subject to parliamentary disallowance. The law will describe the risks a HVSO may regulate and the parties to which a HVSO may apply. HVSOs would be developed by the NTC subject to the Regulatory impact analysis process for ministerial councils and national standard setting bodies.  *Comment:* this will have the effect of placing prescriptive obligations into regulations. | ✓ | ✓ | - |
| 7.2. The law will set out a non-exhaustive list of risk areas to which an HVSO may apply. The non-exhaustive list will align with the agreed risks to be managed under the primary duty:   * + Fatigue   + Fitness to drive   + Vehicle Standards and Roadworthiness   + Mass and Dimension   + Loading   + Speed   + Competence, and   + Any other risk to public safety.   *Comment*:  Note that for “fitness to drive”, the law will focus on being unfit to drive, whether due to a short-term issue or a long-term medical assessment managed through state-based driver licensing system (included through the AFTD).  Any mandated training or other requirements, e.g., if competency-based training was mandated, then it is a given that such an initiative would be subject to regulatory impact assessment. | ✓ | - | - |
| 7.3. Existing prescriptive requirements in relation to fatigue, mass management and vehicle maintenance will be recast and simplified (where appropriate) as a HVSO. | ✓ | ✓ | - |
| 7.4. The new law will allow for the establishment of prescriptive requirements, for off-road parties (HVSOs). Any off-road party to whom a HVSO applied will need to be defined (in primary law or regulations). The law should enable Ministers to prescribe parties from time to time in regulation, subject to regulatory impact assessments. It is proposed to retain the current list of specific parties in the law, and to conduct regulatory impact assessments for new proposed parties. | ✓ | ✓ | - |
| 7.5. The law should have provisions to enable introducing specific offences for off-road chain of responsibility parties. More work needs to be done to develop specific offences.  *Comment*: Creating discrete offences for specific off-road parties will assist in ensuring that parties turn their mind to the safety implications of their business model and activity. To assist off-road parties with voluntary compliance, the Regulator should be able to produce party-specific CoPs. Off-road parties breaching a HVSO would also be subject to other regulatory actions (e.g., an infringement notice) in addition to an infringement.  The maximum penalty for a regulatory offence under the HVNL is $4,000 for an individual and $20,000 for a corporation, as indexed (s 730(3)(b)). These maximums are considered appropriate for consideration. Offences serious enough to warrant a higher penalty should be prosecuted under Chapter 1A. | ✓ | - | - |

Table 8 Heavy Vehicle Registration

| Proposition | NTC Leg Reforms | Cost Benefit Analysis | Additional Work Streams[[10]](#footnote-10) |
| --- | --- | --- | --- |
| *Comment*: Some consideration has been given to investigating a National HV Registration Scheme. Essentially, there is very little prospect that an economic appraisal would show net economic benefits, therefore this proposal has been dropped.  8.1. Those jurisdictions that don’t currently allow businesses the option of paying heavy vehicle registration monthly by direct debit should consider implementing this customer service improvement | - | - | ✓ |

Table 9 Delegation of authority in the Heavy Vehicle National Law

| Proposition | NTC Leg Reforms | Cost Benefit Analysis | Additional Work Streams[[11]](#footnote-11) |
| --- | --- | --- | --- |
| 9.1. Reform the delegation of authority in the HVNL so the NHVR Board has the power to sufficiently regulate and be held accountable for doing so. At present, many operational and technical matters are reserved to ITMM. | ✓ | - | ✓ |
| 9.2. The new law is likely to give the NHVR Board greater discretion and flexibility. It seems appropriate to review the composition and skills mix of the Board and its governance (noting that the Board should remain skills-based). The review findings should be incorporated into the new regulatory framework. | - | - | ✓ |
| 9.3. Detailed Proposals on ITMM/Non-ITMM Decision-making   1. Codes of Practice should be developed, approved, amended, and cancelled by the Regulator, subject to statutory consultation requirements. The Regulator can develop a Code of Practice at the request of industry, or at the direction of Ministers. 2. Business Rules for certification should be developed and approved by the Regulator. 3. Application forms should be developed and approved by the Regulator (without being subject to any statutory consultation requirements) 4. Ministerial guidelines should be reviewed, and consideration given to adopting an approach that focuses on Ministerial Directions. 5. The specific ministerial power in s 654(1)(a) to approve a standard for sleeper births should be removed. Any sleeper berth standard under the law should be made as part of the vehicle standards HVSO. 6. The Regulator should be subject to statutory consultation requirements with industry, participating jurisdictions and affected parties (minimum consultation timelines etc). Minor amendments and non- substantive changes can be excluded from these requirements. 7. Ministers should have the power to cancel a Code of Practice, or a Business Rule approved by the Regulator. 8. Mechanisms should exist for the decision to approve a Code of Practice to be challenged (and therefore overturned) for circumstances where a party believes a Code of Practice was not developed in line with statutory consultation requirements (process review not merit-based review). | ✓ | - | ✓ |

Table 10 Current law

| Mechanism | Oversight |
| --- | --- |
| Industry codes of practice (s 706) | Industry develops  NHVR registers |
| Guidelines (s 653) | NHVR develops  Ministers approve |

Table 11 Future Law

| Mechanism | Oversight |
| --- | --- |
| Codes of practice | NHVR will develop in partnership with industry and in line with statutory consultation requirements.  Industry will be able to propose a CoP  NHVR Board to approve.  CoP can be challenged on certain grounds |
| Guidelines | Developed by party nominated by Ministers eg. NTC  Ministers approve, delegation for minor amendments |

Table 12 Vehicle Classifications

| Proposition | NTC Leg Reforms | Cost Benefit Analysis | Additional Work Streams[[12]](#footnote-12) |
| --- | --- | --- | --- |
| 10.1. That vehicle classes and classifications will be moved from primary legislation to regulations (or other statutory instruments) to better enable future vehicle types to be recognised in the law. | ✓ | - | - |

# Fatigue Management General Schedule and Proposed.

Table 13 Current General Schedule (1 UP)

| **Total Period** | **Max Work Time** | **Min Rest Time** |
| --- | --- | --- |
| 5.5 hrs | 5.25 hrs | 15 continuous minutes rest time |
| 8 hrs | 7.5 hrs | 30 minutes rest time, in blocks of at least 15 continuous minutes |
| 11 hrs | 10 hrs work time | 60 minutes rest time, in blocks of at least 15 continuous minutes |
| 24 hrs | 12 hours work time | 7 continuous hours stationary rest time |
| 7 days (168 hrs) | 72 hours | 24 hours continuous rest time |
| 14 days | 144 hours work time | 2 night rest breaks; and 2 night rest breaks taken on consecutive days |

Table 14 PROPOSED GENERAL SCHEDULE using WWD

| **Total Period** | **Max Work Time** | **Min Rest Time** |
| --- | --- | --- |
| 5.5 hrs | 5.25 hrs | 15 continuous minutes rest time |
| 12 hrs | 11 hrs | 60 minutes rest time in blocks of at least 15 continuous minutes. |
| 24 hrs | 12 hrs work time | 7 continuous hours stationary rest time. |
| 7 days (168 hours) | 72 hours | 24 hours continuous rest time |
| 14 days | 144 hours work time | 2 night rest breaks; and 2 night rest breaks taken on consecutive days |

Table 15 Proposed Schedule using EWD

| **Total Period** | **Max Work Time** | **Min Rest Time** |
| --- | --- | --- |
| 5.5 hrs | 5.25 hrs | 15 minutes total short rest time \*\* |
| 12 hrs | 11 hrs | 60 minutes total short rest time |
| 24 hrs | 12 hrs work time | 7 continuous hours stationary rest time. |
| 7 days (168 hours) | 72 hours | 24 hours continuous rest time |
| 14 days | 144 hours work time | 2 night rest breaks; and 2 night rest breaks taken on consecutive days |

**\*\* no prescribed minimum duration for a short rest break**

1. Additional Work Streams are initiatives that are outside the NTC Review program of work. [↑](#footnote-ref-1)
2. Additional Work Streams are initiatives that are outside the NTC Review program of work. [↑](#footnote-ref-2)
3. Additional Work Streams are initiatives that are outside the NTC Review program of work. [↑](#footnote-ref-3)
4. Additional Work Streams are initiatives that are outside the NTC Review program of work. [↑](#footnote-ref-4)
5. Additional Work Streams are initiatives that are outside the NTC Review program of work. [↑](#footnote-ref-5)
6. As such, the scheme most closely resembles 7.3.3 *Enhanced opt-in regulatory certification scheme,* canvassed in the Consultation Regulation Impact Statement (C-RIS). [↑](#footnote-ref-6)
7. Currently ministerial guidelines can be made. Ministerial Directions will be used as there is no ambiguity about the requirement to adhere to them. In general terms ministerial directions will be preferred wherever they relate to matters that ministers have authority to control. [↑](#footnote-ref-7)
8. Additional Work Streams are initiatives that are outside the NTC Review program of work. [↑](#footnote-ref-8)
9. Additional Work Streams are initiatives that are outside the NTC Review program of work. [↑](#footnote-ref-9)
10. Additional Work Streams are initiatives that are outside the NTC Review program of work. [↑](#footnote-ref-10)
11. Additional Work Streams are initiatives that are outside the NTC Review program of work. [↑](#footnote-ref-11)
12. Additional Work Streams are initiatives that are outside the NTC Review program of work. [↑](#footnote-ref-12)