



ROAD VEHICLE STANDARDS

Guidance note

Specialist and Enthusiast Vehicles Register – policy position on when a vehicle is genuinely available to consumers in Australia

This Guidance note outlines the Department of Infrastructure, Transport, Regional Development and Communications (the department) policy position on when a vehicle is considered to have been made genuinely available to consumers in Australia.

Specialist and Enthusiast Vehicles Register

A person may apply for one or more variants of a model, or a make and model, of a road vehicle to be entered on the Specialist and Enthusiast Vehicles (SEVs) Register. The road vehicle will be entered on the SEVs Register if the decision maker is satisfied it meets all of the following eligibility criteria in section 129 of the [Road Vehicle Standards Rules 2019](#) (the Rules):

- has not been [made available](#) to consumers in Australia, at any time, under a vehicle type approval or an approval given under subsection 10A(1) or (2) of the *Motor Vehicle Standards Act 1989* (MVSA), or
- it has been [made available](#) to consumers in Australia and section 129A of the Rules applies, and
- has been made available in an overseas market for at least 3 months, and
- meets one of the following criteria:
 - **performance** – refer to section 130 of the Rules
 - **environmental** – refer to section 131 of the Rules
 - **mobility** – refer to section 132 of the Rules
 - **left-hand drive** – refer to section 133 of the Rules
 - **campervans and motorhomes** – refer to section 134 of the Rules
 - **rarity** – refer to section 135 of the Rules.

This Guidance note explains how sections 129 and 129A of the Rules apply when a vehicle has or has not been made genuinely available to consumers in Australia and indicates when a road vehicle is eligible or ineligible for entry on the SEVs Register.

Note: to support your application to enter a road vehicle on the SEVs Register, you will need to provide documented information or reliable evidence that aligns with this policy position. The department will act in accordance with procedural fairness requirements if it has information or evidence that differs from your information or evidence.

Clarification of terminology relating to eligibility

To assist you to understand whether a vehicle is eligible before applying to enter it on the SEVs Register, we have provided further clarification of the following terms used in this Guidance note.

Made available to consumers in Australia

Subsection 129(3) of the Rules provides further clarity that a variant of a model, or make and model, of a road vehicle has been made available to consumers in Australia if, at a particular time:

- consumers in Australia had the **opportunity to purchase** the vehicle, and
- the opportunity to purchase existed **even if** the vehicle had not been physically delivered to consumers in Australia at that time.

An **opportunity to purchase** the vehicle is taken to mean the following:

- the manufacturer gave consumers in Australia an opportunity to secure a legal entitlement to receive the vehicle, and
- that opportunity consisted of:
 - paying the full purchase price outright, or
 - offering an arrangement under which a deposit is paid towards the total purchase price, and the balance of the purchase price will be paid and any other contractual conditions met.

Genuinely available to consumers in Australia

Whether the variant of a model, or make and model, of a road vehicle with the build date range specified in your application is **no longer**, or **was not**, genuinely available to consumers in Australia during the relevant period will depend on the specific circumstances and broad context of the vehicle's Australian availability in that period.

The following scenarios are examples of some circumstances or contexts that may or may not mean the vehicle was genuinely available, noting that each vehicle will have its own unique circumstances or context that will be considered.

Broad context and/or specific circumstances	Genuinely available to consumers in Australia?
Manufacturer produces 500 limited edition supercars globally and supplies 20 vehicles to Australia.	YES. In the context of 500 of this variant being produced worldwide, the supply of 20 vehicles to Australia could be considered as making the vehicles genuinely available to Australian consumers.
Thousands of popular vehicles are produced globally, such as a popular 'hot hatch', and only 20 vehicles were supplied to Australia.	NO. This may not be considered as making the vehicles genuinely available to Australian consumers.
Demand for a popular performance vehicle in Australia has surpassed supply, and this caused delays to the supply of the vehicle in Australia.	YES. If fulfilling vehicle orders has been delayed but the orders are being fulfilled, this could be considered as making the vehicles genuinely available to Australian consumers.
A road vehicle type approval holder advertises the availability of a performance vehicle to consumers in Australia, including that the waiting period to fulfil an order will take over 12 months.	NO, if demand is high and there are no apparent constraints on the level of demand, this might be considered as not making the vehicles genuinely available to Australian consumers.

Eligibility relating to availability to consumers in Australia

- **Subparagraph 129(1)(a)(i)** – the decision maker is satisfied that the variant of the model, or the make and model, of a road vehicle has **not** been [made available](#) to consumers in Australia, at any time, under a road vehicle type approval or an approval given under subsection 10A(1) or (2) under the MVSA, **or**
- **Subparagraph 129(1)(a)(ii)** – the decision maker is satisfied that the variant of the model, or the make and model, of a road vehicle has been [made available](#) to consumers in Australia and meets the criteria in **section 129A**, and
- **Subparagraph 129(1)(a)(ii)b and c** – It has been 3 months since the vehicle was made available to a consumer anywhere in the world and the variant of a model or make and model meets one of the six eligibility criteria listed above.

When a variant, or make and model, is available to consumers in Australia

- **Subsection 129(3)** – a variant of a model, or a make and model, of a road vehicle will have been [made available](#) to consumers in Australia at a particular time if a consumer had the opportunity to purchase the vehicle of the variant or model, even if no such vehicle variant or model had been physically delivered to consumers in Australia at that time.

Meeting the eligibility criteria in section 129A if the variant, or make and model, has been made available to consumers in Australia

The eligibility criteria in section 129A will be met if subsection 129A(1), **or** subsection 129A(2), **or** subsection 129A(3) applies.

- **Subsection 129A(1)** – the variant of the model, or the make and model, of the road vehicle has been [made available](#) to consumers in Australia under a road vehicle type approval, and the person applying for entry on the SEVs Register is the approval holder or has written authorisation from the approval holder to make the application, **OR**
- **Subsection 129A(2)** – the variant of the model, or the make and model, of the road vehicle has been made available to consumers in Australia, under a road vehicle type approval or an approval given under subsection 10A(1) or (2) of the MVSA, and is either:
 - no longer [genuinely available](#) to consumers in Australia as a new vehicle, but is available as a new vehicle in another market in the world, **or**
 - was not [genuinely available](#) to consumers in Australia as a new vehicle for a period during which it was available as a new vehicle in another market in the world, **and**
 - the build date range specified in the application for the variant of the model, or the make and model, of the road vehicle falls wholly within the period in which the vehicle was not [genuinely available](#) to consumers in Australia, **OR**
- **Subsection 129A(3)** – the variant of the model, or the make and model, of the road vehicle has:
 - been [made available](#) to consumers in Australia under an approval given under subsection 10A(1) or (2) of the MVSA, **and**
 - the person applying for entry on the SEVs Register is or was the approval holder or has written authorisation from the current or former approval holder to make the application, **and**
 - the vehicle has **not** been [made available](#) to consumers in Australia under a road vehicle type approval.

What questions do you need to answer and what supporting material do you need to provide?

Before you apply to have a vehicle entered on the SEVs Register, you must ensure you have all relevant material to enable the decision maker to be satisfied the variant of a model, or make and model, of a road vehicle meets all of the eligibility criteria.

Providing information to support your claim(s) against eligibility at the time of submitting your application will minimise delays (decision timeframe is 30 business days).

In relation to whether the vehicle has been made available to consumers in Australia (subparagraph 129A(1)(a)(ii)) and meets the criteria in section 129A, you must answer the following questions and be able to provide supporting material.

Question 1	Has the variant of a model, or make and model of a road vehicle been <u>made available</u> to consumers in Australia, at any time, under a road vehicle type approval, or an approval under subsection 10A(1) or (2) of the MVSA?
If answer to Q1 is No	<p>The make and model, of a road vehicle has not been made available to consumers in Australia, at any time, under a road vehicle type approval or an approval given under subsection 10A(1) or (2) of the MVSA.</p> <p>You must provide supporting material from a credible source to support your claim, such as:</p> <ul style="list-style-type: none"> • Manufacturer’s website information • Manufacturer’s letter in support of the claim (or supporting letter from the manufacturer’s representative) • Article from a credible specialist publication in support of the claim • Product marketing search results • Search results from applicable databases – for example, vehicle type approval list or RAV search. <p>Questions 2 to 7 do not apply. Your variant of a model, or make and model, or a road vehicle will meet the eligibility criteria for entry on the SEVs Register in subparagraph 129A(1)(a)(i) of the Rules, and will not be required to meet the criteria in section 129A.</p>
If answer to Q1 is Yes	<p>Your variant of a model, or make and model, of a road vehicle has been made available to consumers in Australia and, as indicated in subparagraph 129A(1)(a)(ii), must meet the eligibility criteria in section 129A. (As explained above, these eligibility criteria will be met if subsection 129A(1), or subsection 129A(2), or subsection 129A(3) applies.)</p> <p>Go to Question 2.</p>
Question 2	If the vehicle has been made available to consumers in Australia under a road vehicle type approval, are you the holder of the approval for the vehicle, or authorised to make the application by the person who holds that approval?
If answer to Q2 is No	Go to Question 3
If answer to Q2 is Yes	Your variant of a model, or make and model, of a road vehicle meets the eligibility criteria for entry on the SEVs Register in subsection 129A(1).
Question 3	If the vehicle has been <u>made available</u> to consumers in Australia under an approval under subsection 10A(1) or (2) of the MVSA, and has not been made available to consumers in Australia under a road vehicle type approval, are you, or were you, the holder of the approval for the vehicle under subsection 10A(1) or (2) of the MVSA, or authorised to make the application by the person who holds/held that approval?
If answer to Q3 is No	Go to Question 4.

If answer to Q3 is Yes	Your variant of a model, or make and model, of a road vehicle meets the eligibility criteria for entry on the SEVs Register in subsection 129A(3).
Question 4	Has the vehicle been <u>made available</u> to consumers in Australia under a road vehicle type approval, or an approval under subsection 10A(1) or (2) of the MVSA?
If answer to Q4 is No	Your variant of a model, or make and model, of a road vehicle will not meet the eligibility criteria for entry on the SEVs Register in subsection 129A(2).
If answer to Q4 is Yes	Go to Question 5.
Question 5	Is the variant of the model, or the make and model, of the vehicle no longer <u>genuinely available</u> to consumers in Australia as a new vehicle, but available as a new vehicle in another market in the world?
If the answer to Q5 is No	Go to Question 6.
If the answer to Q5 is Yes	Go to Question 7.
Question 6	Was the variant of the model, or the make and model, of the vehicle not <u>genuinely available</u> to consumers in Australia as a new vehicle for a period during which it was available as a new vehicle in another market in the world?
If the answer to Q6 is No	Your variant of a model, or make and model, of a road vehicle will not meet the eligibility criteria for entry on the SEVs Register in subsection 129A(2)
If the answer to Q6 is Yes	Go to Question 7.
Question 7	Does the build date range for the vehicle, as specified in your application, fall wholly within the period in which the variant of the model, or make and model of the road vehicle, was not <u>genuinely available</u> to consumers in Australia as per your answer to Question 5 or Question 6?
If the answer to Q7 is No	Your variant of a model, or make and model, of a road vehicle will not meet the eligibility criteria for entry on the SEVs Register in subsection 129A(2).
If the answer to Q7 is Yes	You must provide supporting material from a credible source in support of your claim, such as: <ul style="list-style-type: none"> • Details of the approval held under RVSA or MVSA • Information from the approval holder under RVSA or MVSA • Manufacturer's website information • Manufacturer's letter supporting the claim (or supporting letter from a representative of the manufacturer) • Article from a credible specialist publication in support of the claim • Product marketing search results, including volumes and availability time periods • Search results from applicable databases – for example, vehicle type approval list or RAV search.

Eligibility clarification

In relation to Questions 4, 5, 6 and 7 above, Figure 1 below provides further clarity about the eligibility of a variant of a model, or make and model, of a road vehicle under subsection 129A(2) of the Rules, and captures the periods of time when a vehicle was not, or is no longer, [genuinely available](#) to consumers in Australia.

Figure 1.

Year of manufacture	2012	2013	2014	2015	2016
Availability of the vehicle overseas	Period the vehicle was made available in an overseas market				
Availability of the vehicle in Australia	Made available to consumers in Australia under a road vehicle type approval or approval given under subsection 10A(1) or (2) of the MVSA.			No longer <u>genuinely available</u> to consumers in Australia as a new vehicle, but is available as a new vehicle in an overseas market.	
SEVs Register eligibility	The build date range of a vehicle that falls within this period is NOT eligible.			If the build date range for the vehicle specified in your application falls wholly within this period, the vehicle will meet the ELIGIBILITY criterion in subsection 129A(2).	
Availability of the vehicle in Australia	Not <u>genuinely available</u> to consumers in Australia as a new vehicle when it was available as a new vehicle in an overseas market.		Made available to consumers in Australia under a road vehicle type approval or approval given under subsection 10A(1) or (2) of the MVSA.		
SEVs Register eligibility	If the build date range specified in your application falls wholly within this period, the vehicle will meet the ELIGIBILITY criterion in subsection 129A(2).		The build date range of a vehicle that falls within this period is NOT eligible under subsection 129A(2).		

Further information

Further information about eligibility and the application process for entering a vehicle on the SEVs Register is available on the department's website pages on [Specialist and Enthusiast Vehicles](#), and [Guide to specialist and enthusiast vehicles](#), or you can submit an [online enquiry](#).