



Australian Government

Department of Infrastructure, Transport,  
Cities and Regional Development



## Road Vehicle Standards

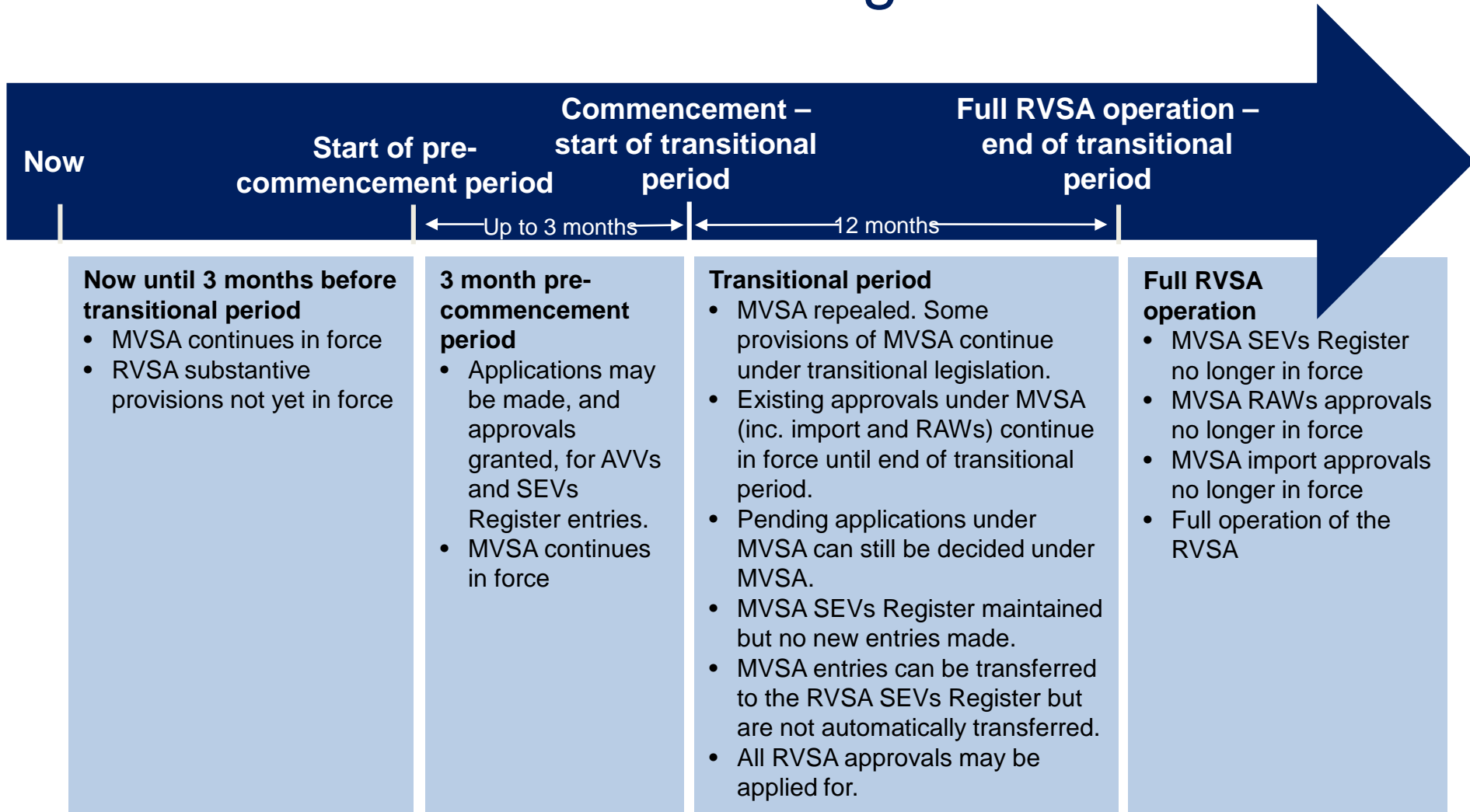


# Road Vehicle Standards legislation – Concessional RAV entry pathway

# Road Vehicle Standards legislation - timing

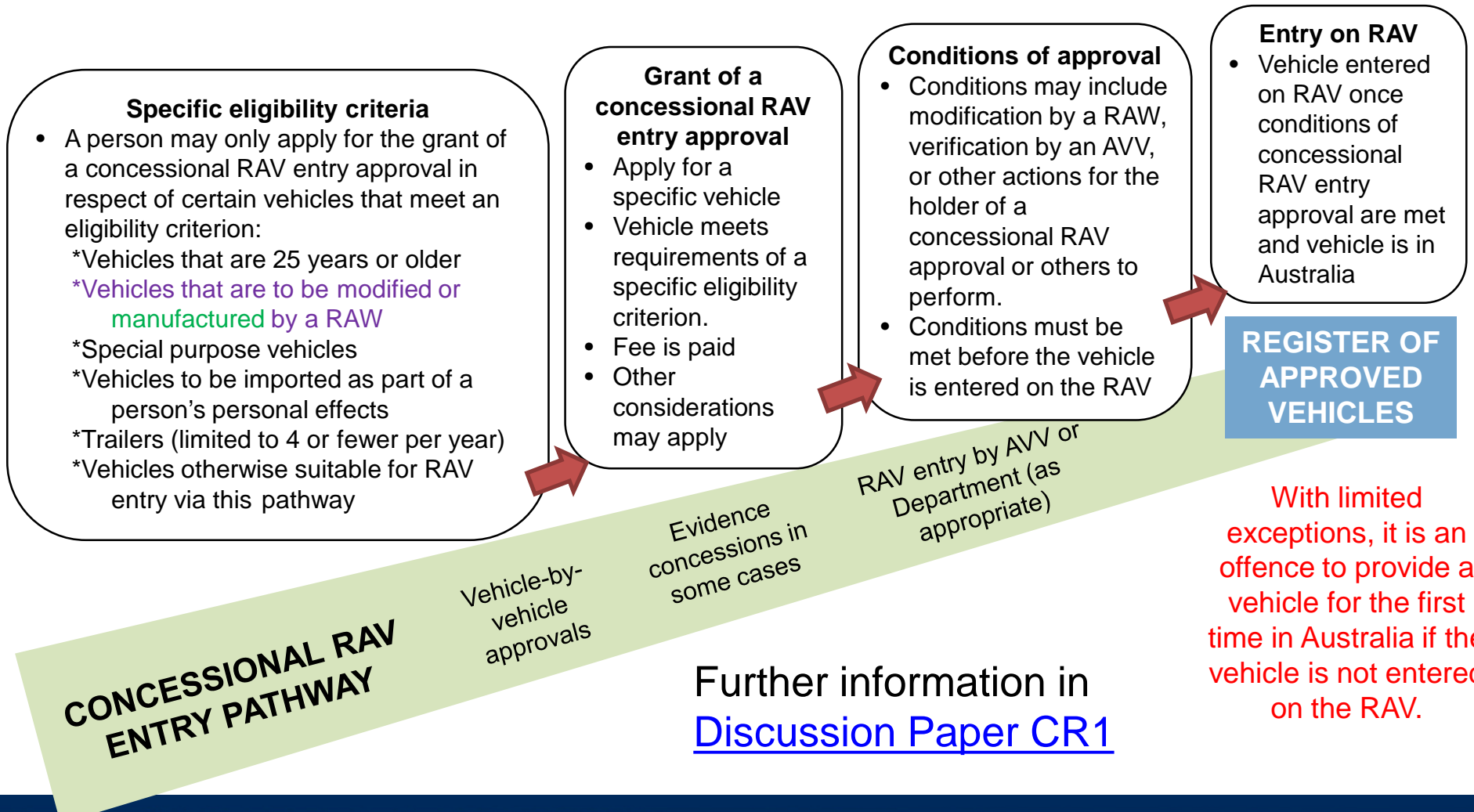
- **10 December 2018** – The Road Vehicle Standards Act 2018 (RVSA) became law.
- **13 February 2019** - The Road Vehicle Standards Rules 2019 (Rules) were made by the Deputy Prime Minister.
  - Exposure draft December 2017
  - There have been some changes.
  - Key changes
    - <https://infrastructure.gov.au/vehicles/rvs/road-vehicle-standards-rules-2019.aspx>
  - The Rules allow for the early commencement of certain matters.

# Transitional arrangements

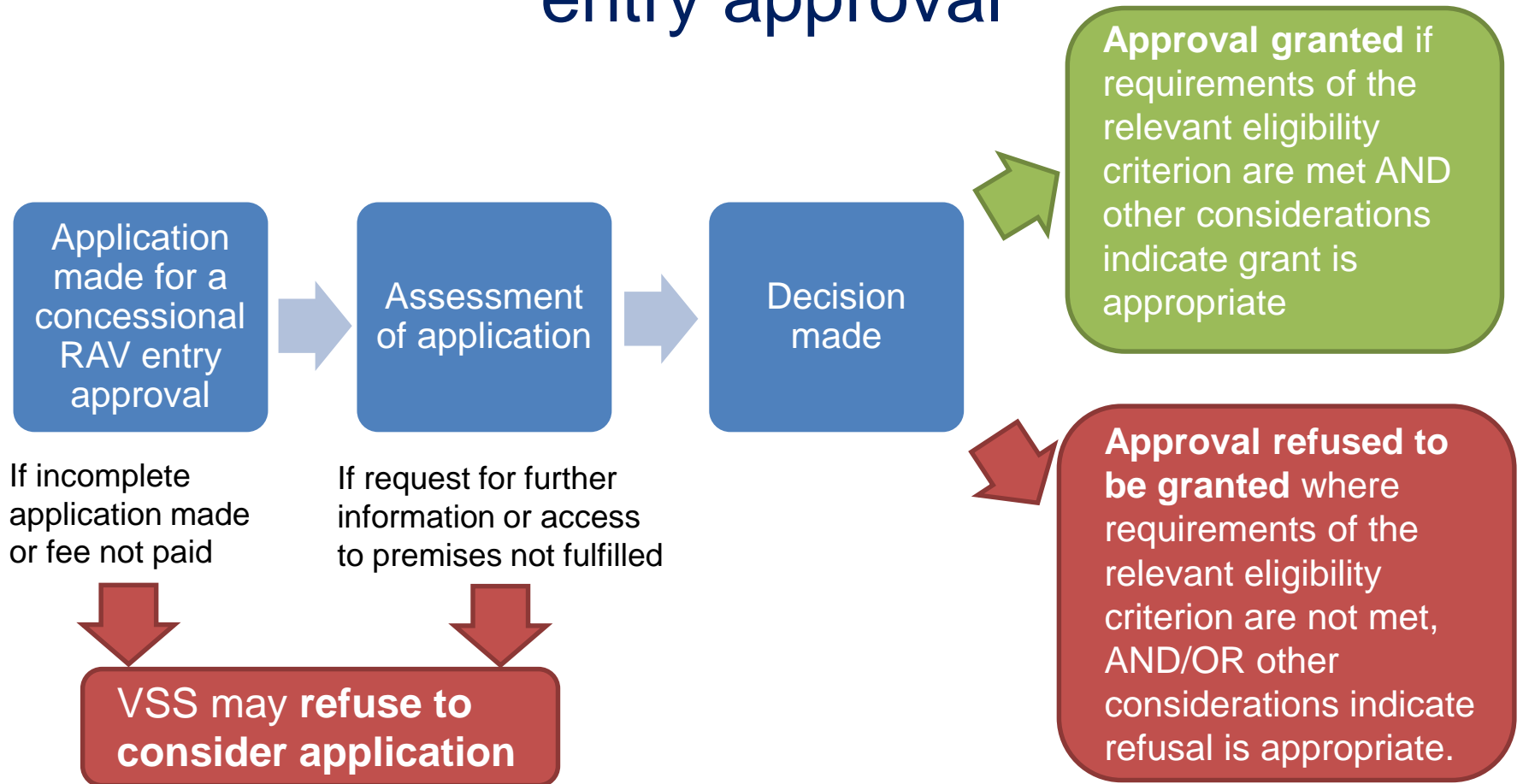


# Concessional RAV entry pathway

## general requirements for entry on the RAV



# Process for grant of a concessional RAV entry approval



# Application for concessional RAV entry approval

Application made for a concessional RAV entry approval

A complete application means it is:

- In the approved form (in ROVER)
- Accompanied by documents as required by form
- Accompanied by a paid application fee

If any of the above are not met, then VSS can refuse to consider the application

- **Any person may apply** – including companies or individuals
- **A complete application and payment must be made** before VSS can assess the application.
- Application and payment is **online via ROVER system**.
- The applicant and vehicle must **meet the requirements of a specific eligibility criterion**.



Providing false or misleading information or declarations to VSS may be a civil or criminal offence.

# Assessment of application for concessional RAV entry approval

Department assesses an application

Further information may be requested to support assessment by VSS

VSS may request inspection of premises or inspection of vehicles

Offence/civil penalty provision for false or misleading information

- **VSS undertakes assessment** to ensure requirements of one of the specific eligibility criteria are met. Other relevant considerations include:
  - Whether the vehicle is or could be made fit for use on a public road
  - Previous contraventions of road vehicle legislation
- **Further information requested or an inspection** may support VSS to make a decision on the application.
- **Decision must be made within 30 business days** after receiving the complete application, or longer if further information or inspection is requested.



**VSS may refuse to consider an application if an applicant fails to provide access to a vehicle, premises or requested information within the reasonable time specified in the request.**

# Decision to grant or not grant a concessional RAV entry approval

Department makes a decision to grant or refuse to grant an approval

An approval will be granted if requirements of the relevant eligibility criterion are met AND other considerations indicate that grant is appropriate

Approval refused to be granted where requirements of the relevant eligibility criterion are not met, AND/OR other considerations indicate refusal is appropriate.

- Applicant will be **notified of a decision in writing**, via email and the ROVER system.
- **If approval is granted:**
  - Conditions apply (conditions specified in Rules and in approval)
  - For some approvals, ongoing record keeping obligations once approval ceases



# Concessional RAV entry approval – conditions of approval

- **Standard conditions** are set out in the Rules.
- **Additional conditions** may be specified in the approval.
- Conditions will differ depending on what specific eligibility criterion was met.



Breaching a condition of an approval may  
be a civil or criminal offence.

# Entry of vehicle on RAV

Department or Approved Vehicle Verifier adds vehicle to the RAV

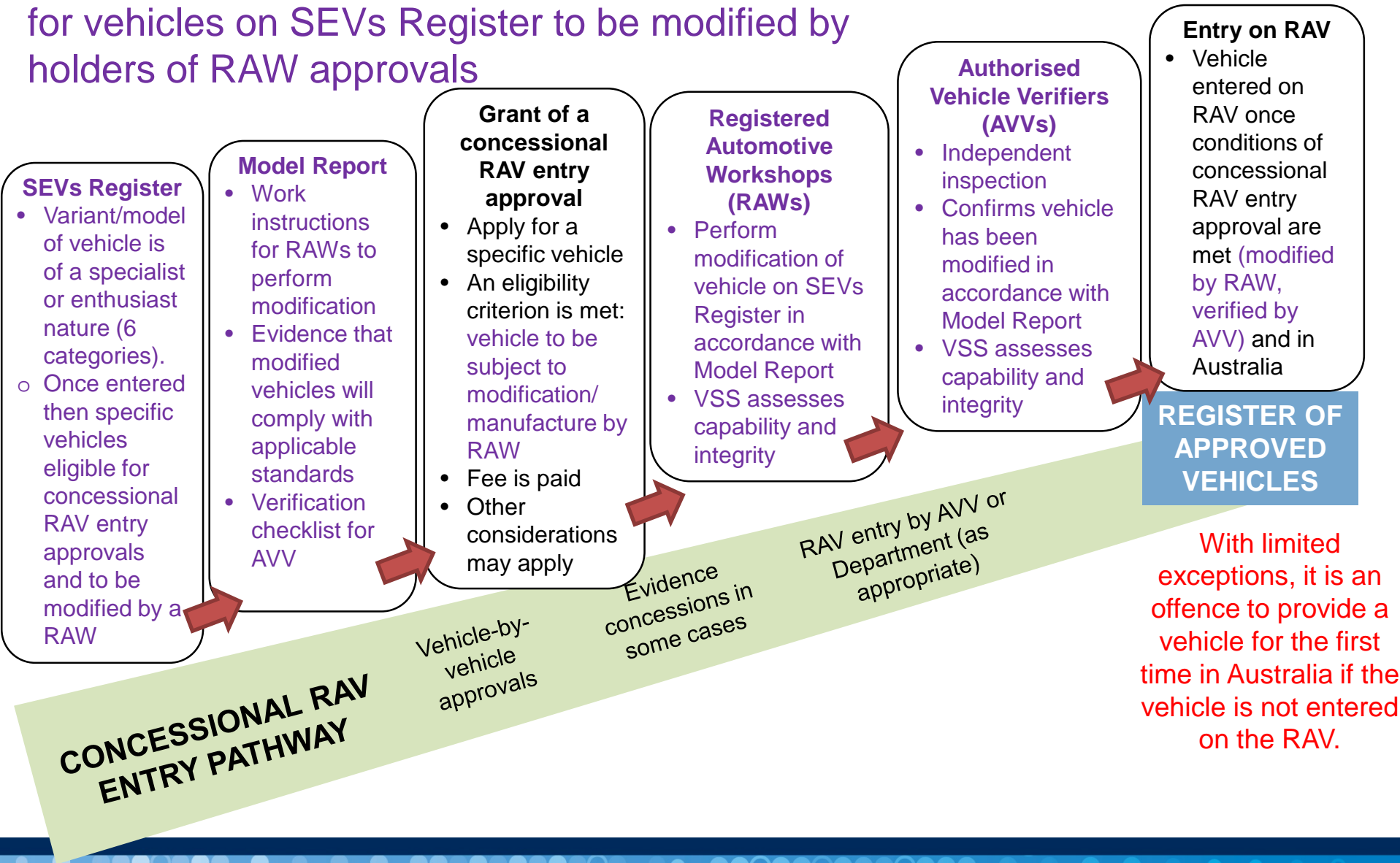
**Vehicles may be entered on the RAV once:**

- the requirements of the specific eligibility criterion are met and a concessional RAV entry approval is granted in relation to the vehicle
- any conditions required to be met before entry have been met

ELIGIBILITY CRITERIA	WHO ENTERS THE VEHICLE TO THE RAV? WHEN IS THE VEHICLE ENTERED?
Older vehicles	Entered onto the RAV by the department once holder of the concessional RAV entry approval: <ul style="list-style-type: none"> <li>• notifies the department that the vehicle is in Australia</li> <li>• has provided information that the vehicle is fit for use on a public road.</li> </ul>
Vehicles to be modified by a RAW	<b>Entered onto the RAV by an AVV.</b> <b>Entered after the vehicle is in Australia and has been modified by a RAW and verified by the AVV.</b>
Special purpose vehicles	Entered onto the RAV by the department once holder of the concessional RAV entry approval: <ul style="list-style-type: none"> <li>• notifies the department that the vehicle is in Australia</li> <li>• has provided information that the vehicle is fit for use on a public road.</li> </ul>
Personal effects	Entered onto the RAV by the department once holder of the concessional RAV entry approval: <ul style="list-style-type: none"> <li>• notifies the department that the vehicle is in Australia</li> <li>• has provided information that the vehicle is fit for use on a public road.</li> </ul>
Trailers	Entered onto the RAV by the department once holder of the concessional RAV entry approval: <ul style="list-style-type: none"> <li>• notifies the department that the vehicle is in Australia</li> <li>• has provided information that the vehicle is fit for use on a public road.</li> </ul>
Suitable for entry onto the RAV	Case by case – entered onto the RAV by the department or an AVV. Only added to RAV when in Australia and any conditions of the approval have been met.

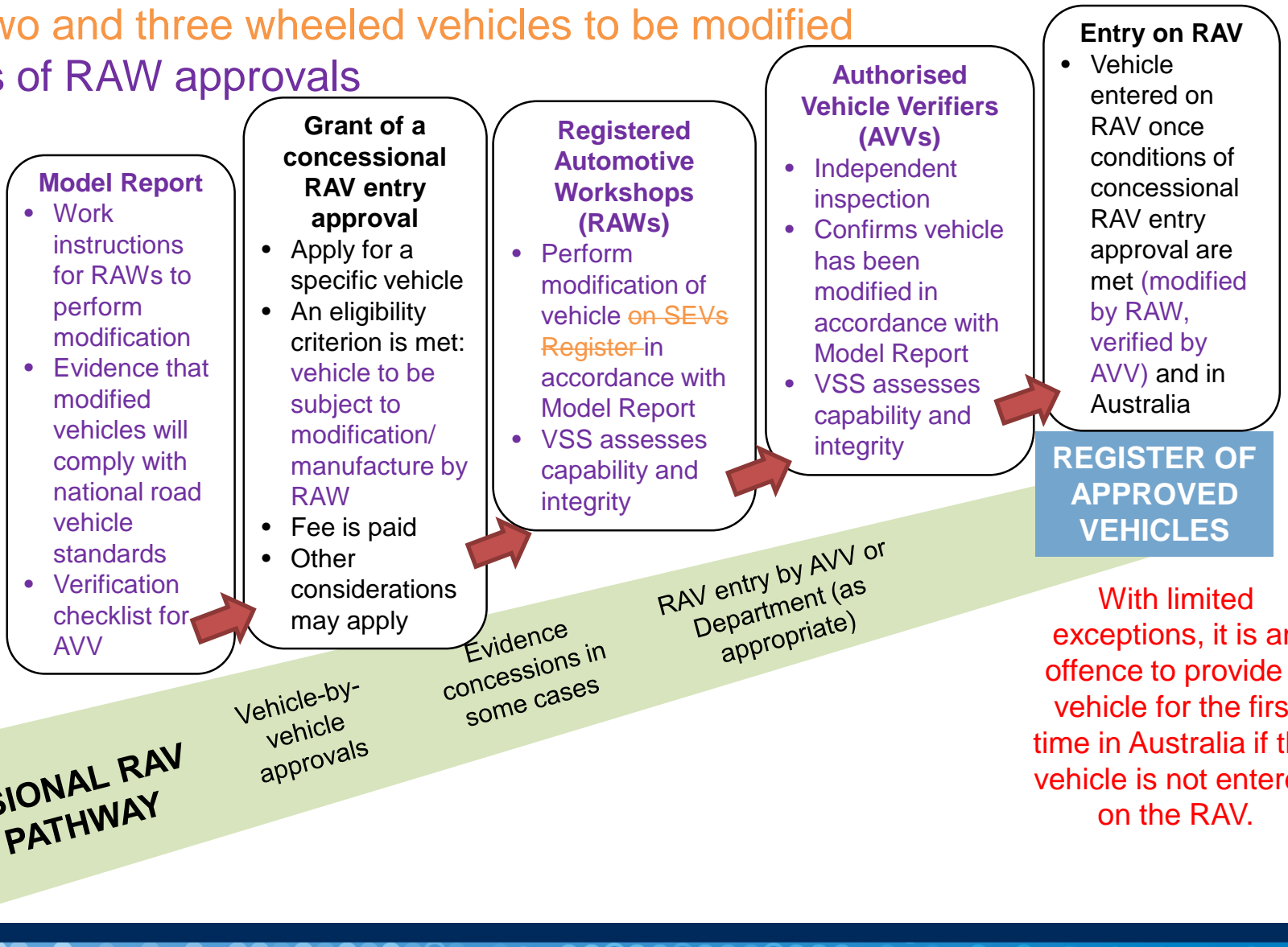
# Concessional RAV entry pathway

for vehicles on SEVs Register to be modified by holders of RAW approvals



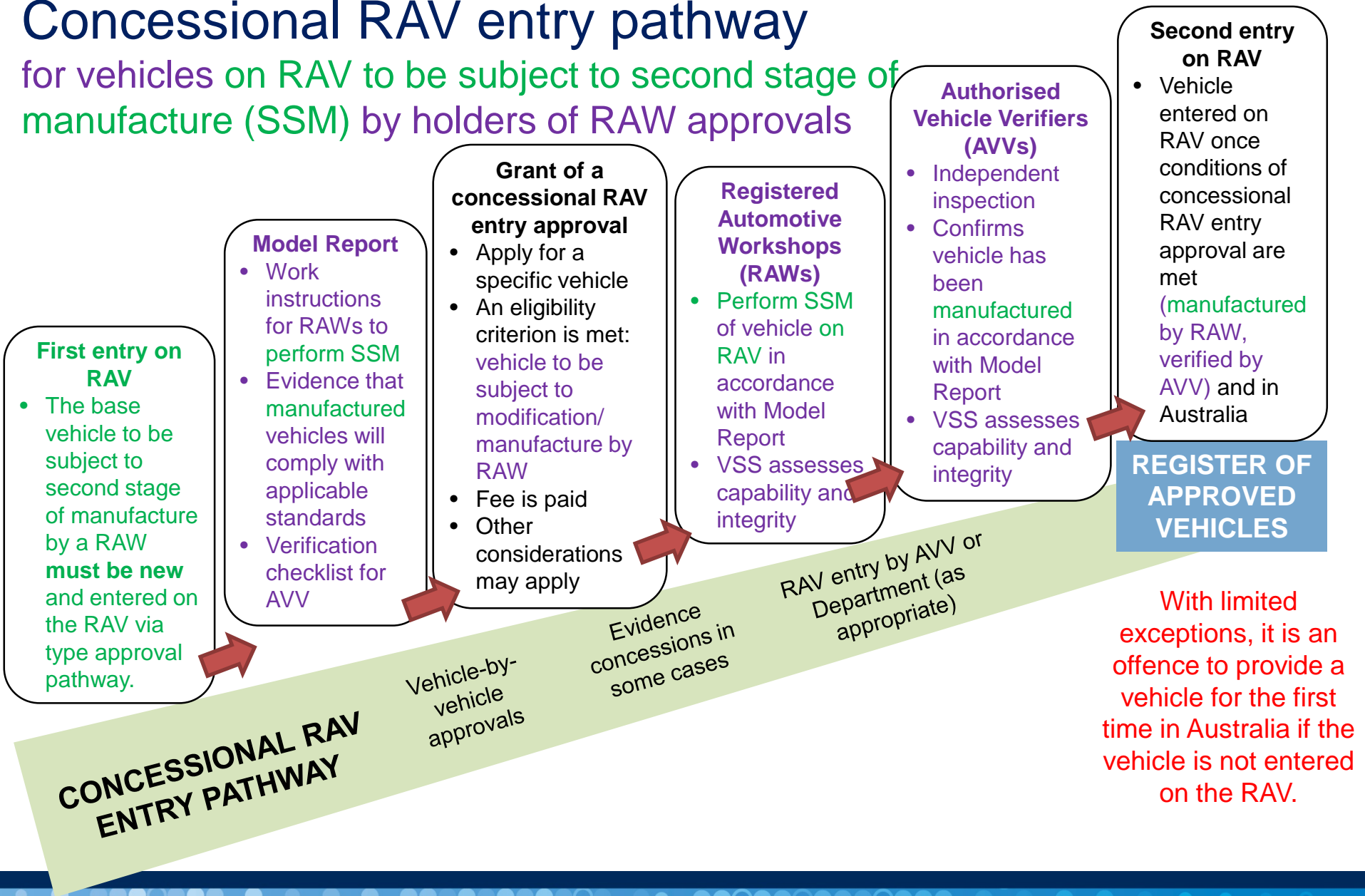
# Concessional RAV entry pathway

for used two and three wheeled vehicles to be modified by holders of RAW approvals



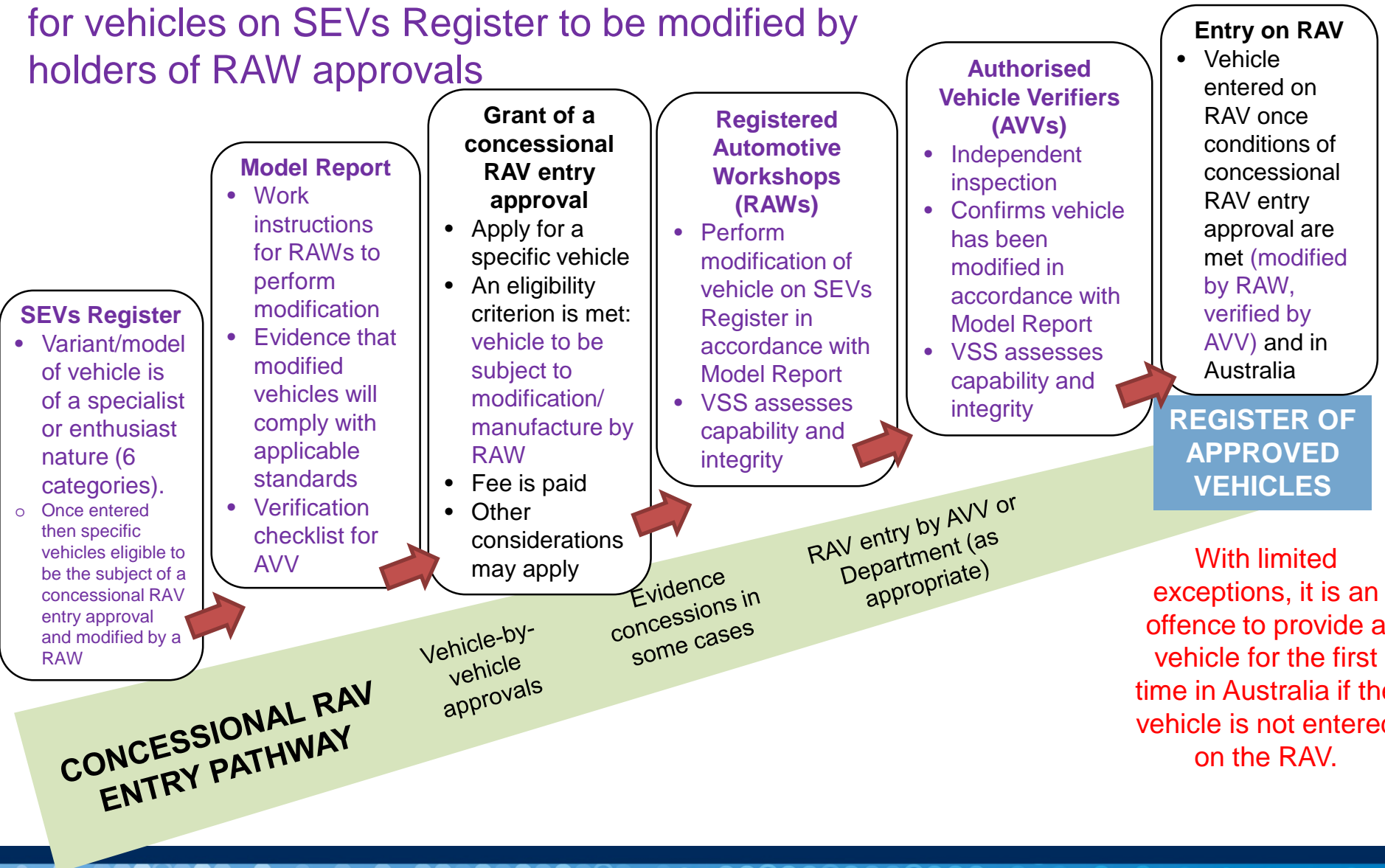
# Concessional RAV entry pathway

for vehicles on RAV to be subject to second stage of manufacture (SSM) by holders of RAW approvals



# Concessional RAV entry pathway

for vehicles on SEVs Register to be modified by holders of RAW approvals



# SEVs Register

- The SEVs Register is designed to identify vehicles that are of a **specialist and enthusiast nature** that are not, or were not, genuinely available to Australian consumers.
- An application must be made to have a **variant of a model** (or, for rare vehicles, a make and model of vehicle) **entered onto the SEVs Register**.
- To be entered onto the SEVs Register the vehicle:
  - must not be **genuinely available** to Australian consumers
  - must meet **one of six specific eligibility criteria**, relating to different kinds of specialist and enthusiast vehicles
  - If all the relevant criteria are not met, the approval cannot be granted.
- Further information in [Discussion Paper TL1](#)

# RAWs

- The holder of a RAW approval must **modify or manufacture a vehicle in accordance with an approved Model Report** that applies to the vehicle.
- A RAW VIC signatory will no longer perform a verification of the modification or manufacture.
- A RAW approval will no longer be a general approval to provide vehicles to the Australian market.
  - This element of the approval is part of the concessional RAV entry approval for each vehicle.
  - RAWs may apply for a concessional RAV entry approval for the vehicles they own (or intend to own), or perform modifications for others who hold concessional RAV entry approvals.



# RAW approval – grant

- An applicant for a RAW approval **must be a company**.
- The same process for application, assessment and decision as for concessional RAV entry approvals applies.
- The **applicant must demonstrate that they meet the eligibility criteria for the grant of a RAW approval**, relating to:
  - Solvency of the applicant company
  - The quality management system the applicant must have in place
  - The age and personal solvency of key management personnel (e.g. company directors)
  - Whether the applicant will comply with conditions of the approval
- **Other considerations** include:
  - Previous contraventions of road vehicle legislation

# RAW approval – conditions

- Premises at which vehicles are modified or manufactured must meet requirements specified in conditions relating to **equipment, trained personnel, and occupation of premises**.
- A vehicle must not be presented to an AVV unless it is has been **modified or manufactured in accordance with an applicable Model Report**.
- Before starting any work on a vehicle, a RAW has to inspect the vehicle **for damage or corrosion**.
  - If there is damage or corrosion that exceeds the threshold the RAW must not continue to work on the vehicle and report this to the department.
- The RAW must have **proper authorisation to use the Model Report**.
  - The RAW must make a declaration and have supporting evidence regarding their authorisation
- The holder of the approval must **provide information, documents or access to vehicles and premises** related to modification or manufacture by the RAW.
- The holder of the RAW approval must also be able to secure **access to third party suppliers of goods and services for the purpose of inspection** by VSS in relation to the activities of the holder of the approval.

# AVVs

- The holder of an AVV approval may perform a number of independent inspection functions:
  - Confirming, against a verification checklist in a Model Report that a vehicle has been modified or manufactured in accordance with that Model Report
  - Performing an inspection for damage or corrosion
  - Performing an inspection of a vehicle as a condition of an approval for that vehicle
- The AVV must conduct the vehicle inspection in Australia.
- An AVV may enter certain vehicles on the RAV via the concessional RAV entry pathway.

# AVV approval - grant

- An applicant for an AVV approval **must be a company**.
- The same process for application, assessment and decision as for RAW and concessional RAV entry approvals applies.
- The **applicant must demonstrate that they meet the eligibility criteria for the grant of an AVV approval**, relating to:
  - The company having, or having access to, the technology, equipment, procedures and appropriately skilled staff to perform inspections as required.
  - Conflicts of interest with holders of RAW approvals and key management personnel of RAWs
  - Whether the applicant will comply with conditions of the approval
- **Other considerations** include:
  - Previous contraventions of road vehicle legislation

# AVV approval – conditions

- The holder of the approval must **perform the following inspections**:
  - to confirm that the vehicle was modified or manufactured in accordance with a Model Report, as applicable
  - in accordance with the requirements specified in a condition of an approval, as applicable
  - to confirm that the vehicle's odometer is accurate
  - for the vehicle for damage or corrosion. If there is damage or corrosion that exceeds the threshold the AVV must not verify the vehicle and must report this to the department.
- The holder of the approval must maintain **technology, equipment, procedures and appropriately skilled staff** to perform all inspections as required.
- Inspections must be **performed in Australia**.
- The holder of the approval must maintain a number of controls relating to **managing conflicts of interest** with a RAW.
- The holder of the approval must **keep records for 7 years** of verification reports, verification checklists included in the reports and the applicable Model Report, and provide these to VSS on request.
- The holder of the approval must **provide information, documents or access to technology, equipment and premises** related to activities of the AVV and its compliance with the RVS legislation.
- If the holder of an approval becomes aware of an **error in information entered on the RAW** under the approval, they must **notify the VSS of the error** as soon as practicable.

# Monitoring and investigations powers

- There are clearly defined powers which allow the department to monitor compliance and investigate non-compliance with the RVSA and related legislation.
- These powers involve entry to premises – either by consent or court issued warrant.

## Monitoring powers

### Why?

- To confirm compliance with the RVSA and related legislation

### What may we do?

- observe and examine activities
- inspect, examine, measure or test things
- inspect and take extracts or copies of documents
- make photo, audio or video records
- ask questions or request documents
- search your premises to determine whether requirements are being met
- secure things which evidence your non-compliance

## Investigations powers

### Why?

- If we suspect on reasonable grounds that there may be material on your premises that is evidence of a contravention of the RVSA and related legislation

### What may we do?

- observe and examine activities
- inspect, examine, measure or test things
- inspect and take extracts or copies of documents
- make photo, audio or video records
- ask questions or request documents
- search your premises for evidential material
- secure or seize things which evidence your non-compliance (if warrant)

# Response to non-compliance

## RESPONSE OPTIONS

General education and awareness (including policy and procedure)

Warning letter

Directed education

Campaign

Infringement Notice **NEW**

Vary or suspend approval

Enforceable undertaking **NEW**

Injunction

Civil Penalty Order **NEW**

Revoke approval

Criminal Prosecution

- **Infringement notices**

- reasonable grounds that there has been a breach of specified RVSA civil penalty provisions or strict liability offences (including giving false or misleading information or breaching a condition of an approval)
- set penalty amount and can only be given within 12 months of the alleged breach
- payment of an infringement notice:
  - is not an admission of guilt
  - prevents the department from taking civil penalty or criminal prosecution action

- **Enforceable undertaking**

- is a binding written agreement between a regulated entity and the department
- it can be enforced by a court

- **Civil penalty orders**

- a civil penalty is a financial penalty applied by a court where it considers, on the balance of probabilities, that there has been a breach of a civil penalty provision of the RVSA

# Voluntary and compulsory recalls

## Current Arrangements

- There is no power under the MVSA for the recall of road vehicles.
- **Voluntary recalls**
  - Under the Australian Consumer Law (ACL), suppliers of vehicles that are consumer goods must notify the ACCC when they take voluntary recall action.
  - The department engages with suppliers of road vehicles that are vehicles covered by the Australian Design Rules (ADRs) to negotiate and monitor voluntary recalls.
- **Compulsory Recalls**
  - The relevant Minister under the Competition and Consumer Act 2010, to which the ACL is scheduled, is empowered to issue a recall notice for a compulsory recall.

## Arrangements under the RVS legislation

The RVS legislation establishes a framework for the voluntary and compulsory recall of road vehicles or approved road vehicle components (including non-consumer goods such as trucks, buses, trailers)

### • **Voluntary recalls**

- Must notify the department within two days of taking recall action for safety or non-compliance reasons.
- Notification expected from the person who first supplied the vehicle or approved road vehicle component in Australia, in trade or commerce.
- Department will publish a recall notice on the website.

### • **Compulsory Recalls**

- Under section 206 of the Rules, the relevant Minister under the RVS legislation will have the power to issue a compulsory recall notice in certain circumstances.



# Interaction with the ACL

## Voluntary recalls

- The recalls provision of the RVS legislation do not replace the obligations under the ACL
  - However, we are working with the ACCC to ensure that if a supplier notifies the department of recall action, then a separate notification to the ACCC will not be required.
- If a recall had previously been notified to the ACCC prior to the commencement of the recall provisions of the RVS legislation, there is no requirement to notify the department separately

## Compulsory recalls

- The ACCC will retain responsibility for the Takata airbag compulsory recall notified in 2018.
- There will be no change to existing obligations on affected suppliers under the Takata airbag compulsory recall as a consequence of the commencement of the recall provisions under the RVS legislation.

# Publication of recall notices

- The department will publish a recall notice on its website.
- The notice on the website will contain a subset of the information provided at the time of notification by the supplier.
- The department will adopt the ACCC's practice of seeking the relevant suppliers consent to publish the content of a notice.
  - This is an opportunity for a supplier to identify commercially sensitive content, as opposed to an opportunity to prevent publication of the notice.

# Questions?

- Ask us questions now or email us at [RVSAimplementation@infrastructure.gov.au](mailto:RVSAimplementation@infrastructure.gov.au)
- Email us if you would like to participate in the Consultation Group relevant to RAWs and concessional RAV entry approvals.
  - Papers and outcomes from Consultation Group meetings are available on our website:  
[https://www.infrastructure.gov.au/vehicles/rvs/rvsa\\_implementation\\_consultation\\_framework.aspx](https://www.infrastructure.gov.au/vehicles/rvs/rvsa_implementation_consultation_framework.aspx)

# Extra slides

# SEVs Register – eligibility criteria

Has the variant of a model, or a make and model, of the road vehicle been provided in Australia?				
No		Yes		
Is the applicant the approval holder or authorised, in writing by the holder of the road vehicle type approval to make the application?				
Yes		No		
		Is the variant of a model, or the make and model, of the road vehicle no longer genuinely available as a new vehicle in Australia but is available overseas?		
		OR		
		Was the variant of a model, or the make and model, of the road vehicle not genuinely available in Australia at any time when it was available overseas?		
		No	Yes	
		Does this application only relate to a variant of a model, or a make and model, of the road vehicle that for a period of time it is not, or has not been, genuinely available in Australia as a new vehicle?		
		No	Yes	
Core criteria satisfied – see section 4.1.2.1	Core criteria satisfied - see section 4.1.2.2	Fail – the variant, or the make and model is not eligible for entry on the SEVs Register	Fail – the variant, or the make and model is not eligible for entry on the SEVs Register	Core criteria satisfied - see section 4.1.2.2

This table sets out key questions VSS will use to assess whether the core criteria for grant are met.

If a variant or model of vehicle application meets the core eligibility criteria, it will then need to meet one of the specific eligibility criteria:

- performance
- environmental
- mobility
- left-hand drive
- campervans and motorhomes
- rarity

# SEVs Register - genuine availability

Eligibility for entry on the SEVs Register where the vehicle is no longer being supplied to consumers in Australia, but the vehicle continues to be available outside Australia

Model year	2012	2013	2014	2015	2016
Overseas availability	Available in an overseas market				
Australian availability	Available to consumers in Australia under a type approval or equivalent			Not genuinely available to Australia consumers	
SEV eligibility	Vehicles manufactured in this period are not eligible for SEV entry			Eligible for SEV entry	

Eligibility for entry on the SEVs Register where the vehicle is available outside Australia, but there was a delay in supplying the vehicle to Australian consumers.

Model year	2012	2013	2014	2015	2016
Overseas availability	Available in an overseas market				
Australian availability	Not genuinely available to Australia consumers			Available to consumers in Australia under a type approval or equivalent	
SEV eligibility	Eligible for SEV entry			Vehicles manufactured in this period are not eligible for SEV entry	