

# RVSA Implementation Consultation Framework

## Type Approvals Consultation Group

### Meeting 3

10:00am – 12:30 pm | Wednesday 27 March 2019

Holiday Inn Sydney Airport | Corner O’Riordan Street & Bourke Road,  
Mascot NSW

### Outcomes

#### **Participants**

Chair - Sharon Nyakuengama (SN), General Manager, Vehicle Safety Standards Branch (VSS), Department of Infrastructure, Regional Development and Cities

#### ***Infrastructure***

Alison Watson (AW), Director, Regulatory Design and Operational Implementation, VSS

Graham Evans (GE), Director, Program Support and Stakeholder Engagement, VSS

David Morton (DM), A/g Director, Regulatory Design and Operational Implementation, VSS

Beth Morrison (BM), Recall Reform Manager, Regulatory Design and Operational Implementation, VSS

Christopher Karas (CK), Assistant Director, Regulatory Design and Operational Implementation, VSS

Phoebe Jones (PJ), Regulatory Design and Operational Implementation, VSS

#### ***Industry***

	<b>Organisation</b>	<b>Representative/s</b>
	Ascend Strategic Counsel	Peter Greenwood
	Allied Automotive	Gerard Polidano
	Australian Automotive Aftermarket Association (AAAA)	Lesley Yates
	Australian Imported Motor Vehicle Industry Association (AIMVIA)	Jack Sandher Kristian Appelt
	Australian Road Transport Suppliers Association (ARTSA)	Dean Abram
	Australian Trucking Association	Paul Walsh
	Bus Industry Confederation (BIC)	Michael Kearney

	Charity Arunuchalaa
Caravan Industry Association of Australia (CIAA)	Anne Campbell Victor Jundis
Daimler, Truck and Bus	Steven Ghaly Ellen Boyle
Federal Chamber of Automotive Industries (FCAI)	James Hurnall
General Motors – Holden	Rob Dyer
Heavy Vehicle Industry Australia (HVIA)	Greg Forbes
Mitsubishi Motors Australia Limited (MMAL)	Ashley Sanders
National Heavy Vehicle Regulator	Peter Austin
Nichibo Australia	Don Rossell
Peter L Smith Engineering	Peter Smith
Protec Developments	Peter Campbell
Queensland Department of Transport and Main Roads	Anant Bellary
RAWS Association	Rob Ogilvie
Subaru Australia	Hiep Bui
Toyota Motor Corporation Australia	Daniel Pegler
Truck Industry Council (TIC)	Mark Hammond Chris Loose
VicRoads	James Soo Danilo Messias Sacha Abeysekera

## Welcome and introductions

SN welcomed the Type Approvals Consultation Group, gave some introductory comments regarding the making of the Road Vehicle Standards Rules in February 2019, and provided an overview of the session. She thanked participants for their attendance.

Participants in the room and attending by phone introduced themselves.

## Discussion paper TA4 – RVSA Approval Numbering

Discussion paper TA4 was circulated to participants of the Type Approvals Consultation Group by email on 1 March 2019 and on the department's website.

DM delivered an overview of the discussion paper. The Consultation Group considered the options identified in the paper and the discussion questions as follows:

### **Q1 – The department's preference is option 1. What are the impacts on industry of a change in numbering protocols through either option 1 or option 2?**

There was broad endorsement of option 1, for the department to create a new numbering protocol that allows the MVSA approval number to be incorporated into a new approval number.

DM confirmed that there will not be any inadvertent overlap between approval numbers. There will be a breakpoint in the numbering sequence, and the new ROVER system will automatically allocate sequential numbers from that breakpoint. For example, the current IPA number sequence is just over 50,000, and the new numbering for type approvals will be from VTA060000.

Attachment A of discussion paper TA4 identified that, as an interim measure before the completion of the ROVER system, the department may continue to receive applications via the RVCS system currently used to receive applications for IPAs. A participant of the Consultation Group questioned whether this would affect the numbers that were to be issued to opt-in type approval applicants. DM confirmed that when applications for opt-in type approvals were received and approved, the approval number would be in the 9 digit format immediately. The RVCS system would generate a 5 digit number and the 9 digit number would be listed in the approval document.

A participant queried whether existing references to the 5 digit approval number on historical documentation would need to be changed to the 9 digit approval number. DM clarified that the 5 digit approval number would not have to be updated on historical information, as long as that 5 digit number was 'rolled-over' into the new numbering format and contained within the 9 digit number. However, the department would expect the 9 digit number to be used on new information created after that numbering is assigned.

There was a high level of interest in testing facilities, in particular the numbering that relates to testing facility approvals.

- The department clarified that multiple testing facilities can be registered under one number. If an applicant for a testing facility approval previously had multiple facilities registered, the applicant can:
  - Bring one 5 digit test facility registration number forward to become part of the new 9 digit number for the testing facility approval. This number will need to be used for all of the testing facilities covered by the testing facility approval. The applicant can choose which previous test facility registration number to bring forward.
  - Apply for a testing facility approval to cover all previously registered facilities, but seek a new sequential number as the approval number.
  - Apply for a testing facility approval for each testing facility separately, although a separate application fee will be payable for each application.
- A participant asked whether an applicant for a type approval would need to submit type approval applications with updated testing facility numbers. The department's position is that opt-in applications will not need to have supporting information that includes new testing facility numbers.
- The department agreed it was a high priority to issue further guidance material regarding testing facilities. The department has previously provided information regarding testing facilities to the Consultation Groups (discussion paper TL2 – Introduction to Testing Facility Approvals) in addition to presentations in early 2018, a factsheet on the department's website and emails to all contacts listed in the RVCS system.

Participants of the Consultation Group asked questions regarding when and how the matters regarding number format would be captured and resolved.

- One participant identified that they had an expectation that there would be final resolution in the Rules regarding number format. AW said that details relating to something like number format is not something that would typically be included in a legislative instrument, and would not be prescribed in the Rules.
- DM explained that the department would need a couple of weeks alongside the IT developers for the ROVER system to consider option 1 and the other issues raised and settle on a solution.
- AW stated that how final decisions would be expressed would depend on the nature of the issue:
  - Some matters raised in Consultation Groups are required to be included in a determination, which is a legislative instrument.
  - Some issues like those raised about the number format are administrative.
  - There can be communication regarding some issues in guidance when a person logs into the ROVER system.
  - The department will publish guidance but not necessarily in the format of a circular.

## **Q2 – Do you have any additional comments/suggestions regarding the proposed numbering protocol?**

There was substantial discussion regarding the department's policy that application numbers (also sometimes referred to by Consultation Group participants as 'transaction numbers')

generated by the ROVER system would be different to the approval number that would later be generated if the approval was granted.

- Participants of the Consultation Group raised issues with the application number being different from the approval number.
- Participants articulated an operational need for manufacturers to know the number of the approval before the approval is issued. For example, when ordering parts relating to the type of vehicle covered by the type approval, the manufacturer requires the number to put onto a bill of materials and a range of other documentation that will be carried forward once the approval is granted.
- DM explained the tension between the needs of participants in this Consultation Group, and the department's requirements relating to other regulated entities, particularly in the concessional RAV entry and imports space. DM explained that application numbers being different to approval numbers was a fraud control measure, to stop applicants being able to predict what the approval number would be. He further explained that this measure was not targeted towards applicants for type approvals.
- A participant further explained the issue from the perspective of manufacturers, that the outliers inconvenience the bulk of other regulated entities doing the right thing, and create issues for them in forward planning.
- The department agreed to consider the concerns raised in line with its other regulatory objectives and IT constraints, and consider whether anything could be done to address the issues raised regarding needs of type approval holders to have an approval number early.

**Q3 – It is the department's intention to maintain the current numbering system for production and design facilities. What are the benefits of maintaining this arrangement over recording the production and design facilities on each application? Is it more effective to record these details on each application?**

DM asked the Consultation Group to consider the proposal to maintain the current 5 digit numbering system for production and design facilities. He noted that these facilities could continue to be issued registration numbers but would not require any individual approvals as they would fall under the scope of the type approval. The Consultation Group was supportive of this with no significant issues raised.

Discussion paper TA5 – Test reports not submitted by an RVS Approved Testing Facility

Discussion paper TA5 was circulated to participants of the Type Approvals Consultation Group by email on 1 March 2019 and on the department's website.

DM delivered an overview of the discussion paper. The Consultation Group considered the matters raised in the paper and the discussion questions as follows:

The discussion among the Consultation Group largely focused on the nature of the impacts that the matters raised in the discussion paper would have. The key issues raised are identified with subheadings below. The discussion also involved some consideration of the discussion questions, also listed below.

## Policy justification for the requirements regarding test evidence

There was substantial discussion regarding the new requirements with respect to test evidence, in particular, that testing is to be conducted by a person who holds a testing facility approval (under the RVS legislation). Issues raised include the following, in summary:

- In effect, the department will apply different requirements to the same piece of test evidence, or test reports created by the same facility.
  - For example, if two companies, A and B, had previously used the same equipment at the same facility (such as a university) to conduct the same nature of tests, and Company A applied to become a testing facility under the RVSA but Company B and the university did not, then generally the department would only consider Company A's evidence to be valid after the end of the opt-in period.
  - As a further example, test reports that the department would consider for those type approval applicants who decided to opt-in to concessional arrangements in the 6 month opt-in period would not be considered by the department for type approval applicants who decided not to opt-in, or who applied after the end of the opt-in period.
  - Some participants expressed strong concerns regarding these disparities.
- There was uncertainty amongst the Consultation Group regarding how much of an issue this would be, how many test reports and approvals might be affected.
- Some participants considered that costs associated with retesting would likely be substantial, and questioned whether there had been consideration in the Regulatory Impact Statement for the RVS legislation regarding the cost of retesting.
- Some participants rejected the notion that the approach would 'clean up the system'. Testing on king pins used in the manufacture of heavy trailers was given as an example. One participant identified that only three facilities existed in Australia for the testing of king pins. Much of the testing regarding king pins was previously conducted by a facility that is no longer operating.
- One participant raised the issue of bottlenecks and costs that could be created if retesting was required across the industry, particularly where there was limited availability of testing facilities with approvals granted under the RVSA.
- A number of participants were of the view that it is not reasonable to expect retesting of a component that has been in use for a long time without any demonstrated problems.

The department acknowledged these concerns and explained the policy regarding testing facilities and road vehicle component type approvals, in summary:

- The RVS legislation includes a range of strengthening measures to improve regulatory reach to everyone in the supply chain, to strengthen the department's ability to ensure that safe vehicles will be supplied to the market. In particular these measures will extend and improve the department's regulatory reach to testing facilities and to those who currently manufacture components covered by CRNs and SARNs. These measures will also allow the department to conduct a more robust program of compliance and enforcement.

- Currently there are concerns regarding CRNs and SARNs regarding the validity of test evidence on which they rely, poor conformity of production, transfer of CRNs and SARNs between entities without notice to the department. As part of the strengthening measures, the department is lifting requirements regarding the kind of evidence that can be used to obtain a road vehicle component type approval, compared to the evidence requirements that related to applications for CRNs and SARNs.
- Requiring that test evidence be produced by holders of testing facility approvals for testing facilities improves their accountability. Their obligations improve the quality of the test evidence for all, for example, their obligations go to controlling and reporting how testing is conducted, calibration of equipment, and ensuring appropriately skilled staff conduct testing. This is much more than just producing a test report.
- Some retesting would be required where facilities that created testing reports used to apply for CRNs or SARNs no longer exist, did not become the holder of a testing facility approval, or the original test reports could not be located.
- The costs associated with retesting are appropriate given the increased regulatory assurance that the department will deliver regarding approved road vehicle components, and the improved integrity of component type approvals to replace CRNs and SARNs.
- One participant requested further information on the department's specific concerns regarding the validity of CRN/SARN test evidence. Specifically, the participant sought clarity on whether these concerns related to the validity of the original testing or conformity of production issues, and asked if the department could undertake some analysis of the impact of the transition arrangements on industry.
- Holders of road vehicle component type approvals will also have ongoing obligations, including regarding maintaining a conformity of production system and record keeping, which will be subject to audit by the department and, unlike CRNs and SARNs, will be legally enforceable including with penalties.
- The increased regulatory assurance and integrity has a significant benefit across industry, and for participants of the Consultation Group in particular.
  - For example, holders of road vehicle type approvals no longer will be required to ensure conformity of production of every component of a vehicle covered by that road vehicle type approval. The obligations relating to conformity of production of approved road vehicle components used in the manufacture of a vehicle will fall to the holder of the road vehicle component type approval, whereas currently all obligations fall to the holder of the IPA, the equivalent of the road vehicle type approval going forward.
  - There will be improved regulatory reach to the person who provides approved road vehicle components to the market, and they will be held accountable for its compliance with the national road vehicle standards, and their compliance with the conditions of the road vehicle component type approval. This improves the department's ability to regulate compliance with standards and reduces the regulatory burden on holders of IPAs/road vehicle type approvals.
- The impact of these changes will be softened in the opt-in period, however the arrangements during this period are the concession to ease transition for type approval holders and the Department and not the rule. This does mean that different

expectations will be applied over time, or to different companies that use the same equipment but this is reasonable because of the benefits that the strengthening measures (such as improved accountability and regulatory reach) have for holders of approvals under the RVS legislation and for the public.

- It is important that the concessions are limited to address the identified concerns with current operations (for example, poor quality evidence of compliance with relevant standards being the basis for issuing CRNs and SARNs, and certain parts of the supply chain not being accountable).

### **Early notice of required retesting**

Participants of the Consultation Group raised that it can take 6 to 12 months to organise retesting to support an application for a type approval. A participant asked whether applicants for type approvals may be able to submit the applications early to be considered towards the end of the 5 years that the opt-in approval was valid, in a way that will not cut time off the existing time approval. Alternatively, an early assessment of evidence by the department to ensure that there is sufficient lead time for retesting to happen if the department does not accept evidence, would also be helpful.

SN put forward a preliminary view that the department could use the functionality that the ROVER system currently has for the variation of applications or approvals to support this, however, this is not necessarily the final view.

SN acknowledged the concerns raised and confirmed that the department would explore options to support applicants for type approvals to have sufficient notice regarding any need for retesting.

### **Understanding the changes**

One participant suggested that specific examples of what kind of testing evidence may be used in applications for opt-in type approval applications, and applications for type approvals after the end of the opt-in period, would be helpful. The department confirmed that it will provide, as part of its guidance on the matters raised in this discussion paper, scenario-based examples.

### **Eligibility to have older evidence considered**

A participant of the Consultation Group requested engagement by the department with manufacturers when assessing applications for type approvals that include test evidence not from a testing facility approved under the RVSA. This participant identified that the option for older evidence to be considered seemed vague and was concerned about the rejection of evidence relating to compliance with ADR 59 (standards for omnibus rollover strength).

SN assured the Consultation Group that an assessment of the eligibility for test evidence to be considered will be collaborative between the department and manufacturer to understand the issue.

**Q1 – How many approvals do you expect may be affected by test reports that have been conducted under the MVSA and will not be eligible under the RVSA due to the facility not registering or no longer existing?**

The Consultation Group discussed, as noted above, how they would be affected by the position of the department to, after the end of the opt-in period, generally not accept reports relating to testing conducted under the MVSA where the person or company that conducted the testing does not become the holder of a testing facility approval under the RVSA. Participants were generally not in a position to give any significant quantification to how many approvals would be affected.

SN agreed to undertake further analysis of the impact of requirements related to test evidence for component type approvals and asked the Consultation Group to assist by providing relevant information to help quantify the likely impacts.

**Q2 – Do you expect there to be any test reports prepared for MVSA approvals to be still required for an approval after 13 years?**

There were no examples given, but participants of the Consultation Group were invited to give further feedback by email.

**Q3 – Are there circumstances where it would be difficult for an approval holder to access the original test reports?**

There were no examples given, but participants of the Consultation Group were invited to give further feedback by email.

Key changes between Exposure Draft and final version of the Road Vehicle Standards Rules

PJ delivered a presentation regarding the key changes between the Exposure Draft of the Road Vehicle Standards Rules (December 2017) and the final version of the Rules (February 2019). Participants of the Consultation Group queried and discussed a number of the matters raised in the presentation, including the following:

**Demonstrating compliance with national road vehicle standards**

PJ discussed subsection 19(2) of the Rules, which sets out the matters that a decision-maker can take into account when deciding whether a vehicle or component complies with the national road vehicle standards, for the purpose of deciding whether to grant a type approval.

One participant asked whether they would need to apply for a road vehicle component type approval in Australia for a component that had been approved overseas. The department explained that there were a range of ways that an applicant for a road vehicle type approval could demonstrate that components of a vehicle were compliant with the relevant standards. One way to do this would be by providing the road vehicle component type approval number (similar to a current CRN). Another way would be by demonstrating compliance of the component with other standards, for example an ECE or E-mark covered by the 1958 Agreement. SN stated that the department's intention was not to change the way it currently

accepts a range of evidence including testing against accepted or alternative under international standards.

SN noted that it is optional to use road vehicle component type approvals. If a person wanted to use alternate evidence on applications for type approvals, this is fine. Component type approvals are one tool but there are a range of ways which an applicant for a road vehicle type approval may demonstrate the compliance of a vehicle with national road vehicle standards. Road vehicle component type approvals are intended to be facilitative, for example a tool to assist applicants for type approvals to demonstrate compliance of vehicles or road vehicle components with relevant standards.

### **Allowable modifications**

PJ noted that at the first meeting of the Consultation Group participants had explored with the department what allowable modifications to vehicles should be. The department had received feedback that modifications performed in accordance with VSB 6, the 'National Code of Practice for Heavy Vehicle Modifications' should be allowed, and the Rules were updated to reflect this. PJ noted that further feedback received at that time would be considered in later amendments to the Rules.

Participants of the Consultation Group discussed the inclusion of 'allowable modifications' to the Rules at section 51:

- Some participants stated that they consider that VSB 6 covers some modifications to light vehicles and certain modification that should not be considered as an "allowable modification". They expressed concerns that the way the provision was drafted would include light vehicles modified in accordance with VSB 6.
- There was further discussion about how VSB 6 applies to VSB 14, the 'National Code of Practice for Light Vehicle Construction and Modification'.
- AW stated that the wording of section 51 would include all vehicles covered by VSB 6, and not necessarily only heavy vehicles.
- The department agreed to undertake further consideration of the coverage of allowable modifications.

### Other matters

A range of matters was raised during the Consultation Group meeting that related to the broader concerns was of the Group and the department but not directly to the agenda item being considered. These matters and any outcomes are noted below.

### **Variation of opt-in type approvals**

There was discussion of the department's policy regarding variation of type approvals, particularly for opt-in type approvals.

- The department's position was that variation will typically involve a fee, however, if the variation is minor it is possible for the department to not charge a fee. For example, a change of address would not be a variation of an approval for which the department would charge.

- The current position of the department is that any approval varied after the end of the opt-in period would need to demonstrate full compliance with the RVS legislation and would no longer be eligible for the concessional arrangements, however, the department agreed there may be some issues with this position that require further policy consideration and consultation.
- The department agreed to bring a discussion paper to the next Consultation Group meeting that will address policy regarding variation of a type approval where the holder of the approval had opted-in to concessional transitional arrangements during the opt-in period, and seeks to vary the approval after that opt-in period ends.

### **Type approval eligibility criteria**

There was some discussion regarding the eligibility criteria for type approvals. Some participants requested further information regarding this in a future Consultation Group meeting. The department agreed that further information regarding the eligibility criteria for type approvals (for example, regarding a conformity of production system for type approval holders) would be made available at the next Consultation Group meeting.

### **State and territory transition to RVS legislation**

Participants of the Consultation Group sought an update on the readiness of states and territories to transition to the RVS legislation. SN advised that the department had been undertaking information sessions with jurisdictions and would provide an update on this issue at the next Consultation Group meeting.

### **Cost recovery**

Participants of the Consultation Group asked about cost recovery arrangements proposed by the department in relation to the RVS legislation. GE confirmed that there had been substantial interest in the cost recovery arrangements in emails to the [RVSAimplementation@infrastructure.gov.au](mailto:RVSAimplementation@infrastructure.gov.au) mailbox.

SN said that the department expected to release the Cost Recovery Impact Statement (CRIS) in June or July 2019. She noted that this could not happen in caretaker period and so would have to be post-election.

Until then, the cost recovery arrangements set out in the consultation CRIS should be relied on for a rough guide to costs to regulated entities, although there would be some movement between the consultation CRIS and the final arrangements.

### **Future meetings**

SN noted that outcomes of this meeting would be circulated to the Type Approvals Consultation Group participants for comment before a final version is put onto our website.

SN noted that the next meeting of this group will likely be in June 2019.

Ref. #	Item	Lead	Action required	Action status	RM Ref #
TA3a	Discussion Paper TA4 ‘RVSA approval numbering’ – option 1 implementation	Department of Infrastructure, Regional Development and Cities (‘department’)	Progress implementation of option 1, to create a new numbering protocol that allows the MVSA approval number to be incorporated into a new approval number, noting: <ul style="list-style-type: none"> <li>- Noting broad endorsement by Consultation Group of option 1</li> <li>- Concerns raised regarding needs of type approval applicants to know approval number early (see action # TA3b)</li> </ul>	Agreed – open	
TA3b	Discussion Paper TA4 ‘RVSA approval numbering’ – option 1 implementation	Department	Consider participant concerns in line with its other regulatory objectives and IT constraints, and consider whether anything can be done to address the issues raised regarding needs of type approval holders to have an approval number early.	Agreed – open	
TA3c	Discussion Paper TA4 ‘RVSA approval numbering’ – option 1 implementation	Department	Communicate outcomes of policy consideration and progress of implementation of option 1 when settled with guidance as relevant	Agreed – open	
TA3d	Discussion Paper TA4 ‘RVSA approval numbering’ – numbering for production and design facilities	Department	Maintain the current 5 digit numbering system for production and design facilities.	Agreed	
TA3e	Discussion Paper TA5 ‘Test reports...’ – policy implementation	Department	Explore options to support applicants for type approvals to have sufficient notice regarding any need for retesting.	Agreed – open	
TA3f	Discussion Paper TA5 ‘Test reports...’ – policy implementation	Department	Provide scenario-based examples of what kind of testing evidence may be used in applications for opt-in type approval applications, and applications for type approvals after the end of the opt-in period.	Open	

<b>TA3g</b>	Discussion Paper TA5 ‘Test reports...’ – impact of policy	Department	Undertake further analysis of impact of the policy regarding evidence requirements on current holders of IPAs, CRNs and SARNs, focused on heavy trailers.	Agreed – open	
<b>TA3h</b>	Discussion Paper TA5 ‘Test reports...’ – impact of policy	Consultation Group participants	Provide the department any further information possible to assist the department’s analysis of the likely impacts of the policy.	Agreed – open	
<b>TA3i</b>	Allowable modifications	Department	Give further consideration to other modifications that would be allowable under section 51 of the Rules.	Agreed – open	
<b>TA3i</b>	Variation of opt-in type approvals	Department	Present a discussion paper to the next Consultation Group meeting that addresses issues associated with variation of a type approval where the holder of the approval had opted-in to concessional transitional arrangements during the opt-in period, and seeks to vary the approval after that opt-in period ends.	Agreed – open	
<b>TA3j</b>	Key changes between Exposure Draft and final version of the Road Vehicle Standards Rules	Department	Make slides from presentation available to Consultation Group participants	Completed – on website	
<b>TA3k</b>	Type approvals – eligibility criteria	Department	Provide further information regarding eligibility criteria for type approvals, for example regarding conformity of production systems for type approval holders, at the next Consultation Group meeting.	Agreed – open	
<b>TA3l</b>	Wider implementation of RVS legislation	Department	Provide an update regarding state and territory transition to RVS legislation in next Consultation Group meeting.	Agreed – open	
<b>TA3m</b>	Further feedback and comments on outcomes	Consultation Group participants	Provide any further feedback on discussion papers, comments on outcomes document and proposed action items by <b>COB 3 May 2019</b> to <a href="mailto:RVSAimplementation@infrastructure.gov.au">RVSAimplementation@infrastructure.gov.au</a>	Open	

<b>TA3n</b>	Further feedback and comments on outcomes	Department	Incorporate further comment into outcomes document for circulation to the Consultation Group and posting on department's website	Open	
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