

The logo for the National Heavy Vehicle Regulator (NHVR) features the acronym 'NHVR' in a large, bold, black sans-serif font. To the left of the text are several light blue, curved, abstract shapes that resemble stylized road lines or vehicle components. Below the acronym, the full name 'National Heavy Vehicle Regulator' is written in a smaller, black, sans-serif font.

NHVR

National Heavy Vehicle Regulator

National Heavy Vehicle Regulator

Access Conditions

Road Manager's Best Practice Guideline for applying conditions

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1 Introduction

The purpose of this document is to provide guidance to road managers on the imposition of conditions on heavy vehicle access permits and notices.

The National Heavy Vehicle Regulator (NHVR) is required under the *Heavy Vehicle National Law* (HVNL) to—

- work collaboratively with road managers to ensure a wide understanding of the objects and particular aspects of the HVNL
- encourage participation in achieving these objectives
- identify and promote best practice methods for managing risks to safety and the productive and efficient road transport of goods and passengers by heavy vehicles.

This guideline has been prepared by the NHVR to satisfy those requirements and provides guidance to road managers on the type of access conditions that a road manager can and cannot apply to heavy vehicle access permits and notices.

This guideline can be used in conjunction with the [NHVR's Approved Guidelines for Granting Access](#) to provide road managers with specific conditions and examples of road and travel conditions that can be applied to a permit. In the event of any conflict or contrary points, the HVNL and Approved Guidelines for Granting Access must take precedence over this document.

1.1 How to use this guideline

This guideline provides a framework of conditions ([Standard Road and Travel Conditions](#)) that may be imposed by road managers to mitigate significant risks involved in heavy vehicles accessing the network. The conditions are separated into the categories of:

1. Speed
2. Notification
3. General
4. Travel

A 'reason or circumstance' entry for applying the condition is also provided to give road managers guidance for when a condition may or may not be suitable for a particular heavy vehicle access application.

The standard road and travel conditions aim to cover the majority of standard cases, however, it should be noted that these may not cover all circumstances and the road manager may need to impose additional conditions in individual cases.

Please refer to the [NHVR Glossary of common terms](#) for definitions of terms used in this document.

2 Overview of conditions

The HVNL introduces the concepts of vehicle, road and travel conditions. The road transport legislation that preceded the HVNL did not distinguish between different types of conditions as the one agency was responsible under the legislation for access decisions. This change is intended to assist in clarifying the roles of different stakeholders in the process.

Under the HVNL, vehicle conditions are the responsibility of the NHVR. Road and travel conditions are primarily the responsibility of road managers (i.e. principally state and territory road transport authorities, roads agencies and local governments), that manage and maintain roads to ensure their availability and safe use for all road users.

Road and travel conditions can be imposed where a specific risk exists that a prescribed condition (discussed in Section 3) does not cover. Vehicle conditions will be applied by the NHVR, therefore road managers do not need to replicate these vehicle conditions.

Vehicle conditions are intended to ensure that the restricted access vehicle is able to operate safely on a public road. Vehicle conditions may be requested by a road manager; however the NHVR will decide whether a vehicle condition is applied to a permit.

Generally, vehicle conditions should include the following:

- how the vehicle should be configured (e.g. trailer type)
- general requirements to mitigate risks subject to a particular mass or dimension
- installation and use of certain components (including safety features or other equipment)
- limiting the vehicle to a particular speed.

There may be instances whereby conditions fall into multiple condition types. For example, a vehicle condition can be imposed to limit a vehicle's speed to ensure the vehicle is able to operate safely. Similarly, a road condition that limits speed on a certain road or section of road could be imposed by a road manager where a network risk is involved (e.g. short sight distances). In these cases, the condition would be applied once on the permit; the type or category that it falls into is irrelevant.

3 Guidance on conditioning

The HVNL and the *Heavy Vehicle (Mass Dimension and Loading) National Regulation* (MDL Regulation) regulate the operation of heavy vehicles on the road network.

The HVNL provides that restricted access vehicles may be permitted on roads in particular circumstances and subject to particular conditions to allow for the efficient road transport of goods or passengers whilst managing risks around safety, amenity and infrastructure protection.

Other Australian road laws also place obligations on road users.

3.1 Conditioning by vehicle class

Below is a description of the relevant conditions that apply to each class of heavy vehicles.

3.1.1 Class 1 vehicles

Step 1: Prescribed conditions automatically apply

The MDL Regulation establishes a set of standard operating conditions (**prescribed conditions**) for class 1 vehicles intended to be generally applied for mass or dimension exemptions granted through permits and notices (unless explicitly disappplied by the NHVR).¹

When considering an access consent request, road managers do not need to replicate these prescribed conditions as they already apply. In considering a consent request, road managers do, however, need to be familiar with the prescribed conditions to ensure that any conditions applied do not replicate these.

The road manager's first preference should be to grant approval without adding any conditions, assuming the identified risks are being mitigated. However, if the road manager believes that a risk exists and the prescribed conditions do not mitigate the risk, a relevant condition should be applied. In the first instance this condition should come from the standard road and travel conditions (developed by the NHVR in consultation with road managers).

The prescribed conditions in Schedule 8 do not need to appear on the permit as a direct reference to the MDL Regulation, Schedule 8 will be applied to all class 1 permits by the NHVR.

Step 2: Apply standard road and travel conditions as required

If the prescribed conditions (MDL Regulation, Schedule 8) are insufficient to avoid or minimise any significant risks or likely significant risks of any of the considerations in Section 156(3)(b) posed by the application, **standard road or travel conditions** ([Standard Road and Travel Conditions](#)) may be applied by the road manager.

If all the risks are not able to be mitigated by the standard road and travel conditions then the road manager should proceed to Step 3.

Step 3: Apply non-standard conditions if required

If, following an assessment of the potential risks of a heavy vehicle movement, it is believed that the prescribed conditions and standard road and travel conditions will not mitigate all risks the road manager should apply a relevant **non-standard condition**.

If conditions are added beyond the standard road and travel conditions (Appendix A) then the road manager will need to provide an information notice² to the NHVR explaining the reasons for the decision that complies with Section 172 of the HVNL. This information notice needs to address each non-standard condition applied.

Section 172 requires the road manager to provide a written explanation about what significant risk to road infrastructure, community or public safety will be addressed by the road or travel condition and how the condition will manage that risk. For example, when a road manager decides to impose a non-standard road condition that relates to high traffic volumes, a written

¹ Schedule 8 of *Heavy Vehicle (Mass, Dimension and Loading) National Regulation*.

² Section 164 of the *Heavy Vehicle National Law*.

statement could include information about the current traffic volumes and related information about the use of the relevant road(s).

Step 4: Respond to NHVR

The road manager, having assessed the consent request and applied Standard Road and Travel conditions and non-Standard conditions (if needed to manage risks), should respond to the NHVR as soon as possible (and within 28 days, unless an extension is granted by the NHVR).

3.1.2 Class 2 vehicles

Class 2 vehicles are able to access a gazetted network by meeting conditions and requirements of a class 2 notice. Permits are required when a class 2 vehicle requires a route that is not entirely within the gazetted network.

For [Performance Based Standards](#) (PBS) vehicles, the PBS vehicle design approval provides a set of vehicle conditions and standard operating conditions. The PBS vehicle approval will be attached in the consent request sent to the road manager by the NHVR.

Step 1: Class 2 notice automatically applies if vehicle on applicable route

When assessing a class 2 B-double, road train or bus application road managers should be aware that [notices](#) provide operational requirements and operating conditions.

Step 2: Apply standard road and travel Conditions as required

If the conditions in the relevant class 2 notice are insufficient to avoid or minimise any significant or likely significant risks of any of the considerations in Section 156(3)(b) posed by the application, standard road or travel conditions ([Standard Road and Travel Conditions](#)) may be applied.

Step 3: Apply non-standard conditions if required

If conditions are added beyond the standard road and travel conditions then the road manager will need to provide an information notice to the NHVR explaining the reasons for the decision that complies with Section 172 of the HVNL.

Step 4: Respond to NHVR

The road manager, having assessed the consent request and applied Standard Road and Travel conditions and non-Standard conditions (if needed to manage risks), should respond to the NHVR as soon as possible (and within 28 days, unless an extension is granted by the NHVR).

3.1.3 Class 3 vehicles

Step 1: Class 3 notice automatically applies if vehicle on applicable route

When assessing a class 3 application road managers should be aware that [notices](#) may provide operational requirements and operating conditions.

Step 2: Apply standard road and travel conditions as required

If the conditions in the relevant class 3 notice are insufficient to avoid or minimise any significant risks or likely significant risks of any of the considerations in Section 156(3)(b) posed by the application, road or travel conditions ([Standard Road and Travel Conditions](#)) may be applied.

Step 3: Apply non-Standard Conditions if required

If conditions are added beyond the standard road and travel conditions, then the road manager will need to provide an information notice to the NHVR explaining the reasons for the decision that complies with Section 172 of the HVNL.

Step 4: Respond to NHVR

The road manager, having assessed the consent request and applied standard road and travel conditions and non-standard conditions (if needed to manage risks), should respond to the NHVR as soon as possible (and within 28 days, unless an extension is granted by the NHVR).

3.2 Considerations when imposing conditions

When a road manager is assessing an access application and imposing a condition, the following questions should be considered:

- Does the condition meet the definitions in the HVNL? i.e. does the condition mitigate an infrastructure, public safety, traffic or amenity risk?
- Is the condition feasible? i.e. will the operator be able to meet the requirement?
- Is there consistency in the application of conditions? i.e. were the same conditions applied to previous applications of similar vehicle types?
- Is the condition enforceable? i.e. can such a condition be enforced by an authorised officer?
- Is the condition covered by notice or permit details – such as permit dates, routes, load type or metrics?
- Is the condition covered in the HVNL or Regulations? i.e. MDL Regulation schedule 8 for class 1 vehicles.
- Is the condition already covered by other legislation or in the standard conditions?
- Is the condition reasonable? i.e. is there some logical basis for its application or is it a condition no reasonable road manager could impose?
- Is it certain? i.e. does the condition indicate to the permit holder the standard of behaviour that evidences compliance?

4 Inappropriate conditions

The HVNL and other Australian road laws place obligations on road users that are enforceable under those statutes. Imposing conditions that incorporate the requirements of other laws or reproduce their substance (for example, through a condition requiring general observance of posted speed limits) does not add any additional value and may contravene the common law rule³ against double punishment.

Road managers are required to familiarise themselves with the relevant statutes in order to fulfil their roles. Please note that the standard road and travel conditions are the result of an extensive assessment and rationalisation of road and travel conditions against the HVNL. This set of standard road and travel conditions replaces existing conditions used by road managers. Therefore conditions that may have been applied previously are not needed and should no longer be used.

³ Given statutory effect in, for example, the *Interpretation of Legislation Act 1984* (Vic) Section 51.

4.1 Conditions covered by HVNL

Conditions applied automatically through the HVNL do not need to be duplicated in a notice or permit.

4.1.1 Examples of requirements and obligations placed on all heavy vehicle operators by the HVNL include:

i. Section 96 Compliance with mass requirements

A person must not drive on a road a heavy vehicle that (together with its load) does not, or whose components do not, comply with the mass requirements applying to the vehicle.

ii. Section 102 Compliance with dimension requirements

A person must not drive on a road a heavy vehicle that (together with its load) does not, or whose components do not, comply with the dimension requirements applying to the vehicle.

iii. Section 129 Contravening condition of mass or dimension exemption generally

The driver or operator of a heavy vehicle being used on a road under a mass or dimension exemption must not contravene a condition of the exemption. Examples of conditions that would not be relevant on a permit as they are covered under the HVNL are provided in Section 4.1.2.

iv. Section 178 Amendment or cancellation on request by relevant road manager

A road manager may ask the NHVR to amend or cancel a permit where the heavy vehicle:

(a) has caused, or is likely to cause, damage to road infrastructure; or

(b) has had, or is likely to have, an adverse effect on the community arising from noise, emissions or traffic

(c) has posed, or is likely to pose, a significant risk to public safety arising from heavy vehicle use that is incompatible with road infrastructure or traffic conditions.

4.1.2 Examples of requirements and obligations placed on class 1 and 3 heavy vehicle operators by the HVNL include:

i. Section 130 Contravening condition of mass or dimension exemption relating to pilot or escort vehicle

The driver of the pilot vehicle or escort vehicle accompanying the heavy vehicle must comply with the conditions of the mass or dimension exemption about the use of the pilot vehicle or escort vehicle.

ii. Section 133 Keeping copy of permit while driving under mass or dimension exemption (permit)

The driver of a class 1 heavy vehicle or class 3 heavy vehicle who is driving the vehicle under a mass or dimension exemption (permit) must keep a copy of the permit for the exemption in the driver's possession.

4.1.3 Examples of requirements and obligations placed on class 2 heavy vehicle operators by the HVNL include:

i. Section 151 Keeping relevant document while driving under class 2 heavy vehicle authorisation (notice)

The driver of a class 2 heavy vehicle who is driving the vehicle under a class 2 heavy vehicle authorisation (notice) must keep a relevant document in the driver's possession and comply with the conditions of the relevant document.

ii. Section 152 Keeping a copy of permit while driving under class 2 heavy vehicle authorisation (permit)

The driver of a class 2 heavy vehicle who is driving the vehicle under a class 2 heavy vehicle authorisation (permit) must keep a copy of the permit for the authorisation in the driver's possession.

4.1.4 Examples of conditions that would not be relevant on a permit as they are covered under the HVNL

- Road manager reserves the right to rescind the permit if deemed necessary.
- Consent can be withdrawn at any stage should traffic operational problems or adverse impact arise.
- This permit is issued on the express condition that the limitations specified shall not be exceeded.
- Permit is to be carried in the named vehicle at all times and the permit must be changed whenever a vehicle or registration is changed.
- Permit may be suspended where the road surface has deteriorated and is determined by Council to be unsafe for heavy haulage or any form of transport or that continuing use will cause a safety risk and/or significant damage to occur.

4.2 Conditions covered by another law

4.2.1 Examples of road user obligations from the Australian Road Rules include:

i. Rule 102 Clearance and low clearance signs

A driver must not drive past a clearance sign, or a low clearance sign, if the driver's vehicle or any vehicle connected to it, is higher than the height (in metres) indicated by the sign.

ii. Rule 103 Load limit signs

A driver must not drive past a bridge load limit (gross mass) sign or gross load limit sign if the total of the gross mass (in tonnes) of the driver's vehicle, and any vehicle connected to it, is more than the gross mass indicated by the sign.

A driver must not drive past a bridge load limit (mass per axle group) sign if the mass (in tonnes) carried by an axle group of the driver's vehicle, or any vehicle connected to it, is more than the mass indicated by the sign for the axle group.⁴

iii. Rule 293 Removing fallen etc. things from the road

This rule applies to a driver if:

- (a) something falls onto the road from the driver's vehicle, or the driver, or a passenger in or on the driver's vehicle, puts something on the road; and
- (b) there is a possibility that the thing, if left on the road, may injure a person, obstruct the path of other drivers or pedestrians, or damage a vehicle or anything else (for example, the road surface).

The driver must remove the thing, or take action to have the thing removed, from the road as soon as the driver can do so safely.

4.2.2 Examples of conditions that would not be relevant on a permit as they are covered by other legislation:

- Mass limits may change if certain scenarios are realised (e.g. heavy rain). Temporary limits must be complied with.
- This exemption shall not operate or be deemed to operate on any bridge, culvert, causeway or road ferry in respect of which a special limitation may have been fixed at any time before or after the date of this permit.
- The operator must ensure that road safety is maintained at all times.
- The operator must not exceed any posted speed limit.

4.3 Indemnity

A road manager is authorised to require the NHVR to impose conditions on a mass or dimension exemption permit that avoid, or significantly minimise:

- damage or likely damage to road infrastructure;
- adverse effects or likely adverse effects on the community arising from noise, dust, emissions or traffic congestion; or
- significant risks or likely significant risks to public safety.

Non-standard conditions developed by a road manager, seeking an indemnity from the applicant in the case of damage or loss, are not required on notices or permits as they are not directed towards any of the above objectives. Further, they do not have the effect of protecting the road manager from liability where consent has been granted. The NHVR, in reviewing consents from road managers, will identify conditions that seek to indemnify and more than likely remove them from the permit conditions.

Road managers should focus their attention on the identification of risks and utilising the various levels of conditions to mitigate those risks. If, having undertaken this exercise, there are outstanding risks the road manager should discuss options with the operator prior to making a decision on the consent request. Failing this, the road manager should discuss with the NHVR to seek a solution to the outstanding risk. This approach should result in the management of almost all risks and ensure that all parties and the community are safe from harm.

⁴ The contravention of a mass limit indicated by an official traffic sign is already enforceable under Section 96 (Compliance with mass requirements) of the HVNL.

If the road manager has taken all reasonable steps and it is not possible to mitigate a likely or significant potential risk then the consent request should be refused. The road manager will need to provide a justification for the refusal.

5 Intelligent access conditions

5.1 Imposition of intelligent access conditions

Intelligent access conditions (Section 402 of the HVNL) can only be applied where a mass or dimension authority is in force with the following conditions:

- areas or route(s) of operation
- conditions about the use of a heavy vehicle on a road including, for example:
 - times of operation
 - maximum speed
 - maximum permissible mass.

Road managers (Section 154 of the HVNL) may impose road conditions which include intelligent access conditions provided this requirement is in connection with a road condition directed at:

- protecting road infrastructure;
- preventing or minimising an adverse effect on the community arising from noise, emissions or traffic congestion or from other matters stated in approved guidelines
- preventing or minimising significant risks arising from heavy vehicle use that is incompatible with road infrastructure or traffic conditions.

5.2 Considerations for applying an intelligent access condition

The NHVR delegates administration of the Intelligent Access Program (IAP) provisions in the HVNL to state and territory road transport authorities currently administering the IAP. Before considering whether to apply IAP as a condition the road manager should be aware that not all state and territory road transport authorities administer IAP or have the capability to service specific monitoring conditions required for a permit. Road managers should also be aware of any policies that have IAP as a requirement of operation (such as Higher Mass Limits in Queensland and New South Wales).

If a road manager is considering applying an intelligent access condition, consultation with the relevant IAP administrator, adjacent road manager (including state and territory road transport authorities) and the NHVR is strongly recommended. It is important that intelligent access conditions are consistent across borders to ensure optimal outcomes for road managers and industry.

For more information on IAP, visit the Transport Certification of Australia website:

<https://tca.gov.au/truck/heavy-vehicle-applications/iap>

6 Further Information

This document aims to provide guidance to road managers on the imposition of conditions and is intended to be amended over time to better reflect current requirements. Any feedback and input is valuable, so if you wish provide feedback to the NHVR, please contact us at:

National Heavy Vehicle Regulator
PO Box 492
Fortitude Valley QLD 4006
Telephone: 1300 880 493