

## Agency Disclosure Statement

### **Amendments to Land Transport Rule: Vehicle Dimensions and Mass 2002 and the Land Transport (Offences and Penalties) Regulations 1999**

The Regulatory Impact Statement has been prepared by the Ministry of Transport with assistance from the NZ Transport Agency (NZTA).

It analyses the impacts of two separate but complementary proposals to resolve the problem of the low uptake of the High Productivity Motor Vehicle permit regime that was established by the 2010 amendment to Land Transport Rule: Vehicle Dimensions and Mass 2002 and an issue with operators illegally exceeding vehicle operating limits.

The proposed changes are to Land Transport Rule: Vehicle Dimensions and Mass 2002 and the Land Transport (Offences and Penalties) Regulations 1999.

The main source of evidence for changes to be made to Land Transport Rule: Vehicle Dimensions and Mass 2002 is the consistent feedback from the NZ Police, and from the freight industry. Feedback over the three years since implementation of the 2010 High Productivity Motor Vehicle amendment to Land Transport Rule: Vehicle Dimensions and Mass 2002 convey significant barriers for operators resulting in less than anticipated permit uptake. The quantified evidence for the impact of the status quo is a peer reviewed report commissioned by the NZTA to meet its obligations for monitoring, evaluating and reviewing the 2010 rule amendment.

The main source of evidence for the need to make changes to the Land Transport (Offences and Penalties) Regulations 1999 is consistent anecdotal evidence from the freight sector and quantifiable data from NZ Police and NZTA.

This Regulatory Impact Statement does not quantify the impact on roading infrastructure from proposals, nor does it assess options to review the standard vehicle weight limits provided for in Land Transport Rule: Vehicle Dimensions and Mass 2002. Given more time further analysis would have been completed to determine; the suitability and effectiveness of the proposals, as well as the correlation between penalty levels and the general deterrence effect for operators overloading vehicles.

The proposals will not impair private property rights, market competition, or the incentives on business to innovate and invest, or override any of the fundamental common law principles.

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## Regulatory Impact Statement

### **Amendments to Land Transport Rule: Vehicle Dimensions and Mass 2002 and the Land Transport (Offences and Penalties) Regulations 1999**

1. This Regulatory Impact Statement (RIS) addresses two issues; the penalties associated with overloading vehicles and the low uptake of permits through the Land Transport Rule: Vehicle Dimensions and Mass 2002 (VDAM Rule). Due to the relationship between the policy problems the regulatory analysis undertaken for each is combined in one document.
2. Part one of this RIS sets out the options for resolving issues with the penalty regime and Part two sets out options for amending the sections of the VDAM Rule that manage the permit regime.
3. The VDAM Rule as a whole will be subject to a comprehensive review in 2014/15. This RIS deals only with the immediate issues described above. The penalties for overloading vehicles and permit regimes will be reviewed again within the wider review in 2014/15. For this reason the scope of options proposed within the RIS has been limited.

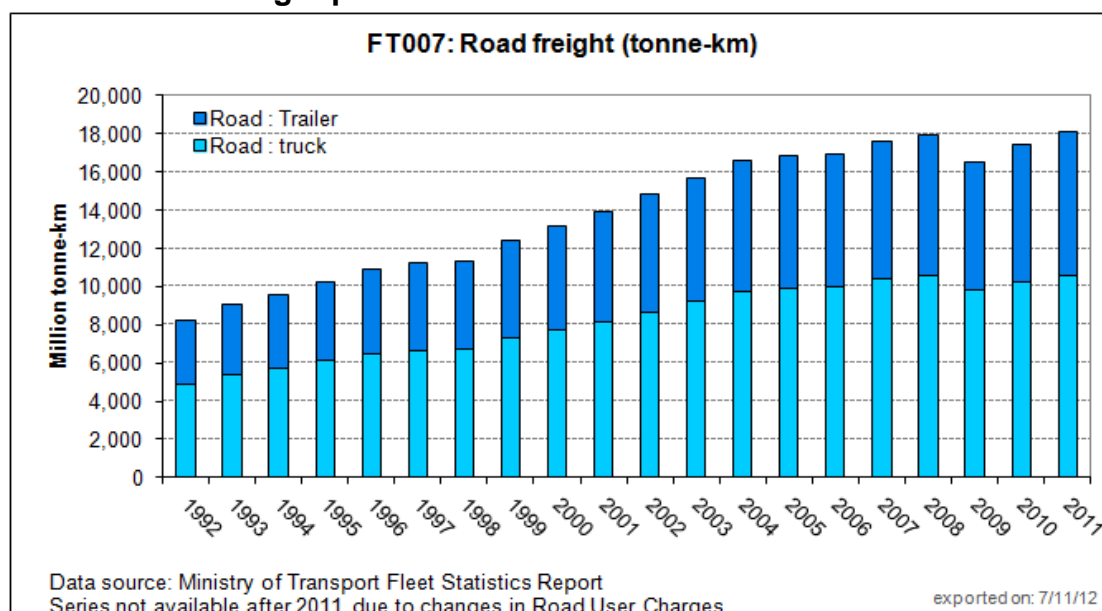
## Background

4. The VDAM Rule specifies requirements for dimension and mass limits for vehicles operating on New Zealand roads. The Land Transport (Offences and Penalties) Regulations 1999 (the Regulations) prescribes penalties for operating beyond the limits prescribed by the VDAM Rule.
5. The VDAM Rule allows for prescribed dimension and mass limits to be exceeded through approved permit regimes.
6. Vehicle permitting and vehicle enforcement are regulatory tools that enable New Zealand's heavy vehicle industry to maximize productivity whilst maintaining safety and managing the impacts that vehicles have on infrastructure.
7. For operators, options are available to legally exceed VDAM Rule weight limits to considerably higher levels, increasing vehicles productivity.
8. The options are provided via the mechanism of VDAM permits (High Productivity Motor Vehicle permits and over-weight permits). The permit regimes allow operators to exceed VDAM mass and dimension limits, subject to being granted a permit. Each permitted vehicle must comply with the conditions set out on each, unique, permit form. The conditions are mostly designed to protect the road infrastructure from the impact of increased numbers of over-weight vehicles.

### History and objectives of the VDAM Rule

9. The VDAM Rule was developed to manage the impact of heavy vehicles on the safety of other road users and on road infrastructure.
10. The VDAM Rule must also meet the diverse and sometimes competing interests of freight sector stakeholders including the Government, the industry, other road users, the road controlling authorities (RCAs) (who are responsible for the road infrastructure), the regulating agencies and the enforcing agencies (see Appendix 1).

**Table 1: Road freight per tonne-km from 1992 – 2011**



11. Table 1 illustrates the increase in freight carried since 1992.
12. The objectives of the VDAM Rule were achieved by regulating vehicle design and operation requirements including setting the usual limit for maximum laden vehicle weight at 44 tonnes.
13. The original VDAM rule provided a permit regime, under which operators could be authorized to carry over-weight and/or over-dimension single, **indivisible** loads (for example a house, heavy agricultural machinery, or a crane). These operators are authorised to apply to RCAs for a permit to exceed the VDAM weight limits, subject to tight guidelines for vehicle compliance and operation, such as limitations on routes to be used.
14. In 2010, the VDAM Rule was amended to allow a much wider range of operators carrying **divisible** loads (for example, milk, shingle, logs) to carry over-weight loads on a regular basis. These operators are also subject to a controlled permit regime but it allows regular, more frequent carriage of over-weight loads. These are described as High Productivity Motor Vehicle (HPMV) permits.

## Objectives

15. The government has an objective of better quality regulation and increasing productivity with New Zealand. Options for achieving these outcomes were assessed against the following objectives:
  - Increasing productivity within the road freight industry
  - Increasing efficiency and equity within the road freight industry
  - Effectively managing the consumption of New Zealand's roading network
  - Providing robust and reasonable regulation

## Introduction to Options and Impact Analysis

### SUMMARY OF PARTS ONE AND TWO

16. Part one of the policy proposals has the objective of increasing deterrents to overloading under the VDAM Rule. It recommends an increase in the level of fines for overloading as set out in the Regulations. This increase will fill the gap in disincentives to overloading created by the RUC Act 2012 and recognise the impact of inflation on fine levels.
17. Part two complements the preferred option for Part one by encouraging operators to view the HPMV permit regime as a viable option for legally carrying an over-weight load. The recommended option achieves this objective by amending the VDAM Rule to remove regulatory barriers to the uptake of VDAM permit regimes so that a breach of a permit condition will no longer automatically result in disproportionately harsh penalties for operators. At the same time, the amendments recognise the integrity of each vehicle's permit form and that breaches of certain critical permit conditions have serious consequences.
18. Together the proposals are designed to address the imbalance of operators carrying illegal loads and not operating via permit regimes. The policy proposals provide disincentives and incentives to encourage operators to increase productivity through a legal method.
19. Each proposal is considered separately in the following impact analysis.

### **PART ONE *Amending the Offences Regulations***

#### ***Status Quo***

##### *The penalty regime*

20. The penalties for operators breaching the VDAM Rule weight limits are set out in the Regulations. Under the status quo, infringement fines for carrying over-weight loads begin at \$150 and increase stepwise up to a maximum of \$10,000 depending on the extent to which the vehicle exceeds the maximum allowed weight. Fines can be cumulative,

depending on the number of axles and sets of axles that are over-weight. An operator can accumulate fines in excess of \$30,000 for a single over-weight event. However, fines for low level infringements range between \$150 and \$350.

21. Enforcement of the VDAM Rule is the responsibility of the NZ Police Commercial Vehicle Investigation Unit (CVIU). Surveillance is largely undertaken at NZ Police weigh stations positioned at key points on State highways. Surveillance is also, to a lesser extent, undertaken on local roads, using mobile weighing equipment.

**Problem definition**

*Evidence that the penalty regime is not working*

22. Government officials consistently receive anecdotal evidence from the freight sector and from NZ Police CVIU that a significant number of freight operators carrying divisible loads are illegally operating beyond the maximum 44 tonne weight limit that results from the VDAM Rule. Estimates suggest an operator can receive an additional \$0.10 of revenue per kilometre travelled for an extra tonne of payload.
23. The strongest evidence of consistent illegal overloading comes from NZ Police compliance surveys. These surveys indicate that the percentage of offences for over-weight vehicles is significant (see Table 2). However, as anecdotal evidence suggests the offending often takes place on rural roads that are subject to less surveillance than the State highway network, police surveys cannot capture the full extent of offending.

**Table 2: Findings from the NZ Police (CVIU) annual vehicle compliance survey<sup>1</sup>**

<b>year</b>	<b>Total number of vehicles stopped by Police CVIU</b>	<b>Number of weight limits offences detected by Police CVIU</b>	<b>% of total vehicles stopped with limits offences</b>
2009	2072	180	8.7%
2010	2039	169	8.3%
2011	2003	211	10.5%
2012	2152	187	8.7%
2013	2163	193	8.9%

24. Another set of data, collected by NZTA also records a significant proportion of overloading. This data is collected through the operation of unmanned devices placed at strategic points

<sup>1</sup> The NZ Police CVIU annual compliance survey is carried out each year over a particular time period. Data collected is an indicative sample of vehicle operator compliance trends.

on State highways. Weigh-in-motion<sup>2</sup> (WiM) data is recorded each time a truck travels over a device and the data can indicate whether a vehicle is operating over-weight. In 2013, 9.2 percent of all heavy vehicles recorded at WiM sites were over-weight.

25. Recent WiM data shows an increasing trend in the number of heavy vehicles. The data also shows a possible increase in the proportion of over-weight vehicles relative to the heavy vehicle fleet (see Appendix 2). However, due to uncertainties with data available this trend cannot be confirmed. In 2013, there were 1,668 annual average daily heavy vehicles, which grew by 9.2 percent compared to 2012 with 1,528. There were also 154 annual average daily over-weight heavy vehicles, which grew by 12.1 percent compared to 137 in 2012.
26. A proportion of the vehicles recorded as over-weight by WiM data will be operating between 44 and 45.5 tonnes and therefore will not be liable for overloading penalties, because of the tolerances allowed for inaccurate weighing. Also, WiM data does not identify whether vehicles recorded as being over-weight are legally operating under an appropriate permit. However, analysis of road user charges H-type licences<sup>3</sup> purchased by operators compared to the overall number of road user charges kilometres purchased for vehicles typically used in maximum weight combinations suggests that the proportion of permitted vehicles is unlikely to be higher than 3 percent.

*Impact of the over-weight loads, either divisible or indivisible*

27. The State highway and local roads and bridges are vulnerable to damage from one-off incidents and from ongoing wear and tear by over-weight vehicles. In addition, a number of bridges cannot safely be used by over-weight vehicles under any circumstances.
28. If over-weight vehicles operate legally, within the VDAM and HPMV permit regime, the impact on infrastructure can be managed. On each permit form, conditions can be set so that vulnerable infrastructure (normally bridges) is avoided by specifying the route to be followed by the operator. Additional conditions can also be set with regard to, for example, speed restrictions on a bridge that can be used by a heavy vehicle.
29. By contrast, where over-weight vehicles are illegally operating outside a permit regime, their impact on infrastructure cannot be managed. The vehicles operate outside the regulatory system and, therefore, are not able to be monitored.
30. The costs of damage to infrastructure caused by illegal over-weight vehicles, that is, vehicles operating outside the permit regimes, are eventually borne by both the whole freight sector (e.g. through road user charges) and by the ratepayer in the case of regional roads.
31. Further, there is no assessment on whether heavy vehicles that are operating illegally outside the permit regimes are compliant with safety standards for carrying heavy loads.

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<sup>2</sup> WiM measures the weight of a vehicle as it crosses a weight sensitive strip lying beneath the upper layer of road pavement (sealed road surface). It is an unmanned recording device.

<sup>3</sup> H-licences are road user charges licences specifically for dedicated over-weight vehicles. They account for the great majority of distance travelled by vehicles operating legally on over-weight permits.

### *Causes of the problem*

32. There are interrelated factors which provide the context for reviewing the penalty regime for the VDAM Rule in order to effectively discourage operators from illegally carrying over-weight loads.

- The levels of fines for overloading in the Regulations have not been reviewed since the Regulations were implemented in 1999 and subsequent inflation has reduced their real cost by about 30%. One dollar in 1999 is worth approximately \$1.43 in today's money.
- Change in the road user charges penalty regime: The Road User Charges Act 1977 included substantial additional disincentive to overloading with penalties (additional to those in the Regulations) for operating a heavy vehicle beyond the nominated license weight. However, with the implementation of the Road User Charges Act 2012 the direct link between overloading and liability for additional road user charges was removed. Cabinet noted at the time that this would require a review of penalties for overloading and review of the Regulations. This has led to the development of the proposals in this RIS and was signaled in the Ministry of Transport Rules Programme for 2013/14.
- Enforcement issues: The probability of being detected carrying an over-weight load is variable. In the interests of efficiency, NZ Police concentrate resources on high volume roads, while not neglecting minor roads. However, the level of police surveillance on New Zealand's extensive network of back country roads is relatively low. A significant amount of heavy vehicle freight movements is on low-volume rural roads carrying primary produce.

33. The proposed changes related to the Offences Regulations that are set out in Part one are complemented by the proposed changes to the VDAM Rule that are set out in under Part two of this regulatory impact statement.

### **Objectives:**

- Ensure there are effective deterrents for operators to discourage illegal vehicle overloading
- Provide robust and reasonable regulation.

### **Options analysis for Part One**

The following options were assessed in detail:

**Option 1:** Increase the likelihood of detection by increased use of police and/or WiM surveillance.

**Option 2 (preferred option):** Increase the consequences of offending by increasing fine levels in the Regulations and amending the vehicle weighing tolerance regime.

The following options were identified during policy development but were not assessed in further detail. These options will be considered in the comprehensive review of the VDAM Rule in 2014/15.

**Option 3:** Targeted education to operators outlining the allowable mass limits for vehicles.

**Option 4:** Re-evaluating the methodology of how penalties are calculated for overloading offences, with the intention of increasing the consequences of offending.

**Option 5:** Remote monitoring of vehicle mass using on board vehicle weighing technology.

### **Option 1: Increased surveillance**

#### *Description*

34. Increasing surveillance levels either through:

- increased levels of police surveillance
- making greater use of the WiM monitoring capacity to detect over-weight vehicles.

35. As heavy vehicles frequently carry primary produce, increasing surveillance would involve increased coverage of the large network of local roads by either/both NZ Police and unmanned WiM data collection devices.

#### *Benefits*

36. Increased surveillance by NZ Police would lead to increased rates of detection. It would thus act as a disincentive to vehicle overloading.

37. Increased use of WiM surveillance can potentially enable automatic recording of over-weight vehicles as they pass over key infrastructure. However, this potential is not yet fully realised.

#### *Issues and risks*

38. The size of the State highway and local road network increases the opportunity to avoid detection and makes increased surveillance a costly option to implement effectively. Costs would arise from additional weigh stations or WiM infrastructure on key routes, as current coverage is low, but:

- WiM infrastructure is too costly<sup>4</sup>, to justify wide spread coverage of rural infrastructure

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<sup>4</sup> The NZ Transport Agency estimates the construction cost for each Weigh-in-Motion site at approximately \$500,000.



- Redeployment of NZ Police personnel to provide increased attention for over-weight offences would either require additional resource or (more likely) less enforcement and surveillance for other road policing functions.

39. In addition, although it can record over-weight loads, there are currently limits to the effectiveness of WiM infrastructure in detecting individual instances of overloading. In the future, it may be possible to use WiM data as evidence of overloading for prosecution purposes. However, this option is not currently provided for in NZ legislation, either as an automated enforcement tool or as a filter for other enforcement activities. Using WiM data to record over-weight vehicles would require additional policy analysis on appropriate options as WiM records of individual vehicle weights are subject to a margin of error.

**Option 2 (preferred option): Increase fines under the Regulations and amend vehicle weighing tolerances**

*Description*

*Increase fines*

40. Increase fines for illegally operating over-weight as listed in the Regulations. The highest rate of increase would be at the lower levels of overloading where police surveys indicate that most offending takes place and there is the greatest impact from loss of road user charges collection.
41. The recommendation is to raise the base infringement fee and penalty from the current \$150 to a new level of \$350. Infringement fees and penalties would incorporate graduated increases from this base level to the current maximum of \$10,000.
42. It should be noted no assessment was completed on the perceived deterrent effect to operators overloading vehicles from the proposed increase in the level of infringement fees and penalties.

*Amend Tolerances*

43. Amend the levels of statutory vehicle weighing tolerances. Vehicle weighing tolerances determine when the NZ Police issue overloading fines<sup>5</sup>. Their objective is to compensate for inadvertent overloading due to, for example, inaccurate equipment, uneven loading area or increased weight due to rain on an exposed load.
44. For non-permitted vehicles with a gross weight in excess of 60 tonnes, the existing 3 tonne gross vehicle mass weighing tolerance will be removed. The removal reinforces the message that vehicles must only operate with weights in excess of 44 tonnes through an approved permit regime.

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<sup>5</sup> Infringement fees are issued by the NZ Police when a vehicle mass exceeds the maximum permitted weight and the prescribed vehicle weighing tolerance.

45. For example, a non-permitted vehicle operating at 60 tonnes under the existing policy would have a higher weighing tolerance (3 tonne rather than 1.5 tonne) applied when determining overloading fines. Retaining the 3 tonne weighing tolerance level would effectively apply a concession when determining overloading fines for non-permitted vehicles over 60 tonnes.

#### *Benefits*

46. Increasing fines and adjusting vehicle weighing tolerances would be aimed at increasing the consequences of carrying an over-weight load relative to the benefits of committing an overloading offence.
47. The proposal incentivises operators to achieve greater productivity through approved permit regimes rather than by operating illegally. Approved permit regimes also provide operators the potential to achieve higher productivity benefits than if they were operating illegally.
48. For example, an operator illegally overloading a vehicle may achieve an extra two tonnes of payload. However, should the operator operate through an approved permit regime additional payload will typically be of at least five tonnes.

#### *Issues and Risks*

49. The impact of the proposed increase to penalties outlined in the Regulations will be complemented by the proposed amendments to the VDAM Rule set out in Part 2 of this document. The proposed Rule changes will make it easier for operators to access permits.
50. The scope and capacity of NZ Police CVIU surveillance potentially constrains the effectiveness of this option, given the extensive network of low-volume rural roads that are used by freight operators.
51. The monitoring of over-weight vehicles through WiM data and NZ Police CVIU surveys will provide feedback on the effectiveness of the revised level of penalties.
52. Due to the limitations with the analysis completed it is difficult to assess the deterrent effect for the proposals. However, the proposals will be re-assessed through the comprehensive review of the VDAM Rule in 2014/15.

#### *Costs*

53. Costs to the New Zealand tax and rate payer would be minimal. It will be offending operators who will incur costs and they are the intended subjects for this proposal. Operators may experience; a loss in productivity due to no longer overloading vehicles, and an application cost should they choose to apply for a overweight permit.

## **PART TWO Amending the VDAM Rule**

### ***Status Quo***

54. In 2010 the VDAM Rule was amended to introduce a permit regime in addition to the existing regime for indivisible loads. The new amendment allowed operators to legally carry over-weight loads of divisible matter, subject to compliance with a High Productivity Motor Vehicle (HPMV) permit regime.
55. The purpose of the amendment was to meet:
- the Government's objectives of increasing economic growth and productivity by increasing the effectiveness and efficiency of the freight sector
  - the freight sector's interest in maximising the opportunities to increase profitability provided by the more efficient, safer, high capacity heavy vehicles that are coming onto the vehicle market.
56. Unlike the existing VDAM permit regime for indivisible loads that is targeted at the relatively small group of operators carrying over-weight indivisible loads (see paragraph 13), the HPMV permit regime allows a much larger group of operators to legally carry divisible general access loads (shingle, logs, milk) on a regular basis. HPMV permits for eligible vehicles can be issued by RCAs for multiple journeys over an extended period of time. The HPMV permits are normally issued for a two year period for over-weight vehicles and for the life of the vehicle for over-length vehicles.
57. The potential impact of increasing numbers of heavy vehicles on road infrastructure is managed by individual permits specifying conditions relating to gross weight, axle weight and safety features such as braking and stability control.
58. The ability for operators to maximise the benefits of high productivity vehicles by regularly and frequently carrying over-weight loads means that the average productivity gain of the HPMV regime has been quantified as a 20 percent reduction in costs for over-weight HPMV and a 14 percent reduction in costs for over-length HPMV. Operator's cost savings are expected to generate wider economic benefits such as improving the competitiveness of the goods being sold.

### **Problem Definition**

#### *Low uptake of the HPMV amendment option*

59. A NZTA commissioned evaluation of the 2010 amendment indicates that the uptake of the HPMV permit regime is not as high as anticipated.
60. In 2010 approximately 12,485 combination vehicles<sup>6</sup> were estimated to be capable of carrying weights exceeding the VDAM weight limit of 44 tonnes of which approximately

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<sup>6</sup> Combination vehicle means a towing vehicle in combination with 1 or more trailers or semi-trailers.

2,300 were expected to take up HPMV permits after allowing for route availability. In April 2013, an evaluation report<sup>7</sup> commissioned by the NZTA indicated that the actual uptake has been 1,400 vehicles, that is, 60% of the anticipated uptake.

61. The penetration of the total potential market for uptake of HPMV permits is at the lower end of estimates at around 25% of the over-weight potential estimated in 2010 and 18% of over-length potential.

*Reasons for low uptake*

62. There is consistent feedback from the freight sector and the NZ Police CVIU that operators face a range of both regulatory and non-regulatory barriers to applying for an HPMV permit.
63. For many operators, application costs act as a barrier to accessing the productivity benefits of the HPMV permit regime. Although HPMV permits are not costly, the application process can be onerous and time consuming. Operators may have to apply to several different RCAs and processing times vary.
64. Once they have a permit, operators face a second barrier due to the high possibility of incurring disproportionate penalties for minor offences. Vehicles travelling across several regions can face a wide range of permit conditions set by different RCAs. The breach of any of those conditions, regardless of seriousness, renders the whole permit void.
65. Under the status quo, if a permit is voided, the weight of the vehicle is measured by NZ Police against the standard VDAM weight limit for the vehicle (usually 44 tonnes for a truck and trailer combination), not the much higher weight specified on the permit. This is regardless of whether the breach is related to weight, or to a non-weight related permit condition. Therefore, an operator with a permit for an over-weight load of 52 tonnes, who inadvertently breaches a relatively minor permit condition (and, with respect to weight, is compliant with the permit conditions), can face fines of \$30,000 or more. Thus the operator gets no benefit from having taken out a permit, and indeed, on balance is exposed to significant financial risks
66. This situation can be contrasted with that of a vehicle which is detected carrying an over-weight load without a permit. For illegally carrying a 46 tonne load, an operator faces a (\$150) dollar fine<sup>8</sup>.
67. Feedback from the sector indicates that operators using the VDAM permit regime for carrying over-weight indivisible loads (that is, single loads such as a house) face the same risks of disproportionate penalties for minor offences.

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<sup>7</sup> Stimpson and Co 2013. *Monitoring, Evaluation and Review of the Vehicle Dimensions and Mass Rule implementation over the period from May 2011 to April 2013.*

<sup>8</sup> The 46 tonne is 2 tonne over the VDAM limit but only 0.5 of a tonne over the prescribed vehicle weighing tolerance of 1.5 tonnes for non-permitted operators. Therefore, the vehicle is assessed as being over-weight by 0.5 tonnes.

### *Impact of the low uptake of the HPMV amendment*

68. The low uptake of the HPMV amendment is impacting on the efficient operation of the market. Operators who do not take out an HPMV permit, but carry over-weight loads gain a competitive advantage over those operators who have met the compliance costs associated with the permit regime.
69. The HPMV regime is not realising the anticipated benefits to the freight sector and the economy. In 2010, the benefits to the freight sector of the HPMV permit regime in terms of operator costs savings, after three years operation, were estimated to be in the range of \$60 million to \$120 million. However, the 2013 NZTA Monitoring and Evaluation Report suggest that benefits to the sector are below that estimate at \$60 million to \$80 million per annum.

### **Objectives:**

- Increasing productivity of the road freight sector by increasing the uptake of vehicle permits

### **Options Analysis for Part Two**

#### **Options:**

1. **Improve the permit application process**
2. **Revise the penalties related the permit regimes**

#### **Option 1: Improve the application process (non-regulatory option)**

70. There are two areas where improvements to operational processes can reduce non-regulatory barriers to uptake.

#### *Description*

- Improve the efficiency and timeliness of the application process. This will include working with RCAs to ensure the permit process achieves its aims
- Ensure transparency and consistency in the conditions that are set by different RCAs.

#### *Benefits*

71. A faster, simpler application process will reduce compliance costs for operators applying for a permit.
72. Improving the consistency and transparency of the conditions set by RCAs will improve compliance by operators by providing greater certainty about the expectations of RCAs.

### *Issues and Risks*

73. Efficient processing of applications is an operational matter which will be looked at as part of a comprehensive review of the VDAM Rule to be undertaken in 2014/15.
74. RCAs impose conditions that reflect their knowledge of infrastructure. Guidance on imposing conditions will be looked at as part of the upcoming comprehensive review of the VDAM Rule.
75. Removing these processing barriers will reduce compliance costs but they will have no impact on the risk of incurring disproportionately harsh penalties.

### **Option 2 (preferred option) – Amend the VDAM Rule (regulatory option)**

#### *Description*

76. The VDAM Rule will be amended with regard to the conditions on the permit form, the information on the form and its design and the statutory vehicle weighing tolerances for permitted vehicles. The key change is that the penalty for voiding will be removed from the permit form. Three situations will, however render the permit invalid and have the same impact as voiding.
  - If the permit form is altered in any way.
  - If the vehicle is detected off the route specified in the permit, unless directed by NZ Police to take an alternative route
  - If a vehicle breaches conditions for crossing a bridge specified on the permit form.
77. Two new categories of permit conditions will be introduced for both divisible and indivisible loads that, if breached, will be linked to two different levels of penalties.

**Critical conditions** will relate to:

- non compliance with conditions relating to bridge crossing
  - exceeding the manufacturer's design gross limits for the vehicle or vehicle combination OR
  - exceeding the gross weight on the permit<sup>9</sup>.
78. The penalty for breaching a critical condition for a divisible or indivisible load would be a \$2000 infringement fee (e.g. Situation 2 Appendix 3).

**Additional conditions** will relate to all other breaches of the permitted weight limits (for example, overloading on a single axle) and/or the breach of conditions imposed by an RCA.

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<sup>9</sup> Note the regulations must specify a set of permit weight tolerances (gross and axles).

79. The penalty for breaching additional conditions will be \$370 per breach. Where the breach is an overloading offence it will attract incremental fines per axle or set of axles (see Situation 3 Appendix 3).
80. Appendix 3 demonstrates further scenarios for the proposed penalties through the VDAM Rule and the Regulations.
81. The proposal will also amend the levels of statutory vehicle weighing tolerances for permitted vehicles (Appendix 4). Vehicle weighing tolerances determine when the NZ Police issue overloading fines. Their objective is to compensate for inadvertent overloading due to, for example, inaccurate equipment, uneven loading area or increased weight due to rain on an exposed load.

*Benefits*

82. The situations that can render a permit invalid are very unlikely to be a consequence of an inadvertent action by the vehicle operator. By removing the possibility of disproportionately harsh penalties for inadvertent offending, Option 2 will encourage increased uptake of the HPMV permit option, thus allowing freight operators to maximise the benefits of higher productivity. This will benefit the freight sector and the economy by ensuring the HPMV regime operates as intended.
83. Option 2 will also address the risk of disproportionate penalties faced by operators carrying over-weight indivisible loads.
84. Option 2 has a range of benefits for key stakeholders:

Freight Industry	<ul style="list-style-type: none"> <li>• Improved transparency through clarifying relationship between impact of different offences and penalty levels</li> <li>• Removing barriers allows operators to maximize productivity benefits provided by the HPMV amendment (estimates suggest potential of between \$40 million to \$60 million per annum)</li> <li>• Benefits operators who take up the permit option</li> <li>• More transparent Rules ensure fairer enforcement</li> </ul>
RCAs	<ul style="list-style-type: none"> <li>• Acknowledges potential impact of heavy vehicles on infrastructure</li> <li>• Retains RCAs ability to set conditions based on local knowledge</li> </ul>
NZ Transport Agency (regulator)	<ul style="list-style-type: none"> <li>• Improves effectiveness of 2010 HPMV amendment</li> <li>• Improves management of impact of heavy vehicles on road infrastructure</li> </ul>
Government	<ul style="list-style-type: none"> <li>• Increases productivity of freight sector by removing regulatory barriers to uptake of HPMV permit regime</li> <li>• Reduces compliance costs</li> </ul>
Other road users	<ul style="list-style-type: none"> <li>• Improves management of risks to road infrastructure by heavy vehicles</li> </ul>

## *Issues and Risks*

85. The above proposals deal only with those parts of the VDAM Rule that relate to the controlled permit regimes. The NZTA has identified a range of issues with the effectiveness of the Rule that may require regulatory change. The upcoming comprehensive review of the VDAM Rule is likely to have further impacts on the efficiency and effectiveness of the freight sector.

## **Monitoring, Evaluation and Review**

86. The WiM data provided by the NZTA and the police compliance surveys will provide ongoing information as to the level of operator compliance with VDAM Rule weight limits.
87. The NZTA records the kilometers travelled by HPMV permitted vehicles. Changes in the level of kilometers travelled can act as a proxy for the level of uptake of the HPMV permit and therefore the extent to which the preferred options, when implemented, achieve objectives.
88. The Ministry of Transport in conjunction with the NZTA will undertake a comprehensive review of the VDAM Rule in 2014/15. The review will assess a wider range of options for the regulation of New Zealand's heavy vehicle industry. The analysis conducted will use a broader information set than was available during the development of the policy proposals as outlined within this RIS.

## **Consultation**

89. The Ministry and the NZTA has developed the proposed options in close collaboration with the NZ Police CVIU.
90. A targeted consultation of key stakeholders impacted by the proposed amendments to the Rule and Regulations was undertaken via an engagement document in July 2013. The engagement document outlined the proposed amendments and invited comment.
91. Key stakeholders included in engagement were:
  - Road controlling authority representatives
  - Road Transport Forum
  - New Zealand Automobile Association
  - National Road Carriers Association
  - NZ Heavy Haulage Association
  - Crane Association of New Zealand (Inc)
  - NZ Forest Owners Association



- NZ Trucking Association
- Motor Trade Association
- Motor Industry Association
- Local Government New Zealand
- NZ Road Transport Association
- NZ Truck Trailer Manufacturers Federation
- NZ Police

92. Eight submissions on the engagement document were received from a range of transport stakeholder organisations.

93. As part of the Rule amendment process the proposed amendment Rule and amendments to the Regulations was released in February 2014 for public comment in accordance with section 161(2) of the Land Transport Act 1998. Sixteen submissions were received on the proposed amendments to the VDAM Rule and the Regulations from a range of transport stakeholders.

94. The proposed changes have considered, and are consistent where appropriate, with the feedback received from the consultation process. The majority of submissions were supportive of the proposed amendments to both the VDAM Rule and the Regulations. However, consistent concern was raised in relation to the weighing tolerances originally proposed for sets and groups of axles applicable to permitted vehicles. The Ministry of Transport and the NZ Transport Agency have acknowledged the submissions from stakeholders and the preferred option in this RIS reflects stakeholder concerns.

## APPENDIX 1

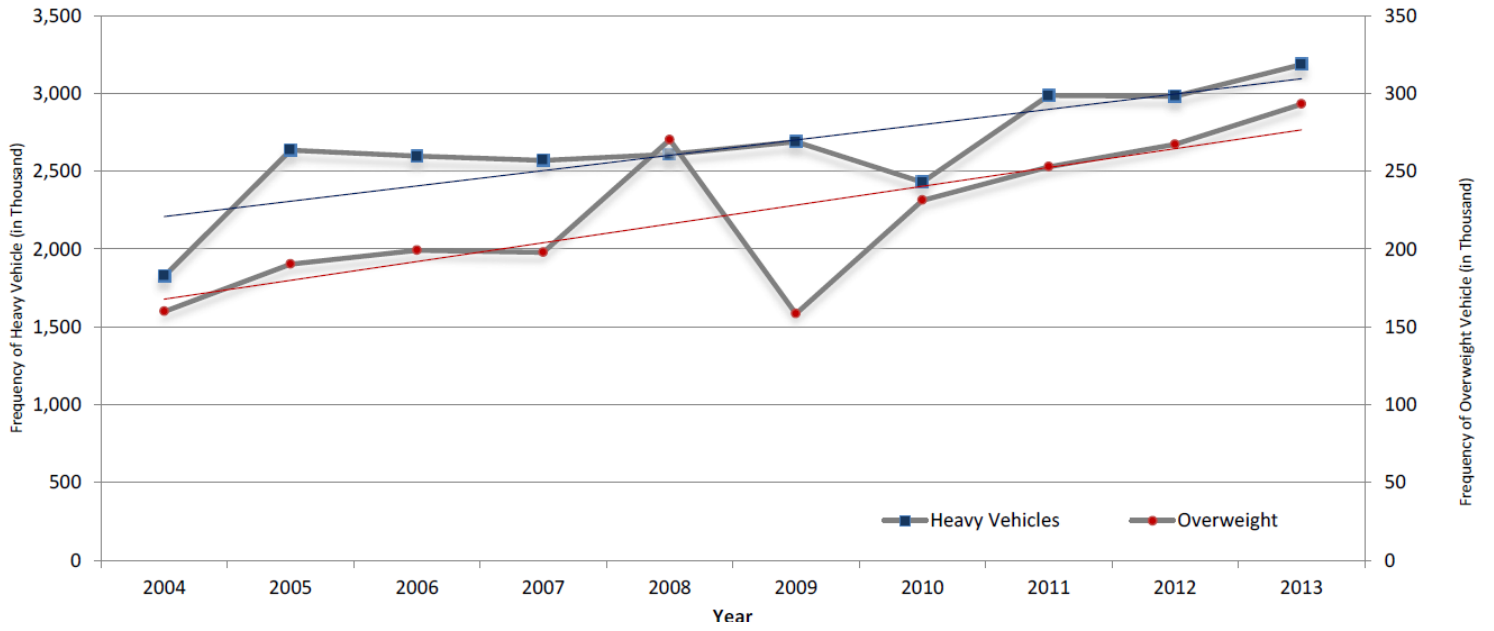
### Key stakeholders

The VDAM Rule is intended to meet multiple and sometimes contradictory interests of a range of stakeholders as set out below

<b>Stakeholders</b>	<b>Relevant objectives of Rule and Regulations</b>
<i>Government</i>	<ul style="list-style-type: none"> <li>• Enhance economic growth and productivity by increasing the effectiveness and efficiency of the freight sector</li> <li>• Road safety</li> </ul>
<i>Freight Industry</i>	<ul style="list-style-type: none"> <li>• Maximise return on investment by reducing costs.</li> <li>• Survive in a competitive industry.</li> <li>• Ensure vehicle safety</li> <li>• Minimise compliance costs</li> <li>• Transparency</li> </ul>
<i>Road Controlling Authorities (RCA) for local road network</i>	<ul style="list-style-type: none"> <li>• Preserve local road infrastructure, including bridges, against stress and the risk of accidents from increased use by increasingly heavy, larger vehicles</li> <li>• Provide tools to manage impact of heavy vehicles on vulnerable road infrastructure</li> </ul>
<i>RCA for state highway network (NZ Transport Agency)</i>	<ul style="list-style-type: none"> <li>• Effectively manage the impact on state highway infrastructure of increased heavy vehicle use</li> </ul>
<i>Regulator: (NZ Transport Agency)</i>	<ul style="list-style-type: none"> <li>• Meet government priorities with regard to economic growth and productivity</li> <li>• Meet government objectives of minimising compliance costs for industry while ensuring regulations meet government objectives</li> <li>• Provide tools to manage impact of heavy vehicles on road infrastructure and road safety</li> </ul>
<i>Enforcer: NZ Police Commercial Vehicle Investigation Unit (CVIU)</i>	<ul style="list-style-type: none"> <li>• Transparent and enforceable</li> </ul>
<i>Other Road users</i>	<ul style="list-style-type: none"> <li>• Road Safety</li> </ul>

## APPENDIX 2

### Heavy vehicle weight/over-weight trends in all WiM sites



## APPENDIX 3

### Worked examples (strictly applying current and proposed Regulations)

**NOTE:** These examples are indicative. Individual scenarios will vary the fines due.

Situation:		Current	Proposed
1	Vehicle carrying indivisible load, permit weight 58 tonnes Actual gross weight is 58.05 tonnes Offence is travel off-route	Permit is voided. Fine for breaching permit \$370 Vehicle overload assessed as 58 tonnes less 44 tonnes (VDAM limit) less tolerance of 1.5 tonnes = 12.5 tonnes over = \$8,300 PLUS likely axle fine (range is \$150 twin steer, \$2,250 single) Total \$8,800 to \$10,550 MAY incur offloading.	Vehicle is treated as not holding a permit Vehicle overload is assessed as 58 tonnes less 44 tonnes (VDAM limit) less tolerance of 1.5 tonnes = 12.5 tonnes over Fines slightly higher than current (about \$300 extra) MAY incur offloading
2	Vehicle carrying indivisible load, permit weight 58 tonnes. Offence is gross weight measured at 62.10 tonnes	Permit is voided. Fine for breaching permit \$370 PLUS Vehicle overload assessed as 62 tonnes less 44 tonnes (VDAM limit) less tolerance of 1.5 tonnes (no permit) = 16.5 tonnes over = \$10,000 PLUS likely axle fine of up to \$5,600 (less if twin steer) Total about \$15,600 MAY incur offloading	Vehicle pays fine for breach of critical condition = \$2000 PLUS overload assessed as 62.1 tonnes less 58 tonnes (permit level) = 4.1 tonnes over = \$1650 Total \$3650
3	Vehicle on HPMV permit for 58 tonnes Total gross weight is just under 58 tonnes. Offence is exceeded (permit) weight limit on one axle	Permit is voided Fine for axle weight exceeded (say) \$150 Plus breach of permit \$370 PLUS Vehicle overload assessed as 58 tonnes less 44 tonnes (VDAM limit) less tolerance of 1.5 tonnes = 12.5 tonnes over = \$8,300 Total about \$8,820	Vehicle pays fine for exceeding axle limit IF over 500 kg, but under 1 tonne = \$600 No other fine payable
4	Vehicle with no HPMV permit, carrying divisible load. Offence is gross mass of 48.6 tonnes Assumption: no axle breach	Fine assessed as 48.6 tonnes less 44 tonnes limit, less tolerance of 1.5 tonnes = 3.1 tonnes over Fine = \$900 Offloading will be required	Fine assessed as 48.6 tonnes less 44 tonnes limit, less tolerance of 1.5 tonnes = 3.1 tonnes over Fine = \$1250 Offloading will be required

## APPENDIX 4

### Weighing tolerance where a permit (other than over dimension) is held

Inspection item	Tolerance
Gross combination mass	No more than 500kg above the maximum permit gross weight across all axle sets
Steering axle(s)	No more than 500kg on a single axle and no more than 500 kg on a twin-steer axle set
All other axle sets within a combination	No more than 1000kg on any other axle, set of axles, or "group" of axles (including gross combination mass and steering axles as described above)