

BEYOND ACCREDITATION



Why Basic Transport Certification Does Not Discharge Contractor Due Diligence in Australian Road Transport Operations

DEAN ARAVIDIS AND DANIEL GARSTANG, BG ROAD SAFETY

1. Abstract

Across Australia, hiring companies commonly rely on a transport operator's regulatory accreditation, state heavy vehicle scheme status, or basic prequalification assessment as evidence that the operator is safe and legally suitable to perform contracted road transport work. In practice, this approach is frequently inadequate.

Accreditation and certification schemes are designed to test whether minimum system requirements exist and, in some cases, whether an operator is eligible to undertake specific regulated tasks. They are not a complete substitute for risk-based due diligence by the contracting entity, nor do they transfer or extinguish duties imposed under Chain of Responsibility (CoR) legislation or Work Health and Safety (WHS) law.

This paper examines the legislative standing of sole reliance on NHVAS or its successor

accreditation framework, the Western Australian Heavy Vehicle Accreditation scheme, and simple contractor transport assessments. It explains why these mechanisms are necessary but insufficient, and why a hiring company may still face regulatory, civil, or criminal exposure following a serious incident or fatality if it cannot demonstrate that it actively identified, assessed, verified, and monitored transport risk so far as is reasonably practicable. It also sets out the technical characteristics of a defensible road transport assessment model suitable for contractor assurance in high-risk operating environments.

2. The legal problem: certification is not the same as due diligence

The central error made by many contracting or client organisations is to treat accreditation as a proxy for legal discharge. Under heavy

vehicle law and WHS law, that is not how duty operates. In the participating Heavy Vehicle National Law jurisdictions, the primary duty requires each party in the chain to ensure, so far as is reasonably practicable, the safety of transport activities relating to the party. Executives must also exercise due diligence to ensure the business complies with that primary duty.

In Western Australia, Main Roads states the same underlying principle in different statutory architecture: anyone who has control in the transport chain can be held legally accountable if, by action, inaction, or demand, they cause or contribute to a road safety breach.

Under WHS law, the position is broader again. PCBU's owe primary health and safety duties, officers owe due diligence duties, those duties are not transferable, and multiple PCBU's in a contractual chain may hold concurrent duties

that must be discharged through consultation, cooperation, and coordination.

The practical consequence is straightforward: a contractor's accreditation may be relevant evidence, but it is not a legal shield for the hiring company. A principal, consignor, scheduler, mine operator, logistics coordinator, or client that influences transport work retains its own duty and must be able to show what it actually did to understand and control the risks of the contracted activity.

3. What accreditation and simple certification actually prove

3.1 NHVAS and the evolving national accreditation framework

The NHVR describes NHVAS, and the new Heavy Vehicle Accreditation framework replacing it over time, as accreditation systems for operators. These schemes are structured around modules and standards. They are important, but they are still accreditation systems, not statutory safe harbours that displace CoR or WHS obligations. The NHVR also states that the 2026 Master Code does not create new legal obligations or replace existing requirements under the HVNL, which reinforces the same principle: schemes and codes guide compliance, but they do not replace duty.

3.2 Western Australian Heavy Vehicle Accreditation

WAHVA is mandatory for specific permit, order, and Restricted Access Vehicle contexts in Western Australia. Main Roads describes it as a management systems accreditation regime for operators who need to perform particular regulated transport tasks. In other words, it is an entry level assurance mechanism for regulated heavy vehicle access, not a complete assurance model for every road transport risk a contracting company may create or influence.

3.3 Basic contractor assessments

A simple contractor road transport assessment typically tests for the presence of documents: insurance, licences, maintenance records, policies, fatigue procedures, perhaps a basic questionnaire response. These tools have utility as screening mechanisms.

Their weakness is that they largely test documentary existence rather than operational effectiveness, task-specific exposure, or control reliability under actual field conditions. That distinction is decisive after a serious event. Regulators and courts do not ask only whether a policy existed. They ask whether the relevant hazards were known, whether controls were suitable, and whether they were actually implemented and monitored.

4. Why sole reliance fails technically

4.1 Scope mismatch

Accreditation is generally operator-centric. Contracting risk is task-centric. The legal and operational question is not merely whether the transporter has a compliant management system in the abstract. It is whether the specific transport activity commissioned by the client can be performed safely in the actual operating context. That includes route design, journey duration, delivery windows, fatigue exposure, loading method, site interface risk, traffic interaction, vehicle suitability, subcontracting, and supervision. None of those are reliably answered by accreditation status alone.

4.2 Time mismatch

Certification is often periodic. Road transport risk is dynamic. A passed audit or valid accreditation may tell a contracting company that a system met a standard at one point in time. It does not confirm control integrity on the day shift, the night shift, the remote corridor, the congested refinery gate, the wet haul road interface, or the contractor's third-tier subcontract arrangement three months later. WHS due diligence expressly requires active monitoring and evaluation, not passive one-off checking.

4.3 Control mismatch

Many certifications are management-system oriented. Fatality prevention is critical-control oriented. A company can possess fatigue procedures, maintenance schedules, and induction records while still failing to control the specific fatal-risk pathways that matter most, such as unfit schedules, route hazards, ineffective speed governance, vehicle instability, driver impairment, inadequate

supervision, poor load restraint, uncontrolled site segregation, or weak subcontractor oversight. The presence of a system is not proof of control effectiveness.

4.4 Duty-holder mismatch

A contractor's certification does not transfer the client's duty. Safe Work Australia is explicit that WHS duties are not transferable and that multiple PCBUs can owe duties in a contractual chain at the same time. Likewise, CoR extends liability to those with influence or control, not just the carrier. This is exactly why a hiring company can still be drawn into prosecution or civil proceedings after a serious or fatal event.

5. Can a hiring company still be prosecuted after a contractor fatality?

Yes. As a matter of principle, absolutely yes. Whether prosecution occurs will depend on the facts, the jurisdiction, the available evidence, and the extent of the hiring company's influence, control, knowledge, and omissions. But there is no sound legal basis for assuming that contractor accreditation, on its own, immunises the hiring company from prosecution or joint involvement in proceedings.

Under WHS law in Western Australia, offences can extend to circumstances where a PCBU fails to comply with its duty and that conduct causes death. The legislation also imposes a due diligence obligation on officers. That makes governance failure, not merely frontline error, a live issue in serious incidents.

Under CoR, if the hiring company set unrealistic schedules, failed to verify fatigue controls, approved unsafe site interfaces, ignored subcontracting arrangements, tolerated unsafe loading conditions, or treated accreditation as a substitute for risk verification, it may be argued that it contributed to the breach by action, inaction, or demand. That is precisely the form of liability CoR is designed to capture.

The defensibility question is therefore not, "Did the transporter hold certification?" It is, "What did the hiring company know, what should it reasonably have known, what control did it have, and what reasonably practicable steps did it take before and during the work?"

6. What a technically defensible road transport assessment should look like

A credible contractor road transport assurance model must go well beyond credential checking. It should function as a risk-based, evidence-led due diligence system embedded into contractor onboarding, mobilisation, operational approval, and ongoing performance verification.

6.1 Tier 1: legal and system baseline screening

The first layer should still verify foundational matters: licences, insurances, accreditation status, maintenance systems, fatigue systems, incident history, subcontracting model, competencies, medical fitness processes, and applicable heavy vehicle scheme compliance. This layer is necessary, but it is only the entry gate.

6.2 Tier 2: task-specific risk profiling

The second layer should evaluate the transport task itself. At a minimum, that means route class, distance, fatigue exposure, shift design, operating windows, traffic complexity, loading and unloading method, product hazards, vehicle configuration, rollover potential, remote-area response capacity, seasonal and environmental conditions, and interface risks at client and non-client sites. This is the point at which the hiring company begins discharging its own due diligence rather than merely reviewing the contractor's paperwork.

6.3 Tier 3: critical control verification

The third layer should test the controls most closely linked to fatal and serious injury pathways. A technically sound assessment would verify, not simply ask about, matters such as:

- journey management and scheduling logic
- driver competency for the exact task and equipment
- fatigue control design and actual roster practicality
- vehicle selection, maintenance quality, and safety-critical defect management
- speed management and in-cab intervention controls
- load restraint, loading stability, and unloading method controls

- subcontractor approval and downstream oversight
- incident reporting, escalation, and learning systems
- emergency response capability for the corridor and payload involved

This verification should be evidence-based and, for higher-risk tasks, include interviews, record sampling, and field or site validation.

6.4 Tier 4: operational verification in the field

For medium- and high-risk work, desktop review is not enough. A serious assurance model includes field verification, site walkdowns, vehicle inspections, observation of loading or dispatch, review of trip instructions, and interviews with supervisors, drivers, loaders, and schedulers. That is how the gap between documented intent and operational reality is closed. WHS due diligence requires active monitoring and evaluation; field verification is one of the clearest ways to demonstrate it.

6.5 Tier 5: assurance continuity

A one-time assessment is inadequate for long-duration or high-exposure contracts. A mature model should include trigger-based reassessment, periodic review, incident-driven escalation, leading-indicator monitoring, and governance reporting to ensure the client can prove ongoing oversight rather than historical screening only.

7. The operating model implied by best practice

The most robust contractor transport assurance models now follow a platform-enabled but assessor-led structure. In that model, the digital platform manages workflow, contractor submissions, evidence capture, scoring logic, reassessment intervals, and audit trails. The assurance strength does not come from the platform alone. It comes from the methodology sitting behind it: risk stratification, technical review, control verification, escalation rules, and independent assessor judgement.

That distinction matters. A platform can organise information efficiently, but only a strong road transport assessment

methodology can determine whether the contractor's controls are actually proportionate to the risk. In high-consequence sectors such as mining, energy, utilities, and dangerous goods, the defensible standard is not simple prequalification. It is structured, risk-based contractor due diligence supported by targeted verification of critical controls.

8. Conclusion

The legislative standing of sole reliance on NHVAS, WAHVA, or a basic contractor transport certification is weak if that reliance is presented as full discharge of contractor due diligence. These schemes are useful and, in many cases, necessary. But they remain only one part of the evidentiary picture. They do not remove the hiring company's obligations under CoR or WHS law, they do not transfer duty, and they do not guarantee protection from prosecution or civil exposure following a fatality.

For a hiring company to establish a defensible position, it must move from certification reliance to assurance verification. That means assessing the actual task, the actual corridor, the actual controls, and the actual contractor capability required for the work. In legal terms, that is much closer to what due diligence requires. In operational terms, it is also much closer to what fatality prevention demands.



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