



Australian Government

**Department of Infrastructure,
Regional Development and Cities**



RVSA Implementation Consultation Framework

RVSA Tools Consultation Group

*Discussion Paper TL1 – Introduction to the Specialist and
Enthusiast Vehicles Register*

22 November 2018

Table of Contents

<i>Discussion Paper TL1 – Introduction to Specialist and Enthusiast Vehicles Register</i>	1
Introduction	1
1. Overview of ‘tools’	1
2. The Specialist and Enthusiast Vehicles Register (SEVs Register)	3
3. Administration of SEVs Register	3
Step 1: Application	4
Step 2: Assessment of application	5
Step 3: Decision and entry to SEVs Register	11
Discussion questions.....	11

Introduction

This paper is designed to provide members of the RVSA Tools Consultation Group with information about how the Specialist and Enthusiast Vehicles Register (SEVs Register) will work. It will do so by providing:

1. An overview of the tools, where they sit in the RVS Rules, and how they interact with other parts of the RVS Rules.
2. A more detailed look at the SEVs Register application process, including an examination of:
 - ‘significantly different’ variants
 - genuine availability to consumers in Australia
3. An overview of the administrative process for applying to have a vehicle entered onto the SEVs Register.

1. Overview of ‘tools’

To understand what tools are, and how they fit into the RVS legislation, it helps to understand the structure of the RVS Rules.

The RVS Rules are divided into 9 Parts. Each “Part” outlines different features of the RVS Rules. The most relevant Parts for this discussion group are outlined below:

- Part 2 sets out the arrangements for the Register of Approved Vehicles (RAV) – such as what will be included on the RAV when entering a vehicle. It also sets out that an entry onto the RAV happens via an ‘entry pathway’.
- Part 3 sets out two RAV entry pathways – type approval and concessional RAV entry. Each pathway calls up different ‘tools’ that need to be used on that pathway.
- Part 4 sets out the arrangements and requirements for each tool: RAW approvals, model reports, AVV approvals, testing facilities and the SEVs Register.

The below table indicates the tools that are applicable to each RAV entry pathway.

RVS Rules Pathway	Relevant tools
<p>Type approval pathway (Also applicable to component type approvals)</p>	<p><u>Testing facilities</u> Testing facilities must be used when providing evidence of compliance to national road vehicle standards (unless other evidence, such as UN approvals, is used).</p>
	<p><u>Model reports</u> Model reports can be used by heavy trailer manufacturers to assist in providing evidence of compliance with the national road vehicle standards. Model reports are not applicable to any other kind of type approval or component type approvals</p>
	<p><u>Component type approvals</u> The use of components covered by a component type approval can be used as evidence of compliance of a vehicle with the national road vehicle standards</p>
<p>Concessional RAV entry pathway</p>	<p><u>SEVs Register</u> A vehicle that is on the SEVs Register can be granted a concessional RAV entry approval under the ‘vehicles to be modified by the holder of a RAW approval’ concessional RAV entry pathway</p>
	<p><u>Registered Automotive Workshop (RAW) approvals</u> Concessional RAV entry approval vehicles that use the ‘vehicles to be modified by the holder of a RAW approval’ eligibility criteria must be modified by a RAW.</p>
	<p><u>Model reports</u> All vehicles that are modified by the holder of a RAW approval must be modified in accordance with a model report.</p>
	<p><u>Authorised Vehicle Verifier (AVV) approvals</u> All vehicles that are modified by the holder of a RAW approval must be inspected and verified by the holder of an AVV approval.</p>
	<p><u>Testing facilities</u> Evidence from testing facility approval holders may be required when preparing a model report.</p>
	<p><u>Component type approval</u> The use of components covered by a component type approval can be used as evidence of compliance of a vehicle with the national road vehicle standards when preparing a model report.</p>

2. The Specialist and Enthusiast Vehicles Register (SEVs Register)

The SEVs Register is designed to identify vehicles that are of a specialist and enthusiast nature that are not, or were not, genuinely available to Australian consumers. An application must be made to have a vehicle entered onto the SEVs Register. Applicants can be individuals or corporations.

To be entered onto the SEVs Register the vehicle must not be genuinely available to Australian consumers and must meet one of six eligibility criteria.

To import a vehicle entered on the SEVs Register a person needs to apply for a concessional RAV entry approval, using the eligibility criteria 'vehicle to be modified by the holder of a RAW approval'.

To be granted a concessional RAV entry approval for a SEV:

- the vehicle must be on the SEVs Register
- the applicant needs to own, or intend to own, the vehicle
- the applicant should have, or be able to access, a model report for the vehicle
 - this might be held by the RAW
 - the applicant may have to purchase a model report

A concessional RAV entry approval holder is automatically taken to be the holder of an import approval for that vehicle. The concessional RAV entry approval also allows the vehicle to be entered onto the RAV – once certain conditions are met. SEVs have conditions placed on their approval that must be met before they can be entered onto the Register of Approved Vehicles (RAV):

- A RAW must modify the vehicle in accordance with a model report.
- An AVV must inspect the vehicle and verify it has been modified in accordance with a model report.

A summary of differences between the MVSA SEVs Register and the RVS legislation SEV Register is available at Attachment A.

3. Administration of SEVs Register

At a high level, applying for an entry on the SEVs Register is a relatively straightforward process:

- Step 1: An applicant interested in having a vehicle entered onto the SEVs Register will apply online, using an approved form.
- Step 2: The department will assess the application against the requirements of the RVS Rules, using guidance material to ensure transparency and consistency when assessing the application.
- Step 3: The department will then make a decision about the application: whether to add the vehicle to the SEVs Register or refuse the application.

This section will explore what happens in each one of these steps. It will also look at two of the more complex and subjective concepts in SEVs Register assessments:

- Whether a vehicle is a “significantly different” variant of other vehicles of that model.
- Whether the vehicle is or was genuinely available to consumers in Australia.

These types of concepts are difficult to provide definitive guidance for because doing so would reduce their flexibility. This would, in turn, reduce the department’s ability to respond to the various unique and specific circumstances that surround both these concepts. Keeping the definitions open will enable the department to make better decisions in a wider variety of circumstances.

The cost of this flexibility is the risk of both inconsistency and reduced transparency in decision making around these two concepts. This paper provides the first attempt to examine the principles the department will apply to these concepts to improve consistency in assessment. Stakeholders are invited to provide their feedback on the principles to help develop them.

Step 1: Application

An individual or a corporation that wishes to enter a vehicle onto the SEVs Register will need to make an application.

The application form will be available online and will guide applicants through the information that they need to provide. The department has prepared some information about the kind of fields that the form will contain (see [Attachment B](#)).

The application form requires an applicant to identify the variant of the model, or the make and model, of a road vehicle that is the subject of the application and details of the variant of the model, or the make and model. The applicant will also have to select one of the following criteria that the applicant considers are met:

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

Each criteria will require different information to be included in the application. For example, if the rarity criteria was selected, the applicant would be expected to provide information regarding the vehicle’s rarity.

An application fee to recover the cost of assessing the application must also be paid.

Step 2: Assessment of application

The assessment of an application to enter a vehicle onto the SEVs Register is made up of three stages. These will be completed by the department:



First stage of assessment – is the vehicle being applied for a variant?

In this step, the assessor looks at the application and has to determine whether the vehicle applied for is a variant, by being satisfied that the vehicle in question has design characteristics that are significantly different from those of other vehicles of that model of road vehicle.

What is considered to be significantly different for vehicles under 12 tonnes?

The RVS Rules will outline a number of design characteristics that the department will consider to be significantly different, including differences in the:

- **capacity, configuration or induction** of an internal combustion engine. This is designed to include different cylinder counts, a different configuration of cylinders, different displacement of the engine and the addition of turbo or supercharging.
- **type of motive power** driving the engine or motor. This is designed to capture the kind of power that is used to move the engine or motor – differences in fuel such as diesel instead of petrol, or differences in hybrid configuration, such as plug-in hybrids instead of hybrid configurations. It does not capture differences in quality of fuel used, such as premium unleaded petrol instead regular unleaded petrol.
- **transmission or drivetrain** system. This includes differences in type of transmission as well as differences in the number of gears in the transmission. It also means differences such as all-wheel drive instead of front wheel drive.
- **body shape** of the vehicle. This means differences in the overall shape of the vehicle, such as hatchback instead of sedan. It does not mean the addition of a body kit.
- **vehicle category**. Vehicle category means a vehicle category set out in *Vehicle Standards (Australian Design Rule – Definition and vehicle Categories) 2005*.
- **features designed to assist people with a disability** (where the application is made on the basis of the mobility criteria).

What is considered to be significantly different for vehicles over 12 tonnes?

Following feedback from the heavy vehicle industry, the definition of variant for heavy vehicles (in this context, vehicles that are over 12 tonnes) will align more closely with the industry definition of heavy vehicle variants.

This means that there are fewer categories of design features that are automatically considered to be significant differences. The designed characteristics that are considered significantly different for heavy vehicles are:

- The **type of motive power** driving the engine or motor.
- **Features designed to assist people with a disability** (where the application is made on the basis of the mobility criteria).

Including these criteria ensure that the Government meets its policy objectives to improve choice for people importing vehicles with low emissions and improving access to vehicles with features to assist people with a disability. However it also ensures that relatively common differences in design features such as length of drivetrain, engine capacity or cab shape are not automatically considered variants – consistent with usual practice in the heavy vehicle industry.

What is not considered (on its own) to be significantly different?

The RVS Rules will outline design characteristics that, on their own, are not considered significantly different (these are the same for light and heavy vehicles):

- colour, upholstery, trim, or other cosmetic features
- engine tuning or software
- marketing name

In line with feedback from stakeholders, the RVS Rules will make it clear that a vehicle's design characteristics could be significantly different if more than one of the differences set out above exist.

Significantly different design characteristics (light vehicles)

The concept of significant differences can be thought of as a gradient scale where the start and finish of the scale are clear, but the area in the middle is open to interpretation. To ensure consistency in decision making around significant differences the department intends to prepare advice for stakeholders and decision makers. To that end, the department has done some further consideration and has proposed some key concepts when assessing significant differences:

1. Some design characteristics are more significant than others. The department proposes that certain types of design characteristics will contribute to significant differences more than others.

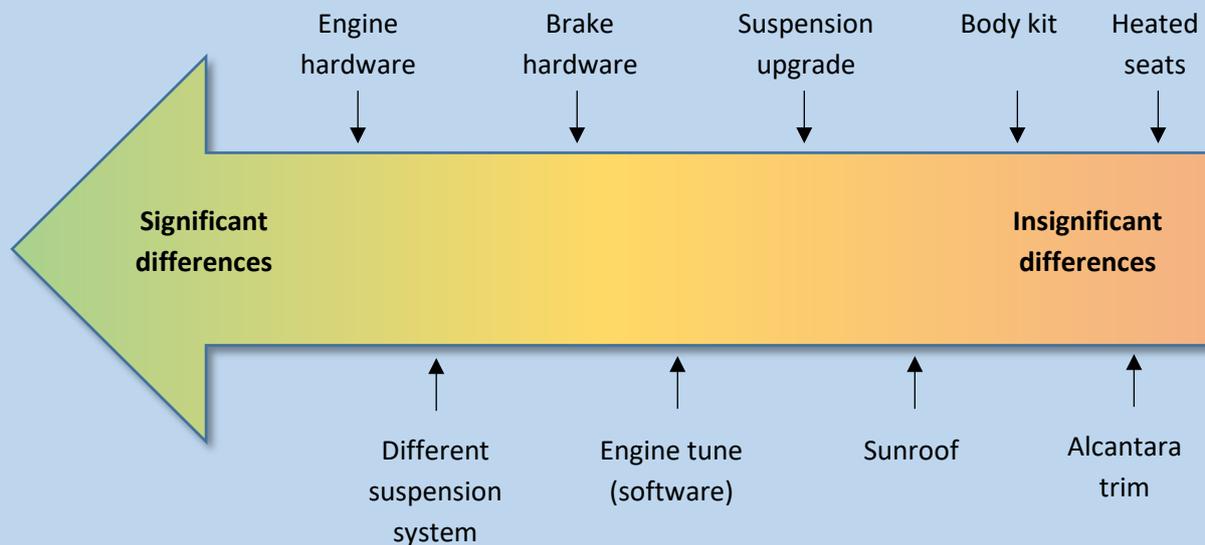
For example:

- Hardware or mechanical changes would generally be more significant than software or tuning changes. In turn, software and tuning changes would generally be more significant than cosmetic changes.

- Design characteristics that have an appreciable link to the eligibility criteria being applied for would generally be considered more significant (for example, performance brakes on performance variants, energy efficiency measures for environmental vehicles).
- Changes that impact shape and structure of the vehicle are more significant than paint or cosmetic treatments.

2. Context matters. The same design characteristic could have different weighting depending whether the characteristic is available on other variants in Australia. For example:

- If every vehicle variant available in Australia can have the option of a sunroof, then a variant with a sunroof as standard would not be a particularly significant difference.
- Equally, where a sunroof is exclusively available on one variant that is not genuinely available in Australia, this would increase the significance of this difference.



Practically this would see:

- Variants that have a package of mechanical, software, and cosmetic changes likely being considered significantly different. For example, a variant with a brake upgrade, software tweaks resulting in higher engine output and cosmetic features would likely be significantly different.
- Variants with software and cosmetic differences may be eligible, depending on the context and extent of the differences:
 - If the software tweaks and cosmetic changes are unique to the variant and not genuinely available in Australia then it would likely be considered a significantly different variant.
 - If the software tweak is available on other variants in Australia, then it would likely not be considered a significantly different variant, even if the cosmetic changes are unique.

- A variant that only has cosmetic tweaks cannot be considered a significantly different variant. For example a variant with design characteristics such as, leather seats, sunroof and body kit would not be considered to be significantly different.

While this gives some guidance about how the department intends to treat significantly different design characteristics, each individual circumstance will be assessed on its merits. This is because, as principle two outlines, context is an important part of the assessor's consideration of the variant.

The application form will require the applicant to 'scope' the variant that is being applied for to help the assessor determine whether the vehicle is significantly different. It does this by asking a series of questions about the vehicle, such as transmission type, number of drive wheels, number of doors, and type of motive power.

The application form questions align to the definition of 'significantly different' in the legislation. The form will also allow applicants to specify other "design characteristics". These design characteristics might include, for example, upholstery type, sunroof, upgraded braking system etc. Applicants should think about the kind of design characteristics that would be considered significant. The department intends to provide guidance about this.

When looking at the application, the assessor will examine the variant that has been applied for. In the first instance the assessor will examine whether one of the definitive significantly different design characteristics apply. Where there is a definitive difference, the variant will move into the next stage of assessment. Where there is not a definitive difference the assessor will then examine the variant against the significantly different design characteristics principles proposed above, requiring an exercise of judgement by the assessor. If the variant is deemed to be significantly different, it will move to the next stage of assessment. Where it is not significantly different, the application will be refused.

Second stage of assessment – is the vehicle available to Australian consumers?

Having established whether the vehicle being applied for is a variant (or make and model, for rarity applications) the assessor moves to the second stage of assessment. This stage determines whether the vehicle is available to Australian consumers.

The below figure sets out the key questions that must be answered to assess whether the variant or model is available to Australian consumers:

Has the variant or model of the road vehicle been provided in Australia via a type approval?					
No	Yes				
	Is the applicant the type approval holder or authorised, in writing by the holder of the road vehicle type approval to make the application?				
	Yes	No			
		Is the variant or model no longer genuinely available as a new vehicle in Australia but is available overseas?			
		OR			
		Was the variant or model not genuinely available in Australia at any time when it was available overseas?			
		No	Yes		
			Does this application only relate to a variant or model that, for a period of time it is not, or has not, been genuinely available in Australia as a new vehicle?		
			No	Yes	
Application moves to third stage – assessment against SEV criteria	Application moves to third stage – assessment against SEV criteria	The variant, or the make and model is not eligible for entry on the SEVs Register	The variant, or the make and model is not eligible for entry on the SEVs Register	Application moves to third stage – assessment against SEV criteria	

What does genuinely available mean?

To be considered “genuinely available”, the assessor must consider whether consumers were genuinely able to access the vehicle in Australia under a type approval or equivalent.

This is intended to prevent vehicle suppliers from applying for a type approval with no intention of genuinely providing the vehicles to Australian consumers. For example, suppliers could not provide a single vehicle under the type approval just to prevent that vehicle from being entered on the SEVs Register.

Genuinely available is a subjective concept, given that genuine availability of variants depends on the specific circumstances of that variant. In assessing whether a variant of a model, or a make and model, of a road vehicle is genuinely available to Australian consumers, assessors will have regard to the following factors:

- The relative volume of vehicles supplied in Australia to the volume produced worldwide:
 - Example: A type approval holder supplies 20 limited edition supercars to Australia. There are 500 of this variant being produced worldwide. This could be considered as genuinely supplying these vehicles.

- Example: Thousands of vehicles are being made worldwide. A type approval holder limiting supply to 20 vehicles in Australia would not be considered to have genuinely made the vehicles available to Australian consumers.
- Whether the demand for the variant is exceeding supply. In this factor, the waiting times for vehicles might be relevant.
 - Example: A type approval holder may be selling a popular performance vehicle in Australia where demand has surpassed supply. If the type approval holder is fulfilling orders and delivering on these orders, then this may be considered genuinely available to Australian consumers.
 - Example: A type approval holder that advertises that a performance vehicle is available to consumers, but the waiting list extends to over 12 months – and there does not appear to be demand constraints – then this might be considered as not making the vehicle genuinely available to Australian consumers.
- Any other specific circumstances in relation to the variant.

Where an assessor determines that the variant or model has not been genuinely available to consumers in Australia then the application progresses to its third stage – “does the variant or model meet the SEV eligibility criteria that has been applied for?”

Third stage of assessment – does the vehicle meet the SEV criteria

The third stage of assessment is relatively straightforward, and this paper does not go into how each individual criteria will be assessed.

Broadly, the assessor will look at the variant or model applied for and assess it against the eligibility criteria selected on the application form. The relevant information required to assess this will have been provided in the application form by the applicant.

The assessor will verify this information from a variety of sources (depending on the eligibility criteria) and make a recommendation to the decision maker. Where a vehicle meets the eligibility criteria, the assessor will recommend that the vehicle be added to the SEVs Register.

Discussion questions

- How do you feel about the proposed ‘principles’ approach to assessing significantly different? Are there other principles you might include?
- What should the guidance material look like for people wishing to apply for a SEVs Register entry?
- The example for significant difference is focussed on light vehicles – what might it look like for heavy vehicles? What principles should we look to?

Step 3: Decision and entry to SEVs Register

Once submitted, the application must be considered within 30 business days. If a request for further information has been made, any period from the day the request was made to when the last of the information requested is received is not included in the 30 business days.

Once the application has been assessed, the assessor will make a recommendation to the decision maker about whether to enter, or refuse to enter, a variant or model onto the SEVs Register.

Entry onto the SEVs Register

A decision maker may only enter a variant or model onto the SEVs Register if the variant or model has not been genuinely available to consumers in Australia and it meets the relevant SEV criteria applied for. In addition, the variant of a model, or make and model, has to meet one of the following:

- not already on the SEVs Register
- on the SEVs Register but for a different criteria on which the application is based
- on the SEVs Register for the same criteria on which the application is based but the existing entry is due to expire within 30 business days after receiving the application

After a decision is made to enter a variant, or a make and model, of a road vehicle on the SEVs Register the decision maker must notify the applicant in writing of the entry as soon as practicable.

Refusal to enter on SEVs Register

A decision maker must refuse to enter a variant or model onto the SEVs Register if:

- The variant or model is genuinely available to consumers in Australia or the variant or model does not meet the requirements of the eligibility criteria.
- The variant or model is already on the SEVs Register for the same criteria and is not due to expire within 30 business days after receiving the application

An applicant must be notified in writing of a decision to refuse to enter on the SEVs Register as soon as practicable. The notification will include reasons for the decision.

Discussion questions

Discussion questions

- This paper focussed less on SEV eligibility criteria and more on the administration and decision making process for entry onto the SEVs Register. Are there questions that members have about how variants will be assessed against the six SEV eligibility criteria?
- Are there specific parts of the administration of the SEVs Register under the Motor Vehicle Standards Act that we do well and you want to see into the future administration? Are there parts you want to see improved?

- 
- Did you find the draft fields that will be on the application form useful (see Attachment B)?
What other material can we develop to help improve your understanding of the operation and administration of the RVS SEVs Register?

ATTACHMENT A – Summary of differences between MVSA SEVs Register and RVS SEVs Register

RVS SEVs Register	MVSA SEVs Register	Differences
<p>Application is for a new or used:</p> <ul style="list-style-type: none"> • variant of a model • make and model (if applying for rare model) <p>Not ‘genuinely available to consumers in Australia’ (for example, vehicle not supplied under a type approval in Australia).</p> <p>AND</p>	<p><u>Make</u> that is:</p> <ul style="list-style-type: none"> • not a trailer • built after 1988 • not supplied in full volume in the vehicle category. <p>OR</p> <p>Make and model not supplied in full volume</p> <p>AND</p>	<p>RVS SEVs Register applications are for variants. MVSA applications were focussed on makes or makes and models.</p> <p>Variants were not eligible for consideration under the MVSA.</p> <p>RVS SEVs Register uses the concept of ‘genuine availability’ to test whether a vehicle has been supplied in Australia.</p>
<p>3 months must have passed since the variant was first available in any market in the world.</p> <p>AND</p>	<p>18 months must have passed since the model was first available in any market in the world.</p> <p>AND</p>	<p>RVS SEVs Register has a shorter time between first availability in a market and eligibility for SEV register.</p>
<p>Variant must meet 1 specific eligibility criteria.</p>	<p>Model must meet 2 specific eligibility criteria (this does not apply if make not supplied in full volume)</p>	<p>RVS legislation only requires 1 specific eligibility requirement to be met. However it requires this to be met for all applications.</p> <p>MVSA allowed whole makes that were not supplied in full volume, regardless of whether they met the eligibility criteria.</p>

ATTACHMENT B – Example of the fields that may be included on the SEVs Register application form

Information	Required for a variant of a model, or a make or model, or both	Reason
Make	Both	Required by 129A of the Rules
Model Name	Both	Required by 129A of the Rules
Model Code	Both	Required by 129A of the Rules
Variant name	Variant	To identify the eligible variant of a model of a road vehicle
Build date range	Both	Required by 129A of the Rules
Category	Both	Required by 129A of the Rules
Body Shape	Both	To identify the eligible variant of a model, or make and model, of a road vehicle.
Motive power	Both	To identify the eligible variant of a model, or make and model, of a road vehicle. For a variant of a model, to assess the eligibility against the environmental criteria.
Engine Capacity	Both	To identify the eligible variant of a model, or make and model, of a road vehicle. For a variant of a model, to assess the eligibility against the environmental criteria.
Length	Both	To identify the eligible variant of a model, or make and model, of a road vehicle and an eligibility factor for the environmental criteria.
Width	Both	To identify the eligible variant of a model, or make and model, of a road vehicle and an eligibility factor for the environmental criteria.
No. of driven wheels	Both	To identify the eligible variant of a model, or make and model, of a road vehicle.
Transmission	Both	To identify the eligible variant of a model, or make and model, of a road vehicle.
No. of doors	Both	To identify the eligible variant of a model, or make and model, of a road vehicle.
No. of seats	Both	To identify the eligible variant of a model, or make and model, of a road vehicle.
Gross vehicle mass	Variant	An eligibility factor for the environmental criteria.

ATTACHMENT B – Example of the fields that may be included on the SEVs Register application form

Information	Required for a variant of a model, or a make or model, or both	Reason
Typical VIN	Both – if known	For model report matching.
Other design characteristics	Variant	To identify the eligible variant of a model of a road vehicle
Lowest maximum power	Variant	An eligibility factor for the performance criteria.
Heaviest unladen mass	Variant	An eligibility factor for the performance criteria.
Country of origin	Variant	An eligibility factor for the environmental criteria.
Mobility features	Variant	An eligibility factor for the mobility criteria.
New or used	Variant	Identifies the applicable ADRs for the variant of the model, or the make and model.