



Australian Government

Department of Infrastructure,
Transport, Regional Development,
Communications and the Arts



Information management requirements

This paper **expands** on previous policy work

April 2024

Objectives

The Automated Vehicle Safety Law (AVSL) will require Automated Driving System Entities (ADSEs) to collect, store and report information to demonstrate compliance with their duties and obligations under the AVSL, and enable auditing by the new regulator.

The collection and management of information must occur in a way that protects people's privacy while enabling effective regulation of automated vehicle use.

This paper covers the proposed information management requirements and seeks feedback.

Key points

The AVSL will place requirements on ADSEs relating to their collection, use and disclosure of information.

The AVSL will also include information management requirements for the new regulator.

It will be important to ensure that only required data and information is collected, that it is safely stored, and is only used or shared where needed. This will help to protect people's privacy, while enabling effective regulation of automated vehicle use on Australian roads.

Consultation questions

We welcome feedback on all elements of the regulatory framework. In relation to the proposed information management requirements, we are especially interested in the following.

9. For how long should ADSEs be required to retain data? Should there be different periods for different types of information?
10. Are there risks associated with information management that are not covered in these proposals?

Information management requirements

The AVSL will introduce data collection, storage and reporting requirements. It is important that both ADSEs and the new regulator only collect necessary data and information, that it is safely stored, and that it is only used as intended. This will help to protect people's privacy, while enabling effective regulation of the use of automated vehicles on Australian roads.

Requirements on ADSEs

The AVSL will place requirements on the ADSE about what information they collect and how they collect, store, use and disclose that information. This is necessary so that an ADSE can demonstrate compliance with its duties and obligations under the AVSL, and to support the new regulator audits.

At certification, an ADSE will need to show it has appropriate systems in place to record and share ADS data. For example, it will need the ability to provide relevant data to enforcement agencies and insurers about when the ADS was engaged. More information on these requirements is in the [Automated Driving System Entity certification](#) paper.

The new law will include reporting and data recording obligations requiring ADSEs to collect and store certain types of information.

As part of maintaining its certification, an ADSE will need to keep and update the information it provided at certification. This will assist the new regulator to check that the ADSE continues to meet the requirements for ongoing certification. The ADSE would need to keep this information for as long as it is certified as the ADSE for the ADS it supports, and for another 7 years after its certification expires.

An ADSE will also be required to:

- maintain the data recording capabilities that it demonstrated at certification
- keep records about all safety incidents with its ADS; not just those that are serious enough to report or potentially systemic and therefore required to be reported to the regulator
- keep records about all repairs, maintenance and modifications to its ADS; not just those significant enough to be reported to the regulator
- keep records about any recall action.

An ADSE will be required to demonstrate that records and data will be stored in an appropriate format and location; which will need to be sufficiently secure, and readily accessible if and when the new regulator makes a request. Further details about these requirements may be prescribed in a legislative instrument.

We are proposing that the retention period – how long an ADSE will be required to retain its records, data and information (aside from the information it provided to support its certification) – will be established in a legislative instrument. Development of this instrument will be informed by the views of industry and relevant agencies.

Consultation question

9. For how long should ADSEs be required to retain data? Should there be different periods for different types of information?

Requirements on the new regulator

The new regulator will need to collect and store information and data to be able to do its job. Data will be essential to many of its functions, including audit, compliance, enforcement, research and policy.

There will also be times when the regulator will need to provide information to, or exchange information with, other agencies as part of the broader transport safety system.

Officers of the new regulator will be required to handle information appropriately, and ensure they do not use it other than for authorised purposes.

The new regulator will be able to use and disclose information, including information that would not usually be publicly available and may be personal, sensitive or commercial in confidence, as necessary to do its job.

We propose that a legislative instrument under the AVSL could be used to specify the timing, format and circumstances in which the new regulator could collect information from other entities.

Privacy

The *Privacy Act 1988* (Privacy Act) will apply to the new regulator as an Australian Government entity, which will help to protect personal information about individuals that is handled by the new regulator. The AVSL would authorise the regulator to collect and store personal and sensitive information. Personal and sensitive information could include things like details of executive officers and other key position holders in an ADSE that is provided as part of ADSE certification, or footage from in-cabin cameras collected as part of a safety investigation. The AVSL will include provisions that allow personal information to be collected from someone other than the individual it relates to so that it can collect personal information from the ADSE or other regulators directly.

The Privacy Act will also apply to ADSEs. This will ensure that ADSEs will be required to comply with the Australian Privacy Principles when handling personal and sensitive information. It will also assist in achieving nationally consistent privacy protections in relation to personal information collected, used and disclosed by ADSEs under the AVSL.

These proposed policy settings are informed by the recommendations of a Privacy Impact Assessment (PIA) commissioned by the National Transport Commission in 2021¹. The PIA considered the privacy impacts of developing the AVSL and the differences between a Commonwealth complementary law and state and territory applied law approaches. We will undertake a further privacy impact assessment, focused on the Commonwealth law approach agreed to by Ministers in February 2022, to ensure the settings in the AVSL are fit for purpose, including consideration of the recent review of the Privacy Act and Australian Government response.

Storage requirements

It is important that data and information that has been generated and collected is securely stored to prevent data loss, corruption or data breaches.

The AVSL will establish requirements for how ADSEs store their information. An ADSE will need to demonstrate that records and data will be stored in an appropriate format and location so they are secure as well as readily accessible, allowing the ADSE to provide data and information when requested by the new regulator.

¹ HWL Ebsworth, [In-service safety regulation for automated vehicles privacy impact assessment](#), NTC, Melbourne, 2021, accessed April 2024.

Consultation question

10. Are there risks associated with information management that are not covered in these proposals?

Exchange of information with other entities

We propose that the new regulator will be able to enter into information sharing agreements with other entities to assist with compliance and enforcement activities, and to support interagency cooperation. These agreements would be limited to purposes relevant to the regulator's functions or otherwise authorised under the information collection, use and disclosure provisions of the AVSL.

The regulator would also have the power to obtain information if it has reasonable grounds to suspect there is a possible contravention of the AVSL or if that information will assist it to audit, monitor or enforce compliance with the AVSL.

Information about how data and information could be collected, used and disclosed are outlined in the following sections.

ADSE disclosure of information

An ADSE would be required to disclose information to certain bodies and for certain purposes under the AVSL. For example, disclosure to:

- **the new regulator** – to enable it to perform its functions, exercise its powers and administer the AVSL effectively. This would include information required to be provided under the AVSL, such as information relevant to certification, modifications, duties under the AVSL, audit and enforcement
- **other Commonwealth regulators** – such as the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the department) for first provision under the Road Vehicle Safety legislation and the Australian Competition and Consumer Commission (ACCC) for the Australian Consumer Law. This would include information relevant to recall actions and information about potential breaches of first provision approval requirements
- **other regulators** – such as the National Heavy Vehicle Regulator (NHVR) to support it to perform its functions and exercise its powers in relation to the administration of the Heavy Vehicle National Law
- **state and territory road transport agencies** – to support regulatory and enforcement functions, facilitate crash investigations and support road management functions
- **Commonwealth, state and territory law enforcement agencies** – including police agencies, to support enforcement functions and crash investigations. This could include vehicle-generated data (for example, from the Data Storage System for Automated Driving) and other information held by the ADSE relevant to crash investigation
- **individuals, their representatives and insurers connected with an automated vehicle safety incident** – to enable people to make and defend insurance-related claims. This could include information about whether the ADS was engaged at the time of an incident, the police report number if available and known to the ADSE, and details of any parties involved, if known to the ADSE
- **individuals** – to provide access to their own information held by the ADSE provided disclosure would comply with the ADSE's obligations under the Privacy Act
- **owners, users, repairers and retailers of automated vehicles** – to provide educational materials that enable a person to safely use and engage with an ADS.

New regulator collection of information from other bodies

The new regulator may collect information from a range of bodies to enable it to perform its functions, exercise its powers and administer the AVSL effectively. This could include information from:

- **ADSEs** – This could include information required to be provided under the AVSL, including information relevant to certification, modifications, duties under the AVSL, audit and enforcement
- **registration and licensing authorities and related bodies** – This could include information about vehicle registration details, outcomes of roadworthiness assessments and modifications to non-ADS components of an automated vehicle
- **Commonwealth, state and territory regulators** – such as the department (which administers the Road Vehicle Safety legislation), the NHVR, the ACCC, the Australian Securities and Investments Commission, state and territory road transport agencies or regulators, and workplace health and safety regulators. This could include information about first provision approvals, recall actions, compliance and enforcement activities, an ADSE's financial standing, road access, on-road incidents, breaches of road traffic laws, crash investigations, and third-party interference
- **Commonwealth law enforcement agencies and state and territory police agencies** – This could include information about on-road incidents related to automated vehicles, breaches of road traffic laws, possible third-party interference and aftermarket installation offences, and cyberattack prevention and investigation activities
- **other bodies such as toll road operators or research bodies** – This could include information about the movement of a vehicle along a road, or de-identified crash or other data to support the new regulator's education and safety identification functions.

New regulator disclosure of information

The new regulator may disclose information to a range of bodies and for a range of purposes, including:

- **ADSEs** – information about investigation outcomes, guidance or advice
- **Commonwealth, state and territory bodies and regulators** – such as the department, the ACCC, ASIC, NHVR, state and territory road transport agencies or regulators, and state and territory government emergency services. This could include information relevant to agencies exercising their powers and functions in relation to automated vehicles and ADSEs, information about recalls, and information relevant to emergency services operations such as an ADSE's law enforcement and emergency services interaction protocol
- **Commonwealth law enforcement agencies and state and territory police agencies and justice departments** – information to support investigation of systemic automated vehicle safety issues and crash investigations, and to respond to potential breaches of road traffic laws
- **the Commonwealth Minister with responsibility for transport, other Commonwealth ministers, state and territory ministers, and the Infrastructure and Transport Ministers' Meeting** – information about the new regulator's activities, the general operation of the AVSL, or information in relation to an Act administered by another minister
- **authorities responsible for vehicle registers** – such as the Register of Approved Vehicles and the National Exchange of Vehicle and Driver Information System
- **other bodies** – including research bodies and the general public. This could include de-identified information to support research as part of an information sharing arrangement under the *Data Availability and Transparency Act 2022* and information released to the public under the *Freedom of Information Act 1982*.