



Australian Government

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



# Regulator powers and functions

This paper **expands** on previous work

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## Overview

The Automated Vehicle Safety Law (AVSL) will establish a new automated vehicle in-service safety regulator to oversee how Automated Driving System Entities (ADSEs) and other parties meet their AVSL obligations.

This paper covers the expected functions and intended powers of the regulator.

## Key points

In order to achieve the safety outcomes intended by the AVSL, the new regulator will need to facilitate the safe operation of automated vehicles, and to promote the development of safety cultures and safety management practices in ADSEs. The proposed powers and functions will support the new regulator to achieve these objectives.

## Functions and powers of the regulator

The regulatory framework agreed by infrastructure and transport ministers in 2022 included a range of proposed powers and functions for the new automated vehicle in-service safety regulator.<sup>1</sup>

The AVSL aims to ensure ADS safety through certification requirements, safety duties and other obligations, which will require ADSEs to proactively identify, manage and assume responsibility for the safety risks arising from the operation of an ADS. The regulator will have an important oversight and guidance role in achieving the safety outcomes of the AVSL, and the functions of the regulator are intended to support this.

However, there will also be times where an ADSE fails to adequately manage the safe operation of its ADS despite these measures. The powers of the regulator will enable it to encourage ADSEs and their executive officers to comply and, if necessary, take enforcement action where there is non-compliance with safety duties and obligations under the AVSL.

**Table 1** describes the expected functions of the new regulator, setting out its role and responsibilities.

**Table 1: Functions of the regulator**

Function	Explanation
<b>Certification</b>	The regulator will be responsible for certifying corporations as the ADSE for an Automated Driving System (ADS) under the AVSL. For more information, see the <a href="#">Automated Driving System Entity certification</a> paper.
<b>Authorising modifications</b>	The regulator will be responsible for authorising an ADSE to proceed with significant modifications to its ADS.
<b>Auditing</b>	The regulator can audit ADSEs and ADSE executive officers to check if they are meeting their duties and obligations under the AVSL, and to encourage compliance. For more information, see the <a href="#">Automated Driving System Entity in-service obligations</a> paper.
<b>Safety investigation and assessment</b>	The regulator will investigate, assess, and take appropriate action when it learns about ADS-related safety concerns or incidents. Safety concerns may come to the attention of the regulator through: <ul style="list-style-type: none"> <li>• an ADSE's notification or report under its reporting obligations</li> <li>• an audit by the regulator</li> <li>• the regulator's monitoring or investigation</li> <li>• other regulatory agencies or bodies</li> <li>• the public or vehicle owners</li> <li>• new research or observation by the regulator.</li> </ul> Safety concerns or incidents may affect multiple types of ADS and more than one ADSE. Safety issues that are caused by non-compliance with the AVSL will be addressed with the regulator's enforcement powers, rather than through its safety investigation and assessment function.

<sup>1</sup> National Transport Commission (NTC), [The regulatory framework for automated vehicles in Australia](#), NTC, Melbourne, 2022, accessed March 2024.

Function	Explanation
<b>Guidance</b>	<p>The regulator will create written guidance on ADS safety and the AVSL. This guidance will be informal and explanatory, and will not be enforceable under the AVSL. Topics may include:</p> <ul style="list-style-type: none"> <li>• safety duties of ADSEs</li> <li>• due diligence obligations of executive officers</li> <li>• development and maintenance of the Law Enforcement and Emergency Services Interaction Protocol and safety management system, in addition to the minimum requirements prescribed by legislative instrument</li> <li>• ADSEs' development and distribution of education materials to consumers</li> <li>• notification and safety reporting obligations</li> <li>• data recording obligations</li> <li>• an overview of AVSL requirements for an ADSE to support compliance more generally.</li> </ul>
<b>Education</b>	<p>The regulator will provide or help others provide advice, information and education about ADS safety. This will include advising, informing and educating:</p> <ul style="list-style-type: none"> <li>• ADSEs and other regulated parties about their duties and obligations under the AVSL</li> <li>• the general public and relevant government departments, agencies and bodies about the the regulator's activities and the AVSL</li> <li>• the Australian public about automated vehicle safety and how it is regulated in Australia.</li> </ul>
<b>Research</b>	<p>The regulator will conduct and evaluate research, and collect, analyse, interpret, disseminate and publish information to support its objectives. This will include:</p> <ul style="list-style-type: none"> <li>• monitoring trends in auotmated vehicle safety and use</li> <li>• researching the causes and incidence of auotmated vehicle crashes</li> <li>• analysing information from ADSEs about notifiable safety events or safety systems</li> <li>• analysing information from other sources (for example road managers, including state road authorities, local councils and state departments)</li> <li>• monitoring overseas regulatory developments.</li> </ul>
<b>Cooperation and consultation</b>	<p>The regulator will consult and cooperate with others, such as governments, organisations and individuals, to carry out its duties under the AVSL and to improve automated vehicle safety more broadly. This will include:</p> <ul style="list-style-type: none"> <li>• consulting with relevant government departments, agencies and bodies, as well as other stakeholders, on matters related to the regulator's activities</li> <li>• promoting the involvement of relevant stakeholders in the safe operation of automated vehicles</li> <li>• working with law enforcement agencies to ensure a consistent national approach to enforcing laws involving automated vehicles</li> <li>• working with road managers, the National Transport Commission, industry bodies and state and territory transport and road safety agencies to improve understanding of and participation in achieving the goals of the AVSL.</li> </ul>

Function	Explanation
<b>Automated vehicle register</b>	<p>The regulator will keep a public, searchable national register of automated vehicles, which will identify:</p> <ul style="list-style-type: none"> <li>• the ADSE for each ADS</li> <li>• the components that make up an ADS</li> <li>• the design life of each ADS</li> <li>• any other information prescribed by legislative instrument.</li> </ul> <p>ADSEs will be required to provide information for the register, either by entering it themselves or by providing it to the regulator.</p> <p>For more information, see the <a href="#">Establishing an automated vehicle register</a> paper.</p>
<b>Other general functions</b>	<p>The regulator will also have other general functions:</p> <ul style="list-style-type: none"> <li>• providing administrative services needed to administer the AVSL, such as collecting fees and other payments</li> <li>• advising the minister and reporting on the effectiveness of the regulatory scheme and how it is working</li> <li>• sharing information to achieve the goals of the AVSL, in accordance with the AVSL's requirements for sharing information</li> <li>• any other functions given to the regulator by the AVSL or any other law, or by a legislative instrument made by the minister.</li> </ul>

Table 2 lists the powers of the regulator under the AVSL, describing its authority and enforcement capabilities.

**Table 2: Powers of the regulator**

Power	Explanation
<b>Monitoring powers</b>	<p>The regulator may need to undertake monitoring activities to understand if the duties and obligations under the AVSL are being met. Monitoring powers will allow an authorised person to enter an ADSE's premises to monitor compliance with duties under the AVSL. An authorised person may also sample and test anything on the premises.</p>
<b>Enforceable undertakings</b>	<p>An enforceable undertaking is a legally binding written agreement that an ADSE voluntarily provides to the regulator. It sets out certain things that the ADSE agrees to do (such as the steps the ADSE will take to resolve an issue). The ADSE will be held accountable if it does not do what the enforceable undertaking says it will do.</p> <p>Enforceable undertakings allow an ADSE to work proactively with the regulator to address a contravention of the AVSL, rather than the regulator immediately taking enforcement action.</p>
<b>Investigation powers</b>	<p>Investigation powers will allow the regulator to inspect the ADSE's premises and to take documents and other evidence of suspected contravention of the AVSL.</p>
<b>Embargo notices</b>	<p>An authorised person investigating premises will be able to issue an embargo notice to prevent anyone from dealing with a thing (i.e. an object) without the in-service regulator's written consent.</p>

Power	Explanation
<b>Forfeiture powers</b>	The regulator may forfeit a thing, such as an item or sample, if it cannot find it or return it to its owner. The regulator can only do this after making reasonable efforts to find and return the thing to the owner.
<b>Formal warnings</b>	The regulator may issue formal warnings if it suspects an ADSE has breached an AVSL duty or requirement, but where: <ul style="list-style-type: none"> <li>the ADSE has taken all reasonably practicable measures to prevent the contravention; and</li> <li>the contravention was an isolated or minor incident that did not result in any harm or safety risks.</li> </ul>
<b>Improvement notices</b>	The regulator may issue improvement notices where it has a reasonable belief that a contravention of the AVSL may occur or may have already occurred. These notices may require an ADSE to: <ul style="list-style-type: none"> <li>prevent a likely contravention</li> <li>stop a suspected contravention of the AVSL from continuing</li> <li>fix a suspected contravention</li> <li>fix anything that is causing a violation or likely contravention.</li> </ul> The power will allow the regulator to issue a notice that will include: <ul style="list-style-type: none"> <li>instructions on how to fix the contravention</li> <li>how long the ADSE has to fix the contravention (7 days unless otherwise instructed).</li> </ul>
<b>Infringement notices</b>	The regulator may issue an infringement notice outlining the details of an alleged civil or criminal offence by an ADSE. The ADSE can choose to pay the amount specified in the notice as an alternative to court proceedings. The regulator can give such an infringement notice for small regulatory violations of the AVSL.
<b>Injunctions</b>	The regulator may need to go to court to get an injunction (a court order) to stop an ADSE or an ADSE executive officer from breaching the AVSL, or to make an ADSE do something to comply with the AVSL.
<b>Obtain information</b>	The regulator can require a person to provide information, produce documents or give evidence within the time and manner specified in a notice. This would be done where the regulator has reasonable grounds to believe that the person has information about a possible contravention of the AVSL or information that will help the regulator to audit, monitor or enforce compliance with the AVSL.
<b>Issue directions</b>	The regulator can issue a direction to the ADSE in response to serious and imminent safety risks that require immediate action according to prescriptive requirements (for example, a safety risk arising from environmental hazards or emergencies or third-party interference with an ADS). The direction may require an ADSE to stop carrying out an activity or undertake a particular action to prevent or address the safety risk.