

MTAA response to Automated Vehicle Safety Reforms Consultation

June 2024



**MOTOR TRADES
ASSOCIATION
OF AUSTRALIA**

MTAA Contacts



Matt Hobbs

Chief Executive Officer

MTAA

[phone number removed] | [email address removed] | mtaa.com.au



John Khoury

VACC Industry Policy Advisor

[phone number removed] | [email address removed] | mtaa.com.au

About MTAA

With over 15,000 members, MTAA represents the retail sector of the automotive value chain. These members are experiencing the challenges and opportunities arising from Automated Driver Assistance Systems (ADAS) on vehicles firsthand, every day. Specifically our members include new and used vehicle dealers (passenger, truck, commercial, motorcycles, recreational and farm machinery), repairers (mechanical, electrical, body and repair specialists, i.e. radiators and engines), vehicle servicing (service stations, vehicle washing, rental, windscreens), parts and component wholesale/retail and distribution and aftermarket manufacture (i.e. specialist vehicle, parts or component modification and/or manufacture), tyre dealers and automotive dismantlers and recyclers.

We represent these members through the various state-based motor trade organisations, including the Motor Traders' Association of New South Wales, the Victorian and Tasmanian Automotive Chamber of Commerce, the Motor Trade Association of South Australia and Northern Territory, the Motor Trade Association of Western Australia, and the Motor Trades Association of Queensland.

1. Introduction

The Motor Trades Association of Australia (MTAA) thanks the National Transport Commission and the Department of Infrastructure, Transport, Regional Development, Communications and the Arts for the opportunity to make this submission in response to the proposed new regulatory framework aimed at supporting the safe use of automated vehicles on Australian roads.

Motor vehicles are becoming increasingly complex and have already undergone a rapid transformation in the past decade alone. The shift towards full automation of motor vehicles is an exciting prospect and the automotive industry is well placed to ensure vehicles are repaired, maintained, and modified safely and in accordance with manufacturers' prescribed specifications.

MTAA supports the proposed regulatory measures outlined in the consultation paper, however, as a representative of small to medium businesses, it is imperative that this new regulatory instrument is fair and balanced.

The following submission focusses on the in-service requirements of automated driving systems and questions raised about the proposed additional Automated Vehicle safety Law (AVSL) measures to manage the safety risks of repairs, maintenance, and modifications as outlined in Question Seven.

2. Response to Question 7

a. Are the risks arising from repairs to an ADS different enough to the risks arising from repairs to a conventional vehicle to require additional regulatory measures?

It is MTAA's view that light touch regulatory measures be introduced to manage the in-service risks and ongoing maintenance of ADS. Automated driving systems are predominantly a safety related technology that if compromised through inappropriate tampering or unsafe repairs may lead to injury or death to persons as well as damage to infrastructure.

b. Is express authorisation of repairers, maintainers, and modifiers a suitable approach to manage the risks of unqualified parties working on an ADS?

MTAA supports the notion that Automated Driving System Entity (ADSE's) cannot withhold authorisation of repairers, maintainers, and modifiers except for allowable reasons. However, there must not be ambiguity within the permitted provisions of the Act or regulations. For example, the consultation paper mentions 'insufficient experience'¹ as potentially one of the allowable reasons where an ADSE may refuse authorisation.

It is MTAA's view that all criteria placed on repairers, maintainers, and modifiers must be free from ambiguity to limit unintended consequences. MTAA recommends, at a minimum, that accredited and or aftermarket specific ADAS training must be a prerequisite for repairers, maintainers, and modifiers of ADS components. Tooling and *equipment as well as workshop layout requirements in accordance with OEM*² specifications or guidelines should also be set out in the legislative instrument governing this practice.

To enable automotive repairers to perform repair and maintenance tasks on Automated Vehicles, whilst promoting a fair level playing field, it is important to note there are current restrictions relating to access to service and repair information for level 3 and above automated driving systems of a vehicle captured by the *Motor Vehicle Service and Repair Information Sharing Scheme*.³ An amendment of the Act will ensure repairers, who meet the eligibility criteria, can safely repair vehicles in accordance with OEM procedures.

1 National Transport Commission 'Automated vehicle safety reforms consultation' 2024 p.25 [n.8].

2 Competition and Consumer Amendment (Motor Vehicle Service and Repair Information Sharing Scheme) Act 2021.

3 Ibid p.6 (exceptions).

c. What is an appropriate balance between the level of control or discretion an ADSE has over who it authorises to work on its ADSs, and the level of responsibility placed on either the ADSE or the repairer, maintainer or modifier doing that work?

There needs to be clear guidance in respect to who an ADSE can authorise to work on ADS systems. Any ambiguity in the rules will result in business being unfairly restricted from participating in repairs, maintenance or modifications. Provided a repairer has completed the appropriate training, has the necessary tooling and equipment to install ADS components and can perform or outsource calibrations in accordance with OEM procedures, this should suffice.

d. Should the AVSL require that an ADSE not unreasonably withhold authorisation, and that it shares necessary information? For what reasons should an ADSE reasonably be allowed to withhold authorisation?

It is MTAA's view that the Automated Vehicle Safety Law (AVSL) must prescribe clear provisions to limit an ADSE unreasonably withholding authorisation to a business that meets the specified criteria and there should also be a deterrent mechanism built into the legislative instrument such as penalties. There may be situations whereby an ADSE cannot verify a person's business credentials based on the set criteria. In this scenario it would be reasonable for withholding an authorisation. For efficiency, the AVSL or regulations should prescribe time limits on both parties.

e. Should the AVSL include safety duties for repairers, maintainers and modifiers of ADSs? If so, how suitable are the proposed elements of the safety duty on repairers, maintainers and modifiers?

It is MTAA's view that the Australian Consumer Law provides adequate guarantees relating to the supply of services. Imposing extra safety duties on repairers is unwarranted and would only add unnecessary red tape to an industry already facing huge financial pressures and a shortage of skilled staff.

Where a level 3 vehicle, or above, ADS is involved in a collision, it is essential the vehicle be scanned, post repair, and to ensure correct operation as per manufacturer's specifications. There must be an obligation on the insurer to ensure correct OEM repair methods and calibrations are performed and that proper consideration is taken with vehicle assessments. Members of the MTAA, via state bodies such as the Victorian Automotive Chamber of Commerce, has reported instances where insurers are refusing to pay repairers adequately for repairs to automated driving systems. The MTAA can provide evidence of this conduct confidentially if required. Therefore, it is MTAA's view that insurers cannot obfuscate their responsibilities and place all the liability on the repairer when it comes to safe repairs.

Further to this, there is evidence that insurers are insisting collision repairers use non genuine parts during the repair process. Given the safety aspects of Automated Driving Systems (ADS), the use of non-genuine parts may lead to unsafe repairs, placing motorists at risk of injury or death. It may also cause potential connectivity issues with vehicle to infrastructure and vehicle to vehicle communications.

With this said, MTAA would support a legislative instrument that includes safety duties as outlined in the consultation paper provided the same applies to authorisations given by insurers and other ADSE providers.

f. How may the proposed additional measures for repairs, maintenance and modifications affect business models for both ADSEs and repairers, maintainers and modifiers?

The proposed measures, as outlined, may result in unnecessary delays to vehicle repairs. This is not only ADS, but also vehicle components that are interoperable with ADS. The automotive repair industry and consumers cannot be placed in a position whereby repair authorisations are unreasonably prolonged by the ADSE. To avoid this, it is MTAA's view that there should be an open and transparent register of businesses authorised to conduct repairs, maintenance and modifications on vehicles classified level 3 and above. This register should be maintained by the regulator.

3. Other Considerations

3.1 Roadworthy Schemes

The roadworthiness of passenger and light commercial vehicles on Australian roads are predominantly regulated and operationalised via state-based transport authorities. These schemes aim to ensure that a vehicle is safe enough to be used on public roads.⁴ The authorities are responsible for developing vehicle testing standards and procedures as well as the training and approval of Licensed Vehicle Testers. Currently there is insufficient focus placed on ADAS systems in the provisions outlined within the testing standards. In most cases the only cause of rejection of roadworthiness would be the illumination of a warning light on the day of inspection.

Given the safety elements of ADAS, it is imperative that the various transport authorities maintain update to date testing standards and provide, or make a pre-requisite, that adequate training on emerging technologies such as ADAS and electric vehicles be completed. For vehicles involved in a collision and classified as a repairable write off, a report stipulating the vehicle's ADS is operating as per manufacturer's specifications should be produced prior to registration.

3.1.1 Vehicle Modifications

One of the main frustrations for the automotive repair industry over the past several years has been the failure for the National Code of Practice for Light Vehicle Construction and Modification (VSB14)⁵ to keep pace with emerging technologies and alignment with global standards. The last major review of the standards was undertaken was in 2011.

The departure of local vehicle manufacturing, support industries and associated local technical and engineering knowledge has declined substantially in Australia over this period. During this time, the automotive industry is experiencing a rise in vehicle builders and enthusiasts converting internal combustion engine vehicles to electric. There are now concerns that the standards outlined in VSB14 are inconsistent to that of vehicle regulations provided by the United Nations Economic Commission for Europe (UNECE) upon which Australian Design Rules (ADR's) are in alignment with.

These inconsistencies have resulted in state transport bodies moving away from VSB14, opting to incorporate their own requirements based on internal interpretations and expertise. Australia now has a fractured set of requirements across the country, making it extremely difficult for businesses to navigate through each state regulation and function efficiently. For example, the Queensland Government's GCM and GVM 1 Codes appear to supersede certain sections of VSB14.

There are now serious concerns that unsafe vehicles are inadvertently being certified for road use, and as such the current version of VSB14 is considered outdated and not fit for purpose.

With the proliferation of ADAS technology in the past ten years, the current version of VSB14 requires an immediate review to ensure vehicle modifiers in Australia adhere to a harmonised set of standards. This is imperative to ensure vehicle remain safe for road use.

⁴ VicRoads 'Roadworthiness' (Webpage 2024) < <https://www.vicroads.vic.gov.au/registration/roadworthiness>>.

⁵ Department of Infrastructure, Transport, Regional Development, Communications and the Arts 'Vehicle Standards Bulletin 14 (VSB14)' (Webpage 2024) < <https://www.infrastructure.gov.au/infrastructure-transport-vehicles/vehicles/vehicle-design-regulation/rvs/bulletins/ncop>>.

