



## Motor Accident Injury Insurance and Automated Vehicles

### Response to discussion paper

The Department of Infrastructure Regional Development and Cities (Department) welcomes the National Transport Commission's (NTC's) discussion paper on Motor Accident Injury Insurance (MAII) and Automated Vehicles. This submission was prepared with input from the Commonwealth Treasury.

#### **Australia's preparations for the commercial deployment of highly automated vehicles**

Australia is preparing for the commercial deployment of highly automated vehicles, which is expected from as soon as the early 2020s. These vehicles could help to reduce the social and financial impacts that road deaths and injuries have on the wider community – estimated to cost Australia \$27 billion per year (Bureau of Infrastructure, Transport and Regional Economics, 2014).

To realise these and other benefits, the Australian Government collaborates with state and territory governments, the NTC, Austroads and others to ensure that barriers and gaps to the successful deployment of automated vehicles are addressed in a nationally-consistent manner.

Australia's preparations for automated vehicles seek to:

- ensure that automated vehicles which are sold and deployed by manufacturers are safe;
- support the safe deployment and operation of automated vehicles by implementing nationally-consistent and coordinated regulatory arrangements;
- build public confidence in automated vehicles.

A key part of Australia's preparations is the creation of a safety assurance system – an integrated regulatory framework that will ensure an automated vehicle is safe throughout its entire life-cycle from first supply to market, during its in-service life and up to decommissioning.

This approach encourages manufacturers to monitor safety performance, fleet-wide safety issues and incorporate safety improvements into future designs. A range of regulatory and other arrangements will underpin the safety assurance system, including the recently enacted *Road Vehicle Standards Act 2018* (Cth). This Act enables the Australian Government to set nationally-consistent standards, including for safety, for vehicles supplied to the Australian market, in a manner consistent with international standards. The Act also provides for the recall of vehicles should they become unsafe after the point of first supply.

Insurance arrangements for motor accident injuries associated with automated vehicles will complement the safety assurance system and are an important part of Australia's preparations.

#### **Principles**

The Department agrees with the overarching principle in the discussion paper that “no person should be worse off, financially or procedurally, if they are injured by a vehicle whose



automated driving system was engaged, than if they were injured by a vehicle controlled by a human driver.”

The supporting principles and assessment criteria proposed by the NTC provide helpful guidance on the types of outcomes that people should expect from insurance arrangements that cover automated vehicles. In particular:

- future MAII arrangements should be designed to provide the right incentives for manufacturers to improve vehicle safety and to ensure that safety risks are managed by those who are best placed to do so;
- as the impacts of technology become clearer and as public attitudes towards automated vehicles mature, additional changes, including to existing benefit regimes, may be appropriate to ensure that MAII schemes better meet the needs of motorists and the community more broadly.

### **Options for future insurance arrangements**

The Department supports Option 3 – expanding MAII schemes to cover injuries caused by an automated driving system.

Existing MAII schemes seek to ensure that a person injured in a motor vehicle crash has access to support and medical care in a timely and efficient manner. As automated vehicles begin to be commercially deployed in Australia, we want to ensure that such access is not disrupted by uncertainty over insurance arrangements. Implementing Option 3 in the short- to medium-term will build public trust by providing certainty to the community that insurance arrangements are in place to deal with crashes involving an automated vehicle by the time highly automated vehicles begin to be used on Australian roads.

The Department supports those who regulate MAII schemes having recourse to manufacturers where a crash is caused by an automated vehicle. But we do not support the creation of a reinsurance pool, particularly to the extent that such a pool would be backed by the Australian Government. Government support for such an arrangement may be appropriate where a market failure is identified. For example, governments may provide insurance coverage for a particular risk where an adequate private sector product does not exist.

It is not clear that a market failure exists in relation to insurance for automated vehicle crashes. Even if such a pool was not backed by the Australian Government it is unclear to the Department that a reinsurance pool is needed at this time to implement Option 3. Complex questions remain about how such a pool would be constituted, maintained and administered.

Over the longer-term, the Department supports consideration being given to options for insurance arrangements concerning automated vehicles, with a view to increasing national consistency and improving outcomes for motorists and the broader community. This could include creating national benchmarks for injuries caused by automated vehicles (as contemplated by option 5 in the discussion paper).

As transport technologies mature and are deployed to our roads further changes to Australia’s motor vehicle accident injury insurance schemes may be necessary so they continue to be fit-for-purpose. This may lead to work on establishing longer term



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arrangements to deal with automated vehicle crashes, including one or a combination of Options 4-6 outlined in the discussion paper.

### **Data**

This paper and many of the submissions made by various organisations discuss the issue of insurers accessing data for the purposes of determining liability. The Department considers that the current regulatory framework created by the *Privacy Act 1988* (Cth) strikes an appropriate balance for now to protect individuals' privacy concerns and other legitimate uses, including improving vehicle safety.

For a full explanation of this position, see the Department's submission to the *Regulating government access to C-ITS and automated vehicle data discussion paper*, available at: <https://www.ntc.gov.au/submissions/history/?rid=166821&pid=11450>.

The Department thanks the NTC and the state and territory government representatives involved in this project for facilitating a robust discussion between government, industry and the community. The Department looks forward to working with the NTC and all jurisdictions on developing a nationally-consistent approach that will support the safe adoption and use of automated vehicles on Australian roads.