

Submission to National Transport Commission on Consultation Regulation Impact Statement July 2018

Roads Australia provides the following submission in response to the National Transport Commission (NTC) *Safety Assurance for Automated Driving Systems: Consultation Regulation Impact Statement*.

Roads Australia is a not-for-profit, non-political industry association. Our members are drawn from all corners of the Australian road sector. While this submission does not represent the views of any individual member, it provides general guidance on the collective views of our broad membership base.

1. Preamble:

In April 2017, Roads Australia led a delegation of senior government and transport industry officials on a global study visit to examine how international jurisdictions are preparing for automated and driverless vehicles. Governments across the world acknowledge that automated vehicle technology is here and they are confronting a range of challenges in common – including repositioning local markets and regulation, reshaping government institutions, reassessing planning assumptions, interpreting benefits for society, assuring safety, capturing a financial return for the community from the new commercial uses of public roads and emerging business models.

Extracts from the Roads Australia *Preparing for the Driverless Revolution July 2017 Report* that are of particular relevance to this RIS include:

- *Role of government – protect society's goals*
The advancement of safe and energy-efficient automated technology is the key concern for governments. Road safety and community acceptance is deemed paramount to the success of a future driverless world. The central role of government in a driverless world is to support society goals: including safety first, social equity, reduction in environmental impact, improving liveability, public health and recouping value for public assets. Protecting these goals should be the initial focus of governments looking to cement their role in the driverless future.
- *Without community acceptance there is no driverless future*
Governments need to articulate their objectives and goals associated with connected and automated mobility and work with the community to buy-in to those objectives. The common view is that there is zero community tolerance for failure of a driverless vehicle.

- *Don't regulate too early - Build on global learnings*
Innovators advise regulators not to regulate too early, keeping regulation open until an issue is proven. Manufacturers need time to test and navigate the capabilities and advantages of automatic and driverless technologies. In Australia, Federal and State Governments are well-positioned to build on global learnings, to focus on local challenges and produce valuable trial results that all jurisdictions can share. However, a learning from the USA is that safety guidelines that are voluntary can detract from a timely and consistent safety framework development.
- *International manufacturers* - suggest nations should review import rules to facilitate rapid uptake of automated vehicles.

The full report is available for reference at:

[https://www.roads.org.au/Portals/3/Policy/RA%20 Driverless Revolution Report 2017.pdf?ver=2017-07-21-141744-490](https://www.roads.org.au/Portals/3/Policy/RA%20Driverless%20Revolution%20Report%202017.pdf?ver=2017-07-21-141744-490)

2. Roads Australia Response to the RIS

2.1 Questions to be answered on safety for automated vehicles

The National Transport Commission (NTC) *Safety Assurance for Automated Driving Systems: Consultation Regulation Impact Statement* (RIS) seeks to answer:

- What is the role of the Australian Government in assuring the safety of automated driving systems (ADSs)?
- What is the form of the regulatory system (if any) that underpins this role (the 'safety assurance system')?

Through these answers, the NTC seeks to address the risks under our current regulatory environment, as automated vehicles become ready for deployment, namely:

1. ADSs will fail to deliver reasonable safety outcomes.
2. A lack of consumer confidence in the safety of ADSs will reduce or delay their uptake.
3. Automated driving system entities (ADSEs) will face inconsistent and/or uncertain regulatory barriers to the supply of ADSs in the Australian market.

NTC suggests that these risks may need to be addressed to support the uptake and safe operation of automated vehicles on Australian roads and unlock their broader benefits. The Consultation RIS assesses four options to address the problem statement:

Option 1: Current approach – This is the baseline option, using existing legislation and regulatory instruments, with no explicit regulation of ADSs.

Option 2: Administrative safety assurance system – A safety assurance system based on mandatory self-certification that relies on existing legislation and regulatory instruments. The safety assurance system will be implemented through administrative means.

Option 3: Legislative safety assurance system – A safety assurance system based on mandatory self-certification. This would include new or amended legislation to allow for the inclusion of specific offences and compliance and enforcement options, and a regulatory agency with responsibility for administering automated vehicle safety.

Option 4: Legislative safety assurance system + primary safety duty – A safety assurance system that includes all of the elements of option 3, plus a primary safety duty on ADSEs.

2.2 Influencing factors for Roads Australia

- 2.2.1 *Automated and Driverless vehicles can add to significant increases in road safety outcomes* – requiring a consistent framework that balances the need for consistent and rigorous regulatory scrutiny against unwarranted delays in uptake through lack of momentum for Government. In this regard, Roads Australia is in strong support for the decision by responsible Federal, State and Territory Ministers to adopt a national regulatory approach, together with their commitment to address these issues with the appropriate sense of urgency.
- 2.2.2 *“Safety first” is the appropriate societal priority* – Australia has a proud record in the introduction of enhanced road safety initiatives that are envied by other national governments. The introduction of new technology solutions on our roads without adequate safety scrutiny would be unacceptable. However, we encourage Government to include in the regulatory oversight solution, adequate provision for ADSEs to provide broad based evidence of their compliance to the assessment process.
- 2.2.3 *Community Acceptance is paramount* – early failures, even during technology trials, are likely to have a debilitating impact on introduction and take-up of ADSs. The national approach of this initiative, with strong alignment through the Transport and Infrastructure Council sponsorship, has Roads Australia’s strong support. Adequate promotion of the rigour of the collaborative effort applied to the process will be an important step towards community acceptance.
- 2.2.4 *Regulate with flexibility to evolve with the emerging technology* – this will be particularly important as the ADSs transition from enhanced autonomous vehicles through to full driverless capabilities. Roads Australia supports the need for rigorous scrutiny of ADSE credentials and obligations to manage liability as outlined in the RIS. Given that many ADSEs will have already proven their capability internationally, we also support the approach to require companies to self-certify their ADSs. We agree self-certification should be mandatory. However, we

recommend flexibility in the criteria to consider the degree of autonomy and the relative maturity of the technology applied.

- 2.2.5 *Close involvement with International and local ADSEs is essential* – strong and collaborative working relationships, building on ADSE expertise will help set an appropriately high bar for performance; while ensuring a level playing field and a compliance regime that does not unduly create barriers to entry for these important technologies. The Primary safety duty proposed for ADSEs in options 4 will need significant communication with ADSEs before it can be endorsed. Manufacturers will seek to rely on Consumer Protection laws and other existing legislation to cover their duty of care. Roads Australia reserves our position on option 4, pending the input by ADSEs to the RIS process.

2.3 Roads Australia preferred position

On balance, Roads Australia supports the view that:

- Automated vehicles will provide the next major step in improved Road Safety outcomes in Australia – through significant reduction and possible elimination of human error contributions to the road toll.
- Governments should continue to regulate road transport to ensure safety and security outcomes. However, there are sufficient added complexities, additional legal obligations and prospective changes to driver/ licensee definitions which makes *Option 1 - Current Approach, unviable*.
- Self-certification should be mandatory for any of the options 2, 3 or 4.
- *Option 3 – Legislative safety assurance system is supported*; certainly in the medium to longer term, with the proviso that the legislative and compliance framework provides sufficient flexibility to account for evolving technologies.
- As an interim stepping stone, particularly as on-road trials and testing regimes are implemented; there may be *a case for Option 2 – Administrative safety assurance system to be adopted initially* as an extension of the Automated vehicle trial guidelines and exemption powers supporting state and territory governments in on-road trials.
- *Option 4: Legislative safety assurance system + primary safety duty – is not supported* at this stage, pending a review of ADSE submissions to the RIS consultation process. We are concerned that the enhanced safety benefits articulated in the assessment may be off-set by significantly diminished penetration of ADSs into the Australian market, due to high compliance costs and perceived market entry risks by international ADSEs.

2.4 Our comments on the RIS overall

Roads Australia is satisfied that the consultation RIS fully and accurately described the issues to be addressed, with no suggested additional factors to be considered in the problem statement. The RIS has provided sufficient evidence to support the case for government intervention at the level supported by Roads Australia (Option 3, via a possible interim Option 2 stage).

The RIS adequately covers the community and industry expectations of a regulatory response, provided this is supported by continued significant engagement during implementation. The four implementation options within the RIS clearly articulate the relative merits and risks of each option. The proposed safety criteria and obligations on ADSEs appear sufficient, appropriate and proportionate to manage the safety risks identified.

We agree with the impact categories and assessment criteria. The analysis accurately assesses the road safety benefits, and the uptake benefits for each reform option, with the exception of our concerns raised regarding Option 4 acceptability by ADSEs.

Overall, the NTC is to be congratulated on the comprehensive, thorough and objective Consultation RIS process, analysis and documentation.

Submitted for consideration by Roads Australia – July 2018

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