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Dear Commission

I am pleased to provide the attached response to the National Transport Commission 2020, Review of 'Guidelines for trials of automated vehicles in Australia' Discussion Paper.

If you have any questions on this matter contact Mr John Bowdery, Executive Branch Manager of Strategic Policy and Customer, Transport Canberra and City Services at John.Bowdery@act.gov.au or on 02 6207 8467.

I trust the information provided is of assistance.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Chris Steel'.

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ACT Legislative Assembly

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Response to the National Transport Commission 2020 Review of 'Guidelines for trials of automated vehicles in Australia' Discussion paper

Canberra is a home to a pro-active community with an interest in future automated vehicles trials and welcomes the Commission's discussion paper. This response provides feedback to the discussion questions raised by the paper.

1	<p>Question 1: Should the Guidelines be updated to improve the management of trials (section 3 of the guidelines) and, if so, why? (pg. 21)</p> <p>Response:</p> <p>3.2.1 The standard of evidence required in a traffic management plan From a road safety perspective, it is appropriate for the trialling organisation to specifically address the road traffic environment in which the trial will operate and provide evidence as to how the trial vehicles will safely operate in that environment.</p> <p>3.2.2 Trial Location The ACT supports the Victorian approach of requiring trialling organisations to provide details of both the operational design domain (ODD) and the specific trial location (including maps). The ODD itself could in certain circumstances be too broad to be used as the trial location. AV technology is unproven and when governments give special exemptions and permits for the use of AV technology the government is responsible for ensuring the safety of the general public, other road users and protecting public and private property. It may also be necessary for the government to ensure that road infrastructure in the trial location is sufficient to support the trial that may incur costs.</p> <p>3.2.3 Engagements with the public and other stakeholders – enforcement agencies The ACT supports the SA model of an 'Automated Vehicles Trials Advisory Committee' which is comprised of key officers across essential areas of safety, registration, regulation, risk and assurance, vehicle standards, legislation and legal, bus and rail operations, traffic services and other agencies including ACT Policing and motor accident insurance experts (see page 41).</p> <p>The ACT supports the guidelines making it clear that enforcement agencies are a key stakeholder for any AV trial; however, the ACT considers that this engagement is best done through a single contact point in the ACT Government, rather than directly by the trialling organisations. We do not consider it would be efficient in the ACT to put in place separate engagement arrangements between trialling organisations and law enforcement agencies.</p> <p>3.2.4 Purpose of trial The ACT would support a requirement for trial applicants to state the purpose of the trial. Clarity of purpose is essential for the evaluation of outcomes.</p>
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	<p>Lack of specificity The ACT supports the continuing flexibility within the existing guidelines as it allows each state to be innovative and develop trial processes that fit local circumstances. However, the ACT acknowledges that this can lead to inconsistencies in how trials are managed by jurisdictions which can be frustrating for trialling organisations and complicate any approvals for cross-border trials.</p>
2	<p>Question 2: Should the guidelines be updated to improve the safety management of trials (section 4 of the guidelines) and, if so, why? (pg. 26)</p> <p>Response:</p> <p>3.3.1 Standard of evidence required The ACT considers safety management plans to be an essential element of determining whether a trial should be permitted. The ACT considers it appropriate that responsibility is placed on trialling organisations to explain how the trial will ensure the safety of trial personnel, vehicle occupants, other road users, the general public, as well as, protection of private property from damage. It may be of assistance to jurisdictions with a small number of trial applications and trialling organisations for the guidelines to include a template of a safety management plan in the appendix section.</p> <p>3.3.2 Monitoring human drivers or operators The ACT supports the guidelines being updated to have an explicit requirement specifying how trialling organisations will monitor and address human driver or operator inattention. Driver distraction and inattention are significant road safety risks and are on the increase as the use of technology in vehicles and in society increases. Any update should require trialling organisations to outline how they will inform drivers/operators of the road safety risks of inattention and driver distractions and how they have designed their trial to reduce these risks.</p> <p>3.3.3 Risks to other road users The ACT supports that trialling organisations should factor in the unpredictable and even sometimes illegal behaviour of other road users. The safety management plan could be used as the tool for how trialling organisations will indicate how such safety risks will be addressed.</p> <p>3.3.4 Interaction with enforcement and emergency services As noted above, the ACT acknowledges that police and emergency services are key stakeholders for any AV trial and need to be actively involved in the approval process. However, considering the size of the ACT and required exemptions and permits for a trial to occur, this consultation is best undertaken through a single contact in the ACT Government.</p> <p>The ACT considers that inclusion of high-level safety requirements would be best as this will provide jurisdictions with flexibility when approving trials in their jurisdiction. Specific safety requirements being proposed could be included in the guidelines as examples.</p> <p>3.3.5 Recognition of pre-trial tests The ACT agrees that the guidelines should leave the question of whether pre-trial tests already undertaken in other jurisdictions should be recognised or not to the discretion of states and territories.</p>

	<p>3.3.6 Additional criteria for the safety management plan</p> <p>The ACT supports the guidelines being updated to include the following additional key safety criteria and mitigations that need to be addressed in the safety management plan:</p> <ul style="list-style-type: none"> • Occupant safety • Any changes to hardware or software to be notified and approved by the trial coordinator / road transport authority before being used during the trial • How the vehicle will integrate with the existing road transport network
<p>3</p>	<p>Question 3: What issues have been encountered when obtaining or providing insurance? (pg. 27)</p> <p>Response:</p> <p>The ACT Motor Accident Injuries Commission (MAIC) notes that there has been the occasional difficulty with trial organisations acquiring the requisite insurance, in a timely manner or before the commencement of an AV trial. It may be helpful for trial organisations if a body such as the Insurance Council of Australia was able to facilitate contact with, or provide a list of insurers and/or insurance brokers, to assist trial organisers to put in place the obligatory insurance required by States and Territories.</p> <p>In the ACT, motor accident injury insurance (formerly compulsory third party) is paid as part of the registration fees and collected by a central government agency, Access Canberra.</p> <p>During the Seeing Machines trial conducted in the ACT, no issues were experienced when obtaining insurance due the human driver maintaining proper control of the vehicle at all times (that is, a least one hand on the steering wheels). However, drivers were not insured for any behaviours that included prolonged distractions, which places constraints on trial objectives and conduct.</p>
<p>4</p>	<p>Question 4: Are the current insurance requirements sufficient (section 5 of the guidelines)? If not, how should they change? (pg. 27)</p> <p>Response:</p> <p>The ACT considers that the current insurance requirements outlined in the Guidelines that may be required by the trialling organisation are comprehensive e.g. CTP insurance, comprehensive vehicle insurance, public liability insurance, product liability insurance and self-insurance. The ACT does not support the wording being more prescriptive as each individual jurisdiction has its own insurance and related road regulation requirements.</p> <p>Flexibility is required to allow jurisdictions to opt to cover trials through their motor accident injury (MAI) scheme or outside of the scheme depending on the circumstances, including whether the trial is being conducted on an ‘open-road’ or ‘closed-road’; the duration of the trial; and the safety arrangements put in place for the trial.</p>

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Question 5: Should the guidelines be updated to improve the provision of relevant data and information (section 6 of the guidelines)? (pg. 32)

Response:

Serious and other incidents including:

Consistency of reporting requirements – Anyone involved in a crash in the ACT is required to report the crash to the ACT’s crash reporting website. The guidelines should make it clear that incidents must be reported in accordance with the laws of the jurisdiction in which the trial is occurring and any conditions placed on the trial.

Trialling organisations should also continue to be required to report any contraventions of law that occur. The current timeframes for reporting provided in the guidelines are considered appropriate.

The guidelines only briefly mention the obligation to report collisions to police. The requirement to report serious incidents to police in accordance with the laws of the jurisdiction should be given greater emphasis. Serious incidents should not simply include incidents where someone is killed and seriously injured, but should also include incidents involving pedestrians, cyclists and motorcyclists due to the vulnerable nature of these groups in the road environment and incidents involving property damage. In addition, it should be made clear that these reports must also be provided to the authority responsible for approving and coordinating the jurisdiction’s involvement in the trial (the jurisdiction trial coordinator) rather than just the ‘road transport authority’.

Disengagements – Should any disengagements be approved as part of the trial, these should be reported together with explanations for them.

Definition of serious incident - The ACT would support the incorporation of the following from the Victorian guidelines as they may not strictly fall within the current definition of serious incident through being a contravention of law:

- Tampering with or unauthorised modifications of an automated vehicle
- Failure of an automated vehicle that would impair the reliability, security or operation of the ADS
- Failure of an automated vehicle that requires the vehicle to be removed from the road

We would also recommend the inclusion of ‘failure of an automated vehicle that causes road congestion or results in intervention by police or emergency services’.

Broader data recording requirements - It should be clear that trialling organisations should retain data relating to serious incidents for an appropriate period (further consultation would be needed to ascertain that time period). Data relating to other incidents should also be retained for an appropriate period (again consultation would be needed to ascertain timeframes but should at least be held until after the final report is submitted).

In the case of large-scale trials, consideration should be given to requiring movement data to be provided to road/transport authorities. This is to enable Road Managers to

	<p>understand movement of the vehicles within the road environment and assess the traffic impacts of the vehicles.</p> <p>The ACT supports the guidelines being updated to include the requirements on page 31 of the discussion paper but seeks clarification on why trialling organisations only need to demonstrate how they will provide data to road transport agencies, enforcement agencies, insurers and individuals “who want to dispute liability” and would suggest that the words “who want to dispute liability” be removed.</p> <p>Research outcomes and end-of-trial reports - The ACT supports the provision of guidance on what should be included in an end-of-trial report as per the Victorian guidelines (discussed on page 32).</p>
6	<p>Question 6: Is there any additional information the guidelines should include for trialling organisations? (pg. 33)</p> <p>Response:</p> <p>The ACT agrees that inclusion of specific information on processes in States and Territories will date quickly and would suggest that instead the guidelines or NTC website include links and references to different state and territory entities/authorities.</p>
7	<p>Question 7: Should the guidelines apply to any other emerging technologies (discussed in chapter 4 or other technologies) and operating domains? (pg. 37)</p> <p>Response:</p> <p>The ACT supports the guidelines being expanded to cover road-related areas and emerging technologies including small automated vehicles (SAVs) and Autonomous Pods. It may help if the glossary clearly defines technologies such as SAV’s and Autonomous Pods.</p> <p>The ACT would also support the guidelines applying to trials of Society of Automotive Engineers level 1 and 2 vehicles where these are capable of performing the dynamic driving task and where these technologies are capable of being upgraded in SAE level through software updates.</p>
8	<p>Question 8: Are there any additional criteria or additional matters relevant to the trials of automated heavy vehicles that should be included in the guidelines? (pg38)</p> <p>Response:</p> <p>The ACT does not believe any additional criteria or additional matters relevant to the trials of automated heavy vehicles should be included in the guidelines.</p>
9	<p>Question 9: Are there currently any regulatory or other barriers to running larger trials? If so, how should these barriers be addressed? (consider the guidelines, state, and territory exemption and permit schemes, and Commonwealth importation processes) (pg. 38)</p>

	<p>Response:</p> <p>The ACT does not consider that there are any specific barriers to a large-scale trial of automated vehicles in the ACT.</p> <p>An issue that should be considered further is the risk to public safety of potential large-scale private trials of AV features, such as advanced driver assistance technologies or SAE levels 1 and 2, that are not presently being submitted for authorisation under the guidelines. Management of safety and the perception of safety within the community would be the key difference to facilitating a large-scale trial.</p>
<p>10</p>	<p>Question 10: Should the guidelines continue to allow commercial passenger services in automated vehicle trials? If so, should the guidelines reference additional criteria that trialling organisations should be subject to, and what should these criteria be? (pg. 39)</p> <hr/> <p>Response:</p> <p>In principle, the ACT support trials of commercial passenger services. However, members of the general public and other road users who may be affected and potential passengers of the service should be fully informed about the nature and parameters of the trial. An appropriate information campaign should be developed by the trialling organisation in consultation with Government.</p> <p>As with any other automated vehicles, exemptions and permits will be required in the ACT for any commercial passenger service automated vehicle trial. There are additional regulatory frameworks that would need to be assessed and considered as part of approving any commercial passenger service AV trial in the ACT.</p> <p>In the context of the current public health emergency and its aftermath, there may also be other service requirements, for example, regular cleaning of vehicles.</p> <p>The ACT sees the benefit in developing a set of consistent national requirements for trials of commercial passenger service automated vehicle trials.</p>
<p>11</p>	<p>Question 11: What challenges have you faced with administrative processes when applying for approving trials of automated vehicles, and how could these be addressed? (pg. 41)</p> <hr/> <p>Response:</p> <p>Due to the complex administrative arrangements in the ACT relating to transport matters, the process of approving AV trials is complex and involves a number of different parts of government which impacts the time it takes to approve the trial and involvement of trial organisations needed to obtain exemptions and permits from different parts of the ACT Government. The ACT acknowledges that a coordinated approach to consideration of trial applications, with one main government contact point, may assist trialling organisations.</p>
<p>12</p>	<p>Question 12: Are there any other barriers to cross-border trials? Is there a need to change current arrangements for cross border trials? (pg. 43)</p>

	<p>Response:</p> <p>The ACT does not consider that there is a need to change current arrangements for cross border trials. The ACT supports a continuation of the current arrangements where jurisdictions work closely together on any cross-border trials. The ACT currently works closely with NSW on cross-border arrangements for public passenger services and is of the view that those processes can be built on to support any cross-border AV trials.</p>
13	<p>Question 13: Should there be a more standardised government evaluation framework for automated vehicle trials? If so, what are the trial issues that should be evaluated? (pg. 45)</p>
	<p>Response:</p> <p>It would be helpful if there were a more standardised government evaluation framework for both the outcomes and process of AV trials. Issues that could be evaluated might include safety, performance of the AV technology in the particular environment/domain, performance of related/connected technologies, performance of related infrastructure and interaction with fallback ready users, passengers, other road users and police and emergency responders. In addition, evaluations should assess the effectiveness of the process from the point of application to the final reports/evaluation.</p>
14	<p>Question 14: Should the results of evaluations be shared between states and territories? If so, how should commercially sensitive information be treated? (pg. 45)</p>
	<p>Response:</p> <p>From the ACT's trialling experience, states and territories are unwilling to share information on their trials due to the competitive nature of attracting trials to their respective states and territories. Additionally, there is concern about sharing commercially sensitive information among jurisdictions unless there were secure protocols set up to prevent the escape of confidential information. If guarantee could be provided that commercial-in-confidence information can be kept secure, agreed sharing amongst jurisdictions would be supported by the ACT. The ACT would support the sharing of results of trials and any evaluations through the existing working groups as each jurisdiction considers appropriate and in accordance with any necessary confidentiality requirements.</p>
15	<p>Question 15: What works well in the automated vehicle importation process, and what are the challenges? (pg. 46)</p>
	<p>Response:</p> <p>There are currently challenges arising from the importation of automated vehicles that meet existing ADRs, such as SAE level 1 and 2, other advanced driver assistance technologies, and vehicles capable of being updated with even higher level AV functionality via over-the-air updates.</p> <p>These technologies pose an issue that must currently be managed by States and Territories.</p>

16	<p>Question 16: Is there anything further that should be done to facilitate a transition from trial to commercial deployment? (pg. 47)</p>
	<p>Response:</p> <p>The ACT notes recent decisions by the Transport and Infrastructure Council (TIC) on the end-state regulatory framework and discussions being had between the NTC and jurisdictions about an interim national regulatory approach pending the end-state regulation being implemented in approximately four years' time.</p>
17	<p>Question 17: Are there any matters that the NTC Should consider in its review of the guidelines? (pg. 47)</p>
	<p>Response:</p> <p>The ACT suggests that the following additional matters should be considered in the NTC's review of the guidelines:</p> <ul style="list-style-type: none"> • Description of automation levels and proper control – are they consistent with other consultation material and what is being considered for the end-state regulatory approach. • Additional support and materials for jurisdictions and trialling organisations, such as template application forms and template safety management plans