



**Ben Blackburn Racing
submission to the National
Transport Commission's
discussion paper examining
on-road enforcement of
automated vehicles**

Acknowledgement of Country

Ben Blackburn Racing acknowledges the Traditional Owners of the lands that we live and work on across Australia.

We recognise that Aboriginal and Torres Strait Islander peoples have made and will continue to make extraordinary contributions to all aspects of Australian life.

We acknowledge the tens of thousands of years of continuous custodianship and placemaking by First Nations peoples and their proud role in our shared future together.

We thank them for their custodianship of Country – land, seas and skies.

We acknowledge the diversity of First Nations cultures, histories and peoples, and we pay our respects to Elders past, present and emerging.



Tuesday, 12th July 2022

National Transport Commission

Public submission – On-road enforcement for automated vehicles

Level 3, 600 Bourke Street

Melbourne VIC 3000

Att: National Transport Commission,

PUBLIC SUBMISSION

I am extremely pleased to provide this public submission and make a minor contribution in response to the National Transport Commission's July 2022 Discussion Paper "***On-road enforcement for automated vehicles***".

As noted in the National Transport Commission's introduction on page 2, the purpose of this discussion paper is to encourage discussion about whether current powers of State and Territory law enforcement officers are sufficient to interact with and respond to the road safety risks of automated vehicles. The paper also serves to consider various practical aspects of engaging with automated vehicles and proposes options to address any identified gaps.

I note that public submissions to the National Transport Commission are due by Monday 5th September 2022 and then key recommendations will then help to inform the future development of a policy paper and updated guidelines for nationally consistent approaches to on-road enforcement for automated vehicles and in November 2022 driving recommendations to Ministers.

As the National Transport Commission has succinctly highlighted on page 9 of this discussion paper:

"...we conclude that it is difficult to quantify the scope of the impact until more is known about automated vehicles and how they will operate in the Australian environment. States and territories need to consider the potential operational impacts within their jurisdictions to allow for adequate training and investment in infrastructure".

In my honest assessment, there needs to be a comprehensive and fully transparent review undertaken to independently examine a number of potential risk and road safety factors to avoid unforeseen and unintended safety consequences across Australia.

For instance, we know there is an over-arching need to develop a nationally consistent approach for law enforcement officers to ensure the safe operation of automated vehicles on the road, including legal powers to interact with automated vehicles, access

data to respond to automated vehicle road safety risks, share this data with other relevant parties, particularly the in-service regulator, as part of interacting with other parties.

By way of background information, in May 2021 Ministers agreed that the National Transport Commission would work with all State and Territory Governments to:

- Develop enforcement practices for automated vehicles; and
- Establish data requirements and data access protocols for enforcement officers.

The National Transport Council is also focused on ensuring that law enforcement officers can:

- Safely intervene and interact with automated vehicles;
- Identify an automated vehicle, its level of automation and who is in control;
- Access data to respond to road safety risks (such as for crash investigation and reporting); and
- Share data with relevant parties, particularly the in-service regulator.

In February 2022, Infrastructure and Transport Ministers agreed to recommendations relating to the in-service framework for automated vehicles.

They included recommendations that:

- The AVSL will provide that the ADSE must develop and maintain a law enforcement interaction protocol to be shared with the in-service regulator.
- The in-service regulator should, once it is set up, publish guidance on the areas to be covered in Law Enforcement Interaction Protocols (LEIPs), in conjunction with state and territory enforcement agencies (*National Transport Commission, 2022, pp. 77, 79*).

The in-service regulator would forward interaction protocols received from ADSEs to road transport and enforcement agencies.

There are also much broader considerations in an international law enforcement context which would include the *United Nation's Code of Conduct for Law Enforcement Officials (1979)* resolution which was adopted by the UN General Assembly. The human rights in question are identified and protected by national and international law.

Among the other relevant international instruments are the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, the International Convention on the Elimination of All Forms of Racial Discrimination.

There are also laws which restrict the use of force by law enforcement officials in accordance with a principle of proportionality.

These interaction protocols need to be explored and closely examined further and additional stakeholder consultation and engagement is required with law enforcement agencies and law enforcement officers who have day-to-day on the ground police and road-side experience interacting with Australian motorists and can provide some valuable insight to help inform the broader framework for future interaction protocols.

Other areas which need to be explored further include any additional professional training requirements which may be required for law enforcement officers and agencies such as the Australia New Zealand Policing Advisory Agency should be consulted further along with examining other options for adopting a best practice approach to establishing nationally consistent guidelines on intercepting and safely stopping an automated vehicle and how best for law enforcement officers to access and process ADS data.

As the National Transport Commission has also highlighted on page 33 of the discussion paper:

“...Enforcement officers may need additional powers to be able to tow or remove an automated vehicle from the road after the ADS has been disabled. There is scope for these powers to be worded to apply in all circumstances or only in those circumstances where there is an occupant that cannot drive the vehicle”.

By adopting this broader consultative approach to interaction protocols with law enforcement agencies, this will provide a greater level of confidence and crucial ‘buy in’ from law enforcement officers, law enforcement agencies, and other road-side emergency services personnel which will in turn result in a safer operating environment and a safer ‘zone’ or ‘space’ for all relevant parties concerned including and especially motorists in new automated vehicles.

There is also further scope and consideration needed to examine any potential law enforcement impacts within individual States and Territory jurisdictions from an allocation of additional resources, extra law enforcement officer training and additional investment in new infrastructure point of view and broader perspective and to allow them to develop suitable contingency planning prior to the national reform agenda implementation and enforcement phase.

There is still a great deal of questions and information that is extremely complex to adequately answer and properly address until we see new automated vehicles operating in the Australian road and terrain environment.

Current draft Australian Design Rule 90/01

The Australian Government's Department of Infrastructure, Transport, Regional Development and Communications is incorporating the first supply safety criteria into the Australian Design Rules (ADRs) (National Transport Commission, 2022, pp. 18, 22-23). Specifically, Appendix B of ADR 90/01 outlines ADS design requirements at first supply.

As I understand it, ADR 90/01 is currently only in a draft format.

As the National Transport Commission has also fundamentally and poignantly observed on page 15 of the discussion paper:

"...Australia's laws do not currently support the deployment of automated vehicles. Our laws are designed for vehicles with human drivers. A review in 2016 found more than 700 barriers to deploying automated vehicles in State, Territory and Commonwealth laws. Automated vehicles are expected to deliver safety, productivity, mobility and environmental benefits. Without reforms, Australians will not be able to gain these benefits. In 2016, infrastructure and transport ministers agreed to developing an end-to-end regulatory framework for the commercial deployment of automated vehicles. Since then, the NTC has been working with government and industry to develop this framework".

It is evident that there are still quite a plethora of crucial steps needed and issues to be addressed as part of the broader collaboration with Austroads, Commonwealth and State and Territory Governments as part of the national reform agenda for automated vehicles and there is an important role to play and a tremendous opportunity now for vital input from key industry stakeholders, law enforcement agencies, automated vehicle manufacturers and Australian motorists more broadly.

Given the broader need for greater investment in road safety infrastructure and additional road safety measures, in my view, once the cross-jurisdictional implementation phase of enforcement frameworks are agreed on by all Governments, there would be significant value in adding an addendum item to include an updated section on automated vehicles to be included in an updated National Road Safety Strategy 2021-2030 and Action Plan.

With the National Transport Commission then given the opportunity to partner with all levels of government and industry, Austroads, the National Heavy Vehicle Regulator, and the Australia New Zealand Policing Advisory Agency in implementation of an updated National Road Safety Strategy 2021-2030 and Action Plan.

The reality is that too many people are still speeding and drink driving and dying on our roads. We know from the statistics that speeding remains an overwhelming factor.

Solutions are continually being developed and refined by experts and Governments to improve our national road network and to build new roads that are safer. Given the size of the task, there is absolutely no doubt that we must prioritise changes that will achieve the greatest reductions in human trauma.

The ten-year targets outlined in the National Road Safety Strategy 2021-30 and Action Plan are bold and ambitious to reduce the number of deaths from road crashes by at least 50 per cent by 2030 to fewer than 571 and to reduce the number of serious injuries from road crashes by at least 30 per cent by 2030 to fewer than 29,000.

There is also a broader need to select ***national priority actions*** on the basis of evidence and effectiveness enabled by a national data hub and then clear targets set with their implementation tracked and reviewed every six months in order to monitor progress of each parameter.

In my view, there would be merit in the concept of appointing high profile sporting ambassadors from various sporting codes in Australia with these sporting athletes to reinforce safe driving practices in new automated vehicles and broader road safety messages via print and digital media to the broader motoring and Australian community.

Given the level of collaboration, commitment and engagement that is constantly required of key Ministers and stakeholders across the national transport sector, I would encourage the National Transport Commission to provide in principle support for the concept of the Commonwealth Government via the Federal Minister for Infrastructure, Transport and Regional Development, The Hon Catherine King MP, to establish a COAG-style annual Automated Vehicles Reform Taskforce.

In my view, establishing an **Automated Vehicles Reform Taskforce** would be a sensible and constructive way to further foster a culture of collaboration and bring together all portfolio Federal Government and State and Territory Government Ministers who share responsibility for delivering major transport, road infrastructure and road safety projects.

As well as Ministers, such a Reform Taskforce could also include National Transport Commission representatives, Austroads, the National Heavy Vehicle Regulator, the Australia New Zealand Policing Advisory Agency and other peak road safety and heavy vehicle industry leaders – as another valuable platform and vehicle to appropriately consider, develop, adopt and implement a nationally consistent approach to on-road enforcement for automated vehicles.

As innovation and technology continues to rapidly develop across the globe, we do have an important opportunity to develop the right national approach that allows law enforcement officers to interact with automated vehicles and respond to the safety risks that may arise however a bipartisan approach from all levels of Governments is ultimately required and necessary to achieving this vision.

Thank you very much for taking the time to read and consider this public submission.

We acknowledge and thank Dr Gillian Miles, the National Transport Commission Chief Executive Officer and Commissioner.

Ben Blackburn Racing values the opportunity to make this contribution in response to the National Transport Commission's public release of its detailed and comprehensive discussion paper for public consultation on Monday 11th July 2022.

We look forward to actively engaging with the National Transport Commission as the consultation phase continues regarding on-road enforcement for automated vehicles.



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References

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