



**FEDERAL  
CHAMBER OF  
AUTOMOTIVE  
INDUSTRIES**

**FCAI submission in response to:**

# Limited exposure draft of *Automated Vehicle Safety Bill 2026*

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# 1. INTRODUCTION

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The FCAI is the peak Australian industry organisation representing over 60 global automotive brands who design, manufacture, import, distribute and sell over 380 models of light duty passenger vehicles, light commercial vehicles, and motorcycles in Australia. FCAI members are listed on the FCAI's [website](#).

The FCAI welcomes the opportunity to provide its initial comments to the Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts (DITRDCA) on the draft of the *Automated Vehicle Safety Bill 2026* (Bill) shared on a confidential basis, before it is released for broader consultation.

The observations in this submission are offered in isolation from the remainder of the end-to-end automated vehicle framework, which remains under development. The FCAI recognises that the AVS Bill represents only the first step in establishing this comprehensive national regime. Resolution to several critical boundary and operational matters may ultimately reside within complementary regulatory instruments, subordinate rules, or state and territory arrangements rather than the primary Bill itself.

The FCAI welcomes ongoing discussions with the Department as this work progresses and would appreciate responses or feedback to the specific comments, questions, and alternative mechanisms raised throughout this submission. Maintaining this open dialogue ensures that industry and government can closely follow each other's reasoning and preserve a shared alignment as the broader regulatory framework takes shape.

## 2. FEEDBACK

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### 2.1 Automated Driving System (ADS) operator certification and vehicle types

The FCAI has assumed that a vehicle type refers to the [Vehicle Standard \(Australian Design Rule – Definitions and Vehicle Categories\) 2005](#). It would be beneficial to clarify this reference or introduce a specific definition in section 8 (Definitions).

Under the current drafting, an ADS operator certificate is restricted to covering “a kind of ADS and a *type of road vehicle*”<sup>1</sup>, whilst an aftermarket installation permit covers “2 or more vehicles *of the same type*”<sup>2</sup>. This framework implies that deploying the identical ADS across multiple vehicle categories will necessitate separate certification processes even where the operational boundaries and core algorithms are identical.

International regulatory developments under the UNECE World Forum (WP.29) and UN Regulation No. 185 are shifting the safety assurance baseline away from legacy mechanical weight and dimension metrics. Instead, technical validation is anchored in the system’s Operational Design Domain (ODD), functional capabilities, and lifecycle management. Furthermore, the emerging WP.29 classifications (Category X for passenger and Category Y for freight-only vehicles not capable of manual operation above 6 km/h) recognise that automation alters traditional vehicle categorisation.

A precedent exists under Commission Implementing Regulation (EU) 2022/1426, which enables an ADS to be type-approved as a “separate technical unit” (STU). This mechanism assesses the core computing hardware, sensor suite, and driving logic independently of the base vehicle.

Recognising that a vehicle’s weight, dimensions, and mechanical design inherently frame how it responds in real-world conditions, adopting a separate technical unit approach is not intended to bypass these vital physical considerations. Rather, it could allow the core software and decision-making logic to be validated once, whilst ensuring that the subsequent physical integration of the system into a new vehicle type remains subject to rigorous, vehicle-specific dynamic testing and safety validation.

Consideration could be given to:

- Formally recognising a “separate technical unit” approval pathway within the framework, enabling validated software and hardware platforms to be applied

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<sup>1</sup> Section 19(1)(a)

<sup>2</sup> Section 52(1)(b)

across multiple vehicle categories, provided that the physical integration is independently verified for safety.

- Amending Chapter 2 of the Bill to enable a single ADS operator certificate (or aftermarket installation permit) to encompass multiple vehicle types that operate within an identical ODD. This could create a streamlined approval pathway where the ADS is accepted, and regulatory attention is directed at the unique operational features of the new vehicle category to which the ADS is applied.

## 2.2 Liabilities and boundaries between ADS stakeholders

### 2.2.1 Liabilities of executive officers

The Bill proposes an independent, positive due diligence duty for executive officers. The FCAI notes the Department's intent to establish strong board-level accountability within the domestic framework, drawing on principles from the Heavy Vehicle National Law and State-based passenger transport legislation.

Applying conventional transport duties to the deployment of complex, imported software architectures presents practical challenges for local implementation. To ensure accountability mechanisms are both robust and practically enforceable, consideration could be given to the following operational realities:

- In conventional transport regimes, positive executive officer duties attach to tangible, locally controllable activities such as driver fatigue management, load restraint, and vehicle maintenance. Conversely, ADSs are underpinned by highly complex software architectures designed and maintained by overseas parent engineering teams. Local executive officers cannot exercise direct operational control over the algorithmic decision-making of imported systems.
- Layering a bespoke, standalone criminal duty on Australian directors for real-time software behaviour creates personal legal exposure that has no equivalent in other mature automotive jurisdictions. This risks creating a regulatory barrier that could disincentivise global manufacturers from introducing advanced automated technologies to Australia.

To balance individual accountability with commercial viability, the FCAI recommends harmonising the Bill's enforcement provisions with the [UK Automated Vehicles Act 2024](#) where corporate officer liability is strictly derivative rather than independent. For instance, as described in the UK AV Act 2024:

- In section 27, an individual senior manager is liable only where an underlying corporate offence has been committed and it is proven that the manager consented to or connived in the contravention. Standalone neglect is explicitly insufficient to ground criminal liability for safety disclosures.
- In section 80, officers are subject to liability only where a corporate misleading marketing offence occurs with their consent, connivance, or is attributable to demonstrable neglect on their part.

- In section 26, specific accountability is maintained by permitting an entity to nominate a designated individual responsible for information disclosures, who is liable if false or misleading data is provided unless they show due diligence.

Adopting this derivative structure would respect existing Australian corporate and safety duties whilst ensuring that individual penalties are reserved for deliberate complicity, connivance, or proven neglect.

### 2.2.2 Boundaries between ADSE and fleet operator

The proposed legislation appears drafted under the premise that the Automated Driving System Entity (ADSE) will own and physically maintain the vehicles.

Failing to accommodate shared asset business models risks inadvertently blocking innovative consumer offerings. These models require clear boundaries between the ADS provision by the ADSE and physical asset management. Notable examples include:

- **Asset-light fleet operations:** An ADSE licenses its ADS to independent logistics companies or municipal transport operators, without owning or maintaining the physical vehicles.
- **Peer-to-peer autonomous sharing:** A private individual purchases a fully automated vehicle for personal commuting and, during idle periods, deploys it onto a commercial ride-hailing network to service paying passengers and generate revenue.
- **Fractional robotaxi ownership:** Multiple investors or community members co-own a single autonomous vehicle that operates continuously as a local ride-sharing asset, generating a revenue that is distributed among the co-owners.

While the technology will attempt to mitigate risks through self-diagnosis, this must be considered as a secondary safety net rather than a primary compliance mechanism. The statutory duty to maintain the physical roadworthiness of the asset must remain unequivocally with the registered owner or licensed fleet operator.

The FCAI understands that the commercial licensing and operational oversight of automated vehicle fleets is expected to be appropriately managed by complementary State and Territory passenger transport legislations. If the AVS Bill imposes an overarching safety duty on the ADSE without explicitly recognising the distinct role of third-party fleet operators, it risks creating a regulatory conflict.

To prevent the obstruction of innovative transport models, the legislation should legally delineate the liabilities of the ADSE from those of a potential third-party fleet operator.

The FCAI suggests introducing a “Shared Operational Framework” within Chapter 2 of the Bill to cleanly separate the safety duties of the ADSE from the physical maintenance duties of the operator.

Establishing a “liability safe harbour” within the Bill would protect the ADSE if an incident is caused by a State-regulated fleet operator breaching their physical maintenance duties. This addition would provide essential commercial protection for

manufacturers while ensuring passenger transport laws continue to appropriately govern commercial fleet operations without jurisdictional overlap.

For reference, the FCAI understands that the UK AV framework resolves this specific bottleneck by legally severing the liability of the ADSE from the responsibilities of the physical fleet operator. Rather than forcing a single corporation to hold total liability for both the ADS and the physical asset, the UK Act splits responsibility into two distinct regulatory roles:

- **The Authorised Self-Driving Entity (ASDE):** The manufacturer or software developer is strictly responsible for the automated driving system and its safety performance, without needing to own the vehicle or manage its daily use.
- **The No-User-in-Charge (NUiC) Operator:** A licensed operator that takes full legal responsibility for non-driving operational tasks when a vehicle is deployed commercially without a human driver. This includes for instance maintaining tyre tread, cleaning sensors, resolving breakdowns, managing passenger safety, and holding insurance.

### 2.2.3 Boundaries between aftermarket ADSE and vehicle OEM

The proposed Bill establishes an aftermarket installation permitting process that, as currently drafted, inadvertently isolates the original equipment manufacturer (OEM) from the integration of third-party ADS.

Under the current drafting of sections 52 and 53, a corporation can submit a safety case and receive an aftermarket permit without any statutory requirement to consult or notify the holder of the original road vehicle type approval. While section 20(3)(b)(ii) permits the Regulator to request information regarding commercial arrangements, it does not mandate that such an arrangement exists.

This statutory silence introduces technical and commercial risks particularly relevant to FCAI members:

- Integrating a complex ADS into a conventional vehicle requires deep access to proprietary data networks and safety-critical actuators. Without OEM cooperation, there is a risk of integration failure between the aftermarket ADS and the base vehicle's electrical architecture.
- Disentangling a failure of the base vehicle's conventional hardware from a flaw in the third-party ADS will be problematic. This ambiguity complicates forensic investigations, insurance claims, and consumer guarantees.
- Vehicle OEMs bear disproportionate reputational risk for aftermarket ADS installations they have no legal right to vet or validate.

The FCAI recognises that the Bill represents only the first step in establishing an end-to-end regulatory framework. It is noted the Department is developing this regime progressively, and that a resolution to these boundary issues may ultimately reside in complementary regulatory instruments, such as the *Road Vehicle Standards Act 2018* (RVSA) and State modification standards.

However, to ensure the safe deployment of aftermarket automated technologies without stifling market competition, the FCAI recommends strengthening the applicant requirements to guarantee that base vehicle integrity is maintained. Consideration could be given to the following amendments:

- Amending section 52 to require the applicant's safety case to include an "Integration Validation Assessment". Rather than granting OEMs a commercial veto, this assessment would serve as an objective, performance-based technical baseline. It would compel the aftermarket applicant to comprehensively demonstrate through structured evidence that the base vehicle's proprietary safety systems and structural integrity will not be compromised.
- Amending section 54 to stipulate that, before granting an aftermarket permit, the Regulator must be explicitly satisfied that the base vehicle's electrical and mechanical architecture can safely process the tactical and operational functions of the third-party ADS without latency.

This approach would ensure technical validation relies on credible testing and safety-case validation rather than subjective commercial approvals.

#### 2.2.4 Boundaries between ADSE and non-ADS repair / maintenance / modification

The draft Bill introduces critical provisions regarding third-party interference, but the current drafting leaves the boundary between conventional vehicle repair and ADS interference ambiguous. Under section 210(1)(b), it is an offence to engage in conduct that "directly or indirectly interferes with an ADS", while section 208(1)(e) expands interference to encompass "any unauthorised act that affects, or may affect, the performance of the dynamic driving task by the ADS".

To eliminate this ambiguity, the FCAI recommends that the Department explicitly defines what constitutes "indirectly interferes" within the statutory definitions or provides practical examples in the explanatory materials. Without clear boundaries, manufacturers face considerable legal uncertainty regarding how far their liability stretches into standard aftermarket maintenance.

In light of the complex integration between automated systems and physical vehicle architecture, the FCAI maintains its previous position that ADSEs should have complete discretion as to who, whether and when to authorise third-party entities to undertake ADS and non-ADS repairs, maintenance, and modifications. While an ADSE may choose to permit third-party repairs on non-ADS parts where proper technical parameters and risk assessments allow, this must remain a commercial and engineering decision rather than a mandatory statutory obligation, particularly in the formative stages of AV deployment.

The FCAI believes ADSEs require discretion over repairer accreditation until a nationally consistent regulation of repairers, maintainers, and modifiers – backed by strict training requirements and a formal accreditation regime – is fully established.

If an independent mechanic or unvetted third party conducts conventional maintenance on interconnected hardware (such as braking or steering geometry)

without coordination, the ADSE risks being exposed. The statutory framework must ensure the burden of proof does not fall disproportionately on the ADSE to prove that a third-party modification caused an indirect failure.

Rather than placing an unrealistic burden on the ADSE to proactively list every potential third-party maintenance error, the framework could require the ADSE to publish clear system performance tolerances. If an external repair or modification takes the vehicle outside these specified technical parameters, the legal responsibility and liability for any resulting system compromise must rest with the actor who performed the work, protecting the ADSE from vicarious liability.

Finally, given the life-critical nature of automated dynamic driving tasks, penalties for unauthorised repair, maintenance, or modification under section 210 should apply comprehensively across both ADS and non-ADS components of an automated vehicle. These penalties should be set commensurately high to serve as a genuine deterrent against unqualified aftermarket tampering.

## 2.3 Other comments

### 2.3.1 ADSE's Intellectual Property

The draft Bill grants extensive information-gathering powers to the Regulator, including the demand for highly sensitive commercial contracts under section 20, compulsory examination powers without the right to silence under sections 123 and 125, and broad global premises inspection rights under section 22.

Whilst the FCAI recognises the regulatory need for rigorous safety oversight, the current framework creates intellectual property (IP) vulnerabilities and data dissemination risks that should be mitigated by statutory safeguards:

- Section 197(1)(b) explicitly permits an entrusted person to disclose protected information to “a constitutional corporation to undertake research in relation to automated vehicle safety”. This creates a potential legal gateway for proprietary algorithms, source code architectures, or detailed safety cases to be shared with commercial rivals under the guise of research. Furthermore, section 189 permits the dissemination of data across various State and Territory bodies. Standard protections – such as the *Public Service Act 1999* Code of Conduct or the *Freedom of Information Act 1982* – are insufficient because they are bypassed if primary legislation explicitly authorises such disclosures.
- Section 70 requires the publication of the AV Register on the internet, while draft provisions simultaneously contemplate including itemised, granular breakdowns of every ADS component. Exposing proprietary sensor suites, processing units, and core system architectures publicly compromises commercial-in-confidence engineering and introduces substantial cybersecurity risks by providing competitors with a blueprint of a manufacturer's automated technology. Whilst section 79(2) implies that subordinate rules may govern publication details, subordinate legislation cannot legally override primary statutory mandates.

- As noted in its prior industry submissions, the FCAI questions the overall suitability of a public register acting as an exhaustive repository for all ADS component parts. Doing so risks information overload and consumer confusion, and is better managed by allowing ADSEs to make detailed technical specifications available through their own designated channels initially.

To protect critical IP without compromising regulatory oversight, the FCAI recommends the following structural amendments:

- Chapter 7 of the Bill should incorporate explicit legal firewalls, with consideration of the Confidential Business Information (CBI) frameworks used by the US National Highway Traffic Safety Administration (NHTSA) or data governance protections under section 88 of the UK *Automated Vehicles Act 2024*, in order to legally restrict how the Regulator and third parties can disseminate trade secrets.
- Section 71 should be amended so that detailed technical breakdowns, such as individual ADS component specifications, are provided confidentially to the Regulator solely for compliance verification. In contrast, only a high-level, generic overview of the vehicle and its operational status should be published on the public-facing internet register.

### 2.3.2 Mandatory Three-Year Interim Review

The introduction of a national regulatory framework for automated vehicles represents a complex legislative transition for Australia, balancing rapidly evolving technologies with public safety. Given the pace of innovation in vehicle automation and related sectors, rigid statutory settings risk becoming rapidly outdated or creating unintended operational bottlenecks.

Whilst the FCAI acknowledges that the Minister or relevant intergovernmental forums may have other administrative or discretionary mechanisms at their disposal to call for reviews of the legislation, section 239 should formally mandate an interim review at the three-year mark, instead of the five-year mark as currently drafted.

A statutory three-year review checkpoint will allow the Department, the Regulator, and industry to assess how the initial deployment phase has functioned in practice, particularly regarding the interface between the AVS Bill, State passenger transport laws, and the RVSA.

Automated vehicle regulations are developing concurrently across major global markets, including the UK, Europe, and North America. A formal three-year review mechanism will ensure the Australian framework can adapt and harmonise with emerging international best practices without waiting for a protracted, ad-hoc legislative overhaul.

Providing a set statutory timeline for evaluation gives manufacturers and ADSEs the necessary regulatory certainty to commit long-term capital and advanced vehicle fleets to the Australian market.

### 2.3.3 Concessional entry pathways

The draft Bill currently accommodates the entry of an automated vehicle onto the AV Register if a concessional RAV entry approval pathway is in force in relation to the vehicle, specifically noted under section 72(3)(b)(ii). While the industry recognises the historical utility of concessional pathways for genuine enthusiast vehicles, applying this mechanism to automated driving systems presents both safety and regulatory challenges:

- Automated driving systems rely on highly complex software architectures that require exhaustive, system-level safety validation.
- Concessional pathways traditionally bypass the rigorous, full-scale type approval processes that are critical for verifying sensor suites, fail-safe redundancies, and operational design domains.
- Permitting an automated driving system to enter the market without comprehensive certification risks introducing unverified systems onto public roads, which could compromise the integrity of the broader safety framework.

To safeguard public confidence, the Department should consider excluding automated vehicles from the concessional pathway within section 72(3), so that all automated systems entering the market satisfy the highest national safety benchmarks.



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