Automotive Industry Group

REGULATORY UPDATE

JULY 2026

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WELCOME TO THE HWLE LAWYERS AUTOMOTIVE INDUSTRY GROUP - REGULATORY UPDATE

HWLE Lawyers seeks to keep you updated with the changing automotive industry environment across new legislation, developing policy and pertinent case law developments.

Through our Regulatory Updates we provide essential information for those wanting to stay abreast of the challenges and issues facing the automotive industry, especially those affecting new motor vehicle dealers.

This Regulatory Update has been published with the assistance of Maria Townsend (Partner), Evan Stents (Partner), Cleo Savva (Associate) and Yudi Vorchheimer (Solicitor) who are members of the HWLE Lawyers Automotive Industry Group, Danielle Flint (Partner) and Audrey Ooi (Associate) who are members of HWLE Lawyers Workplace Relations & Safety Group and Andrew Allan (Partner) who is a member of HWLE Lawyers Insurance Group.

HEADLINES

- GST Attribution Reform for Motor Vehicle Incentive Payments reshapes dealer BAS timing (see Part 1.1)
- *Product Lifecycle Responsibility Regulation 2026* (NSW) introduces mandatory battery stewardship regime in NSW (see Part 1.7)
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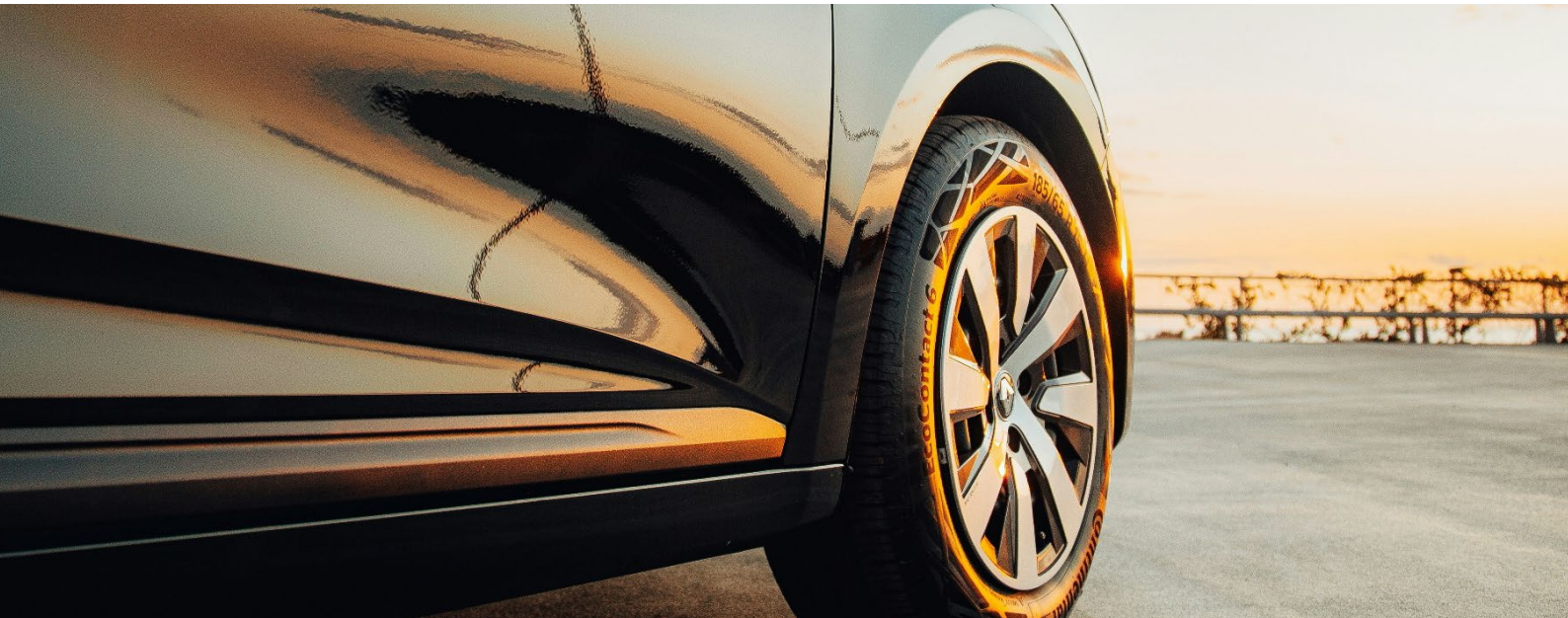
- *El-Helou v Mercedes-Benz Australia/Pacific Pty Ltd & Ors* [2025] VSC 211 highlights ongoing emissions litigation risk and potential discovery burdens for manufacturers (see Part 7.2)



1. Legislation Update

1.1 GST REFORMS: ATTRIBUTION RULES FOR CERTAIN MOTOR VEHICLE INCENTIVE PAYOUTS

The *A New Tax System (Goods and Services Tax) (Attribution Rules – Certain Motor Vehicle Incentive Payments made to Motor Vehicle Dealers) Determination 2026 (Cth)* (***Determination***) commenced on 6 March 2026.

The Determination replaces the 2015 instrument ahead of its statutory sunset and preserves the existing attribution framework. Its purpose is to override the default GST attribution rules in circumstances where their operation would be inappropriate, particularly where consideration is received before the underlying sale is finalised.

Accordingly, the Determination does not introduce new policy. It remakes and clarifies an established concessionary attribution rule that is central to GST compliance in the automotive sector.

OVERVIEW OF THE KEY REFORM

Under Division 29 of the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* (***GST Act***), GST is generally attributable to the earlier of receipt of consideration or issue of an invoice.

In the automotive sector, this can produce inappropriate outcomes where motor vehicle incentive payments (**MVIPs**) are:

- paid by OEMs to dealers;
- form part of the total consideration for the vehicle sale; and
- are only finalised or capable of determination at, or shortly before, contract execution.

ATO guidance confirms that dealers must account for GST on total consideration, including third party incentive payments.

The Determination modifies attribution by providing that, where specified conditions are met, GST is attributable to the tax period in which the dealer knows the total consideration for the supply.

In practice, this will ordinarily coincide with execution of the retail contract, when the final price and incentive entitlements are fixed.

The rule applies where:

- an incentive payment is received or invoiced in an earlier tax period;
- total consideration is not known at that time; and
- the vehicle is supplied (or title passes) in a later period.

IMPLICATIONS FOR DEALERS AND OEMS

Alignment with transaction mechanics

- GST attribution will generally align with contract execution, reflecting when the full economics of the transaction are known.
- This avoids attribution based on incomplete or provisional pricing.

Reduced (but not eliminated) adjustments

The Determination reduces scenarios requiring:

- split attribution across periods; or
- subsequent BAS adjustments when incentive amounts are finalised.

However, outcomes remain dependent on whether amounts are known or unknown at relevant times, and the rule applies only where its conditions are satisfied.

Timing impacts

Where incentive payments arise before contract execution, attribution may be deferred to a later period. This reflects the correct timing of GST liability, rather than a concessional outcome.

Systems and governance

Dealers should ensure systems and processes can:

- identify transactions within scope;
- evidence when total consideration is known; and
- support consistent attribution positions.

OEM incentive design and dealer processes should remain aligned to minimise compliance risk.

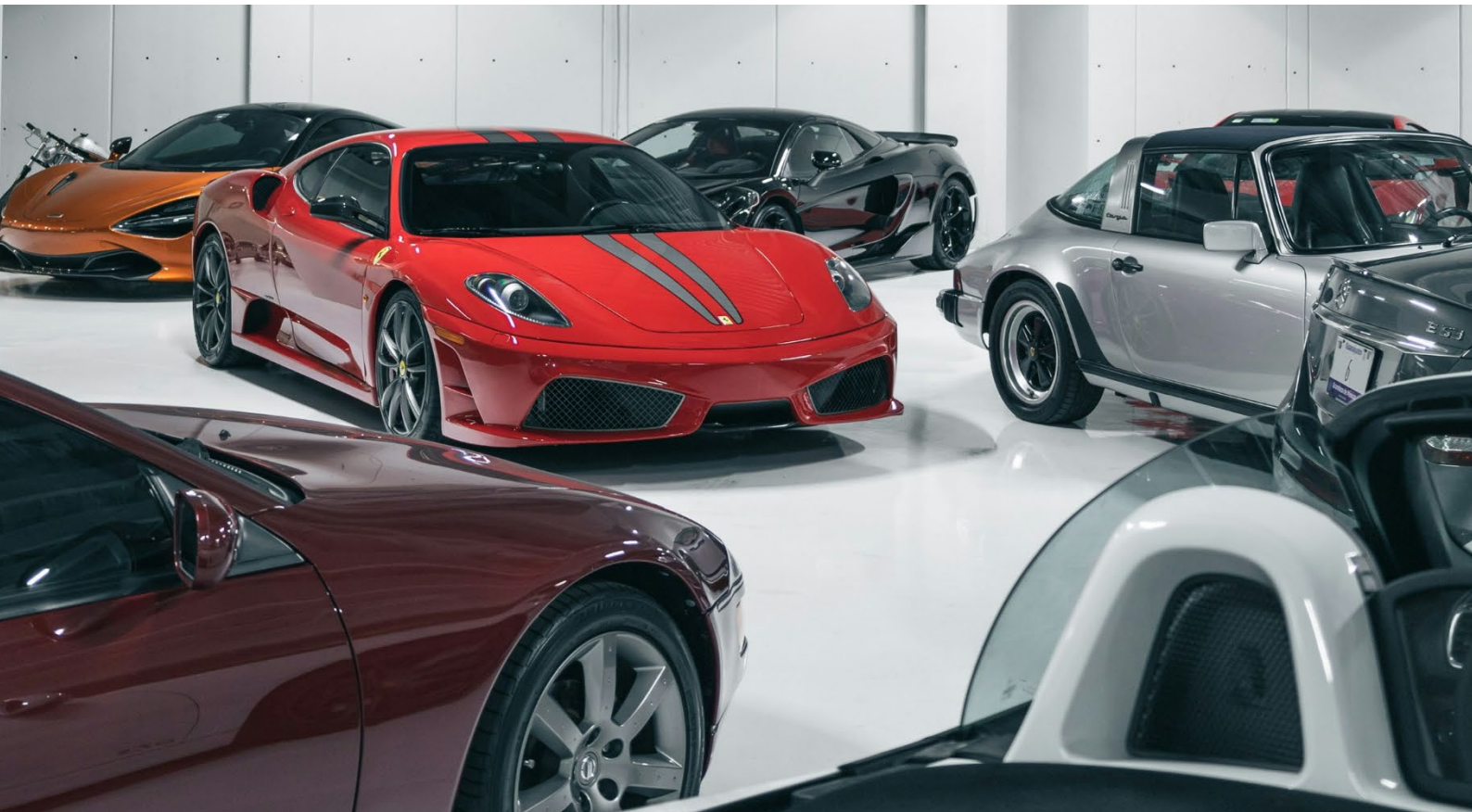
VEHICLES IMPLICATIONS FOR THE AUTOMOTIVE INDUSTRY

The Determination maintains a targeted and practical attribution rule for the automotive sector. By tying GST attribution to when total consideration is known, it aligns the legislation with established ATO guidance and dealer commercial practice while preserving the integrity of the broader GST framework.

The Determination applies from 6 March 2026 and ensures continuity of the attribution framework following the repeal of the 2015 instrument. It should be reflected in BAS reporting from that date and incorporated into FY26 compliance processes.

The key takeaways are:

- No change to GST liability - only timing of attribution is affected.
- Application is conditional, not universal.
- Contract execution will typically determine attribution timing.
- Administrative complexity may be reduced and not eliminated.
- Robust systems and documentation remain critical.



1.2 AUSTRALIAN APPRENTICESHIP SUPPORT LOANS REFORMS

The *Australian Apprenticeship Support Loans (Australian Apprenticeships Priority List) Determination (No 2) 2025* (Cth) (**Apprenticeship Determination**) was made under the *Australian Apprenticeship Support Loans Act 2014* (Cth) and repealed the *Australian Apprenticeship Support Loans (Australian Apprenticeships Priority List) Determination 2025* (Cth). The Apprenticeship Determination commenced 1 January 2026 and modified the Australian Apprenticeships Priority List to include more occupations.

KEY PRIORITY LIST OCCUPATIONS

The Minister for Skills and Training updates the Australian Apprenticeships Priority List annually with the current priority list effective from 1 January 2026.

Priority list occupations relevant for the automotive industry include:

- Automotive Electrician.
- Automotive Technician (General).
- Diesel Technician (General).
- Electric Vehicle Technician.
- Motorcycle Technician.
- Panel beater.
- Vehicle Body Builder / Painter / Trimmer.

Where these occupations are on the priority list, apprentices are eligible for Australian apprenticeship support loans which can make commencing and completing apprenticeships more financially viable.

OVERVIEW OF THE PROGRAM

The Australian Apprenticeship Support Loans Program (**Program**) aims to increase completion rates among Australian apprentices in priority occupations, by providing financial support to eligible Australian apprentices to assist them with the costs of living and learning while undertaking an apprenticeship. This is achieved by offering concessional income contingent loans.

While providing support to Australian apprentices, the Program aims to minimise the risk of Australian apprentices unintentionally accumulating large debts. To achieve this, the payment of Australian apprenticeship support loans has been structured so that Australian apprentices are required to reapply to receive the loans every six months, with the intention of giving them the opportunity to reassess their personal circumstances and make an informed decision about continuing to receive the loans. Apprentices who successfully complete their apprenticeship will receive a 20% discount on their loan amount.

The intention of the Program is to assist Australian apprentices with the cost of living, learning, and completing an apprenticeship by reducing financial burdens and allowing the Australian apprentice to focus on their work and learning. The Program aims to meet the Government's commitment to deliver improved productivity and competitiveness to the Australian economy by providing highly skilled individuals in priority trades where there are growing skills shortages.

IMPLICATIONS ON THE AUTOMOTIVE INDUSTRY

With automotive specific occupations being on the priority list, this in turn has flow on effects for automotive employers.

While the implications for the automotive industry are indirect, the Determination can:

a) improve recruitment and retention of apprentices in automotive trades;
b) reduce attrition caused by financial stress for apprentices/trainees; and
c) assist with skills shortages.

1.3 *REMINDER: LEGISLATED REVIEW OF THE NEW VEHICLE EFFICIENCY STANDARD UNDER THE NEW VEHICLE EFFICIENCY STANDARD ACT* 2024 (CTH)

The New Vehicle Efficiency Standard (**NVES**) under the *New Vehicle Efficiency Standard Act 2024* (Cth) (**NVES Act**) came into effect on 1 January 2025, setting carbon dioxide emissions targets for new light passenger cars and commercial vehicles up to 4.5 tonnes gross vehicle mass (**GVM**) entering the market from 1 July 2025. The NVES Act established yearly gCO2/km emission targets for a supplier's fleet of regulated road vehicles, including new passenger cars, SUVs, utes and vans, for the calendar years 2025 to 2029, gradually increasing in stringency. For later years, the Act enables targets for vehicle suppliers to be set by the Minister in a legislative instrument.

LEGISLATED REVIEW OF THE OPERATION OF THE NVES ACT

The review under section 93 of the NVES Act is intended to assess whether the Act is operating as intended, and whether amendments are needed to ensure it remains fit for purpose as market and technology conditions evolve. The review must be commenced by the Minister prior to 31 December 2026, with a final report to be put before Parliament to consider.

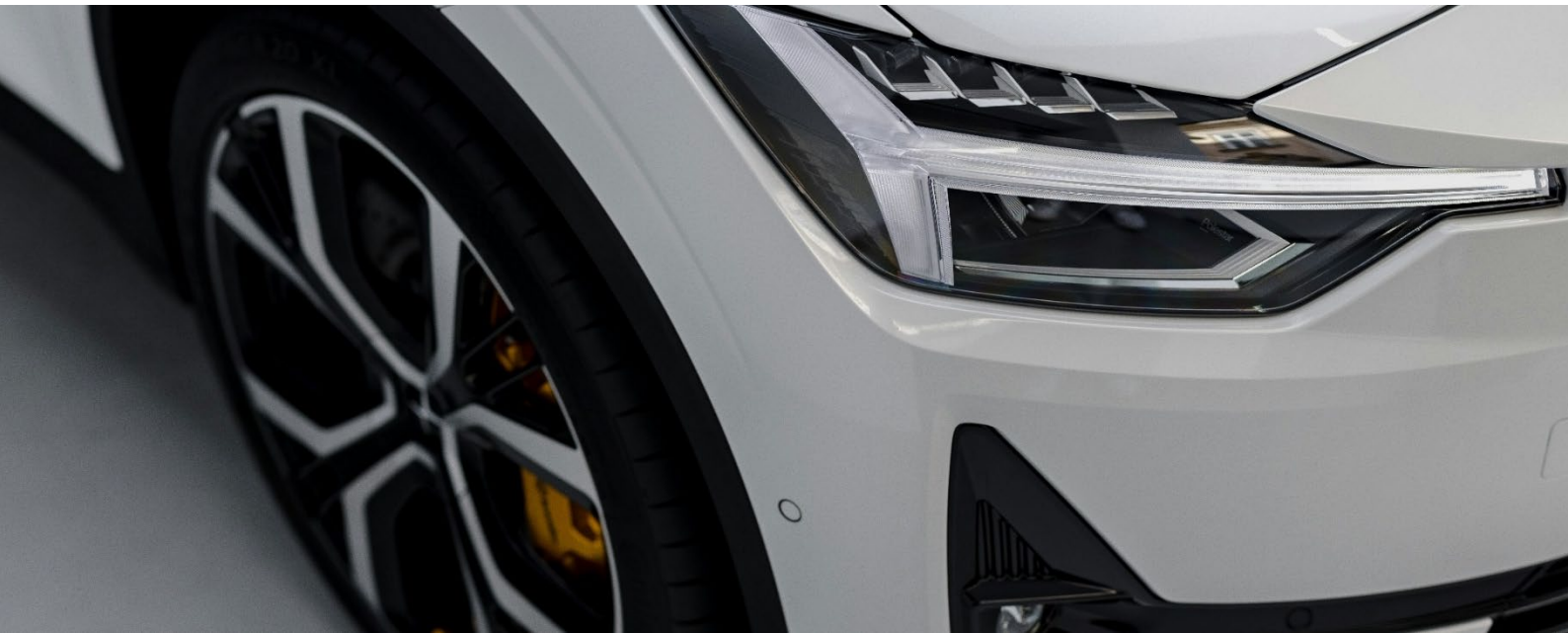
Below are some key aspects of the NVES Act which will likely be closely reviewed.

EFFECTIVENESS, OPERATION AND COMPLIANCE WITH THE NEW AUSTRALIA DESIGN RULES (ADRs)

The implemented standards which imposed stricter limits on the levels of noxious emissions, such as carbon monoxide, hydrocarbons, oxides of nitrogen, and particulates produced by new road vehicles supplied to Australia were formalised into the following ADRs:

- ADR 79/05 (Emission Control for Light Vehicles), based on UN Regulation 83/08;
  - ADR 81/03 - New ADR adopted on 18 November 2025 which aligns Australia's testing and labelling requirements for fuel consumption, CO2 emissions, energy consumption and battery range with the improved laboratory testing requirements mandated by ADR 79/05;
- ADR 111/00 (Advanced Emissions Control for Light Vehicles), based on enhanced laboratory tests for tailpipe emissions, evaporative emissions, and durability in line with UN Regulation 154; and
- ADR 112/00 (Control of Real Driving Emissions for Light Vehicles), derived from the on-road emissions.

The review is intended to consider, amongst other things, whether these ADRs for light vehicle emissions have produced their intended effect. Namely, reduced noxious emissions resulting in better control of fine particle emissions, whether enhanced on-board diagnostic systems are allowing for better oversight and compliance and whether improved emissions testing has enabled confirmation that emissions reductions are maintained during typical vehicle operation.



EFFECTIVENESS OF THE NVES EMISSIONS VALUE CREDIT COMPLIANCE SYSTEM

Regulated entities have a duty to meet or beat the emissions targets for the vehicles they supply to the Australian market over a performance period. A regulated entity includes car manufacturers, suppliers or importers that hold a vehicle type approval for a covered vehicle and enter it on the Register of Approved Vehicles. To comply with the NVES, regulated entities must have an interim emissions value (IEV) of zero or less for the performance period. An IEV is determined by an entity's total emissions across the fleet of cars they supply to the Australian market in the year. If an entity's IEV is less than zero, they will receive NVES units.

Early IEV and NVES unit figures have shown a third of car brands selling to Australia have attained an IEV above zero and thus, incurring emissions liability which may lead to a financial penalty if not remedied within a 2-year window. Given the emissions standards are to progressively get stricter the suitability of the tightening limits is sure to be considered. Including Whether the application of fleet-average CO2 emissions targets to each vehicle supplier's Australian fleet has been more effective and better for industry operationally than implementing model bans.

IMPLICATIONS FOR THE AUTOMOTIVE INDUSTRY

The implemented standards which imposed stricter limits on the levels of noxious emissions, such as carbon monoxide, hydrocarbons, oxides of nitrogen, and particulates produced by new road vehicles supplied to Australia were formalised into the following ADRs:

1. Formal opportunity for industry input

   The legislated review of the NVES Act will likely provide an opportunity for stakeholders including manufacturers, dealer associations, fleet operators, and financiers, to provide feedback on operational matters to ensure it continues to operate effectively, including that it provides an ongoing and effective contribution to the legislated targets under the *Climate Change Act 2022* (Cth).

   Should public or industry consultation be conducted as part of the NVES Act review industry stakeholders will be able to make submissions to the government regarding compliance costs, market impacts, consumer affordability, and potential unintended consequences from the NVES Act.

   Given the Government's stated intention to align Australia with international standards, in addition to reviewing the practical operation and effect of the NVES Act currently, consultation is likely to consider post-2029 targets (2030–2035) and harmonisation with EU, US and Asian regimes.

   Stakeholders in the automotive industry should stay alert to public and industry specific consultation opportunities to provide their input regarding the operation and effectiveness of the NVES Act as enacted and help inform post-2029 targets.

2. Invest in forward thinking model portfolios

   Given the NVES becomes stricter each year, manufacturers, suppliers and dealers should invest in a diversified vehicle portfolio. Though changes in model portfolio are timely and costly, those stakeholders who have and are moving towards globally aligned EV and hybrid pipelines are structurally advantaged compared to stakeholders reliant on high-emission legacy model fleets. Such factors, including anticipated time and cost, should be raised in any consultation opportunities arising from the NVES Act review.

   Because the review occurs before suppliers have fully amortised early compliance adjustments, manufacturers are incentivised to accelerate introduction of lower-emissions, hybrid and EV variants; and avoid over-reliance on transitional concessions that may not survive the review.

3. Flow-through impacts from wholesale supply decisions

Although dealers are not regulated entities under the NVES Act, the outcome of the review will inevitably influence the availability, pricing and mix of vehicles supplied to dealerships, wholesale pricing adjustments as manufacturers internalise compliance costs and incentives for lower-emissions models.

Some economic modelling predicts that costs resulting from compliance with the NVES are likely to be passed through the supply chain to dealers regardless of manufacturer compliance strategies.

A review that results in tightened targets would likely amplify supply constraints on higher-emission models; and increase dealer exposure to stock-mix risk.

Dealers should anticipate faster rotation away from traditional models, the increased role of EV and hybrid vehicle education and potential used-vehicle market distortions as consumer preferences respond to fleet-wide changes. Dealers should take the opportunity to be involved in consultations during the review to voice opinions and give insight to the practical effect and operation of the NVES Act.

1.4 *AMENDMENTS TO THE HEAVY VEHICLE NATIONAL LAW AMENDMENT ACT* 2025 (QLD)

The Heavy Vehicle National Law Amendment Act 2025 (Qld) and the *Heavy Vehicle National Amendment Regulations 2025* (Qld) (together, **Amendment Package**) received Royal Assent on 24 November 2025 and is expected to commence from 1 August 2026, with certain provisions to be commenced by proclamation. The Amendment Package represents the most significant reform to the Heavy Vehicle National Law (**HVNL**) since it commenced in 2014.

The HVNL applies nationally, other than in Western Australia and the Northern Territory, which remain outside the HVNL but maintain aligned frameworks for interstate operations. Although the Amendment Package is enacted through Queensland legislation, it takes effect across participating jurisdictions because those jurisdictions apply the HVNL as Queensland law under their own legislation. The amendments therefore flow through the established national scheme, rather than directly legislating for the whole country.

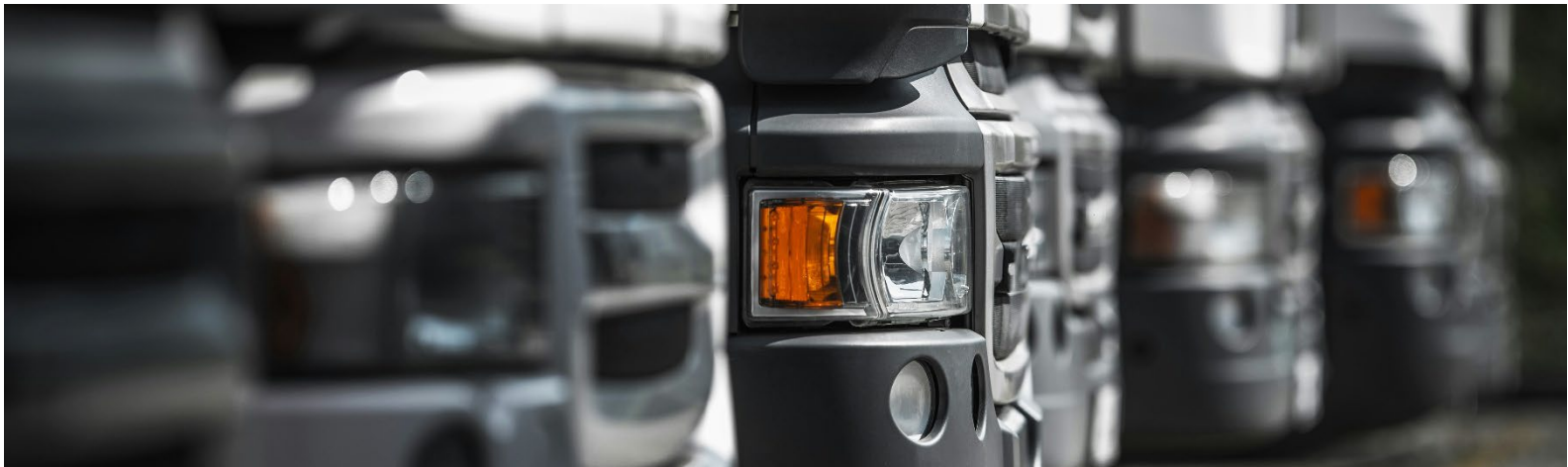
The Amendment Package implements the key recommendations arising from the National Transport Commission's multi-year Heavy Vehicle National Law Review with the aim of modernising Australia's heavy vehicle law. One of the main operational changes is the shift away from highly prescriptive requirements toward a risk-based, systems-focused and outcomes-driven regulatory framework.

The reforms do not repeal the HVNL but significantly restructure its compliance, accreditation and enforcement frameworks. They are intended to ensure the HVNL remains fit for purpose having regard to evolving industry practices, technological developments and contemporary safety expectations.

The following key recommendations from the Heavy Vehicle National Law Review were implemented by the Amendment Package:

- **New Heavy Vehicle Accreditation (HVA) Scheme and Safety Management System Standard (SMS Standard):** The reforms have introduced a tiered accreditation framework comprising General Safety Accreditation (**GSA**) as the baseline pathway and Alternative Compliance Accreditation (**ACA**). GSA requires operators to implement and maintain a Safety Management System (**SMS**) to identify and manage safety risks, with compliance demonstrated through independent audit. ACA, available to operators holding GSA, provides a pathway for flexible compliance options, including in relation to fatigue management and general mass limits, through approved alternative arrangements. Accreditation is granted by the National Heavy Vehicle Regulator (**Regulator**), and SMSs must meet the SMS Standard, a Ministerially approved standard that prescribes auditable evidence requirements, with audit outcomes able to be relied on in primary duty proceedings.

- **Transition arrangements:** The new two-tier accreditation system operates alongside the existing National Heavy Vehicle Accreditation Scheme (**NHVAS**) for a transition period of up to three years, allowing operators to move across to the HVA scheme progressively.
- **A fit-to-drive duty:** A new safety duty, applying to drivers of heavy vehicles over 4.5 tonnes, is being implemented where drivers must not drive if unfit for any reason. This duty expands beyond fatigue to cover injury and mental health impairment, and impairment by drugs or alcohol, with corresponding obligations imposed on parties in the chain of responsibility.
- **National Audit Standard (NAS)**: Enables impartial audits of SMS and accreditation requirements under GSA and ACA. Operators are expected to conduct ongoing internal audits and maintain evidence to support regulator assurance.
- **Improved code of practice framework:** The reforms streamline the development and approval of codes of practice and shift primary responsibility for their preparation to the Regulator. Codes are intended to play a more central role in demonstrating compliance with safety duties, with an enhanced evidentiary status in enforcement proceedings. Compliance with an approved code may be relied upon as evidence of having met relevant duties under the HVNL, while failure to comply does not of itself constitute a breach but may be used as evidence in determining whether a duty has been contravened. This provides a clearer and more practical evidentiary pathway for operators to demonstrate compliance.
- **New ministerial direction and approval powers:** Supporting accreditation and code of practice changes.
- **Improved governance for Regulator Board:** Modernising the operation of the Regulator Board and permitting responsible ministers to approve a statement of expectations for the Regulator in the exercise of its functions.
- **Improved enforcement:** Recalibrates more than 70 penalties to better reflect risk, consolidates or removes minor administrative offences, and makes greater use of improvement notices, warnings and alternative verdicts. Technical detail and certain offences are relocated to regulation, improving flexibility while retaining parliamentary oversight.
- **Productivity reforms:** Amendments to mass, dimension and access settings aim to improve freight efficiency and reduce reliance on permits, with further detail to be prescribed by regulation. These include expanded concessional settings and alignment with Euro VI vehicle capabilities.
- **Alignment with Australian Design Rule 80/4:** ADR 80/4 introduced a new emissions standard for new heavy vehicles which aligns with the European Euro VI standard. To meet this higher emissions standard the vehicles must incorporate additional and more advanced emissions systems which means the vehicles are generally heavier than earlier models.
    - To enable compliance with ADR 80/4, the Amendment Package increased mass limits for ADR 80/4 heavy vehicles and increased the vehicle length limit from 19m to 20m. Further, Euro VI concessions were expanded to include road trains and tag trailer tow mass ratios and operating conditions were also updated.



IMPLICATIONS FOR THE AUTOMOTIVE INDUSTRY

While the Amendment Package does not directly regulate truck dealers, it has practical and compliance-adjacent implications for dealers through their role in supplying vehicles to operators subject to the HVNL and chain of responsibility (COR) framework.

Dealers will not generally hold primary liability for operational breaches (such as fatigue or driving offences), which rest with drivers and operators. However, dealers may be exposed to COR risk where their conduct, representations or supply arrangements influence or contribute to non-compliance.

In this context, dealers should be mindful of the following key impacts:

Increased customer due diligence and specification requirements: Fleet operators transitioning to the new HVA scheme will require vehicles capable of supporting SMS compliance, safety monitoring and audit assurance.

Dealers will increasingly be asked to supply vehicles with integrated telematics, fatigue monitoring capability, load management systems and emissions-compliant configurations. Dealers should be prepared to understand and explain these features and ensure vehicle specifications align with customer regulatory obligations.

Product knowledge and advisory risk:

Dealers may face risk where they provide guidance or representations about vehicle capabilities (including mass limits, access eligibility or ADR 80/4 compliance) that are incorrect or incomplete. Misstatements could contribute to a downstream COR breach. Dealers should ensure sales staff are trained and that technical representations are accurate, documented and, where appropriate, qualified.

ADR 80/4 and Euro VI compliance considerations: Changes to mass, dimension and loading settings (including Euro VI concessions) will affect vehicle specifications and permissible configurations.

Dealers will need to ensure that vehicles sold as ADR 80/4 or Euro VI compliant are correctly specified and supported with appropriate documentation (including manufacturer ratings and approvals). Dealers should also be aware of the interim NHVR enforcement approach and clearly communicate any limitations or conditions attaching to mass concessions.

Contractual protections and allocation of risk: Given the increased reliance by operators on vehicle capability to meet regulatory requirements, dealers should review sales contracts, warranties and disclaimers to ensure risk is appropriately allocated. This may include clarifying the limits of dealer responsibility for regulatory compliance and ensuring reliance on manufacturer specifications is appropriately documented.

Chain of responsibility awareness: The expanded fit-to-drive duty and broader COR obligations reinforce that multiple parties can be captured where their conduct influences safety outcomes.

Dealers may fall within the COR where they influence vehicle configuration, induce or encourage non-compliant use, or supply vehicles unsuitable for the intended operational task. While exposure is generally lower than for operators, dealers should implement internal processes to avoid facilitating unsafe or non-compliant outcomes.

After-sales and modification risk: Where dealers undertake or arrange modifications (for example, fitting equipment, adjusting configurations or facilitating PBS approvals), they should ensure those modifications are compliant with HVNL requirements and supported by appropriate engineering or regulatory approvals.

Transition and market demand impacts: The transition to the HVA scheme and increased focus on safety systems and emissions standards is expected to influence purchasing behaviour.

Dealers should anticipate increased demand for higher-specification vehicles, customised configurations and vehicles capable of supporting accreditation outcomes, and should align inventory and supplier engagement accordingly

1.5 *CONTROL OF VEHICLES (OFF-ROAD AREAS) AMENDMENT* ACT 2025 (WA)

The Western Australian Parliament enacted the *Control of Vehicles (Off-Road Areas) Amendment Act 2025* (WA), which received Royal Assent on 22 August 2025. The purpose of the reforms to Western Australia's off-road vehicles (**ORVs**) regulation was to modernise off-road vehicle regulation, improve compliance with such regulation, deter illegal and antisocial ORV use with a particular focus on areas which are prohibited or environmentally sensitive.

The reform is directed at recreational off-road vehicles, including trail bikes, quad bikes, ATVs and similar vehicles, which are manufactured, sold and services by a defined segment of the automotive industry. Under the previous framework, registration required an in-person statutory declaration, creating administrative burdens for users, limiting dealership involvement, and creating barriers to accessibility of registering ORVs.

The key reforms implemented via the amendment are as follows:

- **Online Registration:** Removal of the statutory declaration requirement enables online registration and renewal, significantly improving accessibility, convenience and compliance.
- **Flexible Identification**: Registration stickers permitted as an alternative to traditional number plates, benefiting vehicles not designed to accommodate plates, aligning with best practice in other jurisdictions.
- **Stronger Penalties:** Maximum court-imposed fine increased to $5,000, aligning with penalties under the *Road Traffic (Vehicles) Act 2012* (WA). Offences include operating unregistered vehicles, riding in prohibited areas, and engaging in unsafe or antisocial behaviour.

IMPLICATIONS FOR THE AUTOMOTIVE INDUSTRY

INCREASED LEGITMACY AND DEMAND FOR COMPLIANT ORVs

Simplified registration processes and the ability to complete online registration reduces barriers to lawful ORV ownership which in turn should result in an increase in registration rates. The facilitation of online registration can be integrated into dealership sales workflows, lowering transaction costs for dealerships and reducing post-sale friction and customer inconvenience.

For importers of ORVs this will support greater demand for new ORV's and incentivise compliance-ready product design (i.e. space for registrations stickers rather than registration plates).

COMPLIANCE RISK

The increased in maximum court-imposed penalties from $1,000 to $5,000 are intended to deter riding in prohibited areas, use of unregistered ORVs and dangerous off-road driving behaviour. Such penalties heighten the importance of dealer compliance, particularly where dealers sell ORVs that are intended for use in off-road areas or facilitate registration as part of a bundled sale arrangement.

There are also indirect industry impacts including, shifting consumer behaviour towards registered, dealer supplied vehicles and reduced tolerance for grey-market supply chains. Along with other aspects of the reform, the increased penalties and improved enforcement provide industry growth opportunities by boosting participation in off-road activities, increasing demand for vehicles, accessories, and servicing.

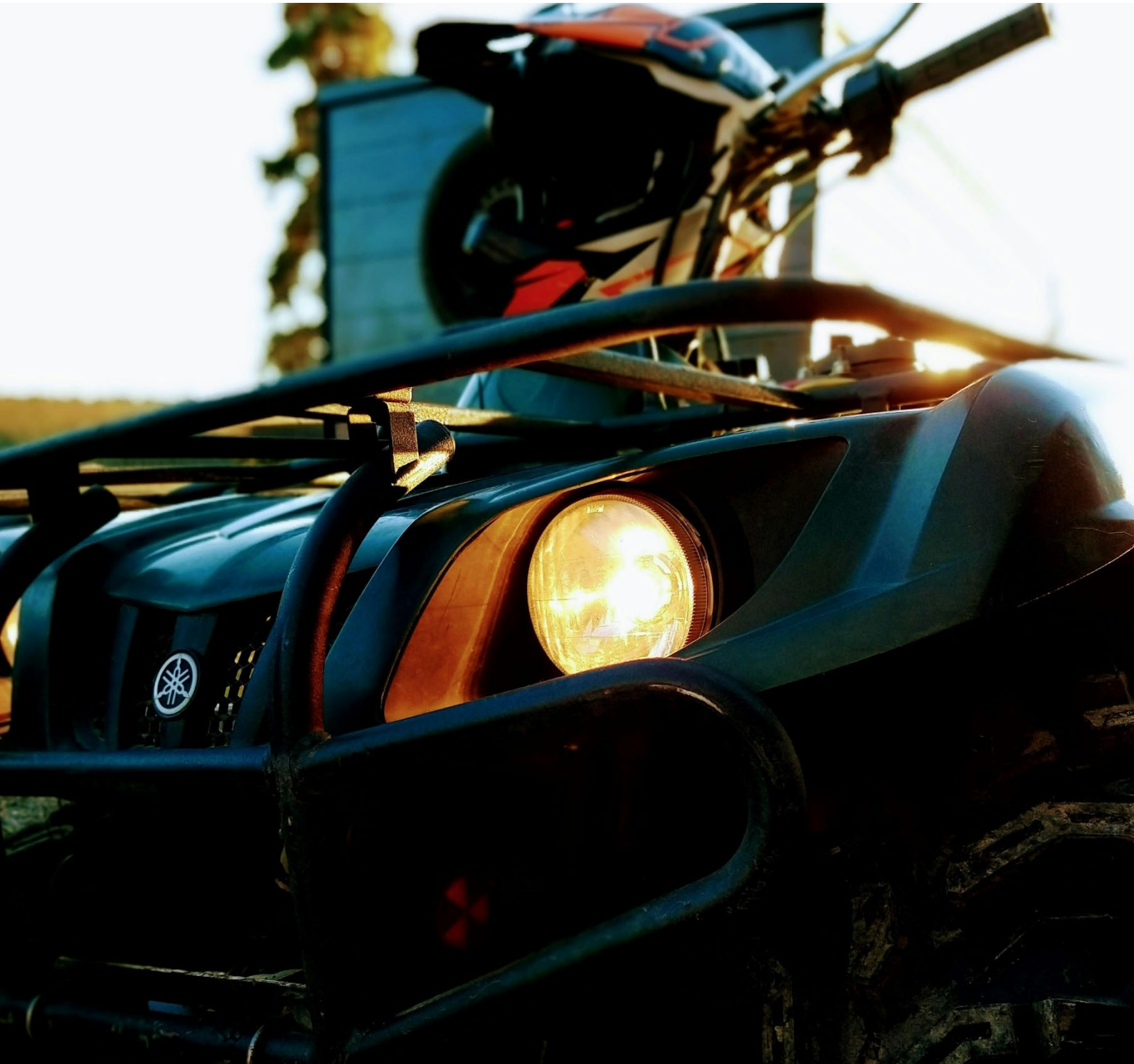
FUNDING FLOW-ON EFFECTS FOR INDUSTRY INFRASTRUCTURE

Registration fees collected under the *Control of Vehicles (Off-road Areas) Act 1978* (WA) are deposited into a special purpose account, which local governments can access to fund the development and maintenance of ORV areas.

these reforms should increase registration volumes, thus expanding funding available for ORV facilities; and indirectly supporting industry growth through improved riding infrastructure and tourism appeal.

The *Control of Vehicles (Off-road Areas) Amendment Act 2025* (WA) represents a forward-looking approach to ORV regulation in Western Australia. By simplifying registration, introducing flexible compliance options, and strengthening enforcement, the legislation supports safer and more accessible off-road recreation while creating new opportunities for the automotive industry.

Automotive businesses should prepare to integrate ORV registration services and leverage marketing opportunities tied to WA's growing off-road recreation sector.



1.6 *ROAD TRANSPORT AMENDMENT (NON-REGISTERABLE MOTOR VEHICLES) ACT 2026 (NSW)*

The *Road Transport Amendment (Non-Registerable Motor Vehicles) Act 2026* (NSW) (Act No 13 of 2026) (the Act) introduces a targeted enforcement framework addressing the use of high-powered and non-compliant vehicles that cannot be registered but are nonetheless operated unlawfully in public areas.

While these vehicles may be lawfully supplied for off-road or private use, the new framework reflects increased regulatory scrutiny where such vehicles are supplied, marketed or distributed in circumstances suggesting a likelihood of unlawful on-road use, despite non-compliance with registration or safety standards.

This places greater emphasis on how such vehicles are positioned, sold, and described by manufacturers, importers, and dealers, including the need for clear disclosures and appropriate controls regarding intended use.

LEGISLATIVE OVERVIEW

The Act was introduced into the Legislative Council on 26 March 2026 and received Royal Assent on 1 June 2026.

The Act amends the *Road Transport Act 2013* (NSW) to establish a specific compliance and enforcement framework for non-registerable motor vehicles, including certain electric motorbikes, dirt bikes and high-powered e-bikes.

It is directed primarily at strengthening enforcement powers in relation to unlawful use of these vehicles in public areas, including by replacing existing court-based forfeiture processes with a more streamlined administrative regime.

KEY UPDATES

The Act does not expand registration requirements but introduces a dedicated compliance and enforcement regime for non-registerable motor vehicles.

- Definition and scope: The Act introduces a statutory definition of "non-registerable motor vehicle", capturing vehicles that cannot meet registration requirements but are used unlawfully in public areas.
- Expanded seizure and impounding powers: New section 79A empowers authorised officers to seize and impound suspected non-registerable vehicles used within the previous 28 days, subject to notice requirements.
- Return and forfeiture process: Section 79B allows applications for return within 14 days under strict conditions, failing which vehicles may be forfeited to the Crown and disposed of.
- Surrender notice regime: New section 255A allows officers to issue immediate surrender notices for suspected non-registerable vehicles, with non-compliance constituting an offence.
- Inspection and enforcement powers: Section 255B confers express powers to stop, inspect and make inquiries in relation to suspected non-registerable vehicles, strengthening on-road enforcement capability.
- Liability protections and cost recovery: Sections 255C and 255D provide protections for enforcement action taken in good faith and enable recovery of costs associated with seizure, storage and disposal of vehicles.
- Statutory review mechanism: The Act provides for a future statutory review of the framework to assess its operation and effectiveness.

IMPLICATIONS FOR THE AUTOMOTIVE INDUSTRY

The Act increases enforcement risk for businesses involved in the supply of high-powered or non-compliant vehicles, particularly where those vehicles are capable of unlawful on-road use.

- **Increased enforcement exposure:** Expanded seizure and administrative forfeiture powers heighten regulatory risk where vehicles are used unlawfully, including potential flow-on impacts for suppliers where there is regulatory scrutiny of the circumstances of supply.
- **Heightened scrutiny of marketing and distribution practices:** Greater focus is likely to be placed on how vehicles are marketed and represented, particularly where product characteristics may indicate a likelihood of on-road use despite being non-registrable.
- **Product design and compliance pressure:** Manufacturers and importers may face increased pressure to align vehicle specifications with registrable categories or clearly delineate products intended strictly for off-road use.
- **Clearer regulatory boundaries:** The framework reinforces the distinction between compliant e-bikes and higher-powered devices that are more appropriately characterised as motor vehicles but cannot meet registration requirements.
- **Alignment with broader regulatory trends:** The Act reflects a broader policy shift toward proactive, safety-focused enforcement in relation to micromobility and unconventional vehicles, complementing recent reforms addressing insurance, safety standards and road use.

1.7 PRODUCT LIFECYCLE RESPONSIBILITY REGULATION 2026

On 20 February 2026, the NSW Environment Protection Authority (**EPA**) published the *Product Lifecycle Responsibility Regulation 2026* (NSW) (**Regulation**), made under the *Product Lifecycle Responsibility Act 2025* (NSW) (the **Act**).

The Regulation establishes Australia's first mandatory product stewardship scheme for batteries and will come into effect on 1 October 2026. The implementation of this Regulation comes in response to a rise in battery-related fires, many of which are caused by lithium-ion batteries incorrectly disposed of in household waste.

KEY ASPECTS OF THE REFORM

The Regulation shifts NSW from a voluntary, industry-led model to a mandatory framework carrying civil and criminal penalties.

The following are designated as regulated batteries:

- standard household sizes (AAA, A, C, D, 9V, 6V lantern);
- button and button cell batteries;
- removeable rechargeable batteries weighing 5kgs or less;
- rechargeable batteries used to power e-micromobility devices (including e-bikes and e-scooters, whether or not the battery is removable); and
- portable power banks weighing 5kgs or less.

HOW WILL THE REFORMS BE IMPLEMENTED:

The EPA plans to enter into a stewardship administration agreement with a product stewardship organisation(s) (**PSO**) to administer the scheme. If there is a stewardship administration agreement in place for a regulated battery, it will be mandatory for a brand owner supplying such battery in NSW to be party to an agreement with the designated PSO. Until a PSO is appointed, brand owners supplying regulated batteries will remain individually responsible and must comply with the product stewardship requirements.

A brand owner is defined as the person who is responsible for bringing a regulated battery into NSW for supply. Brand owners must register with a PSO once appointed, must notify the PSO before first supply, maintain records for minimum 6 years and report annually. Non-compliance with safety requirements carries penalties of up to $220,000 for individuals and $880,000 for corporations.

If a stewardship administration agreement is in place for regulated battery types once the scheme starts, brand owners must join and contribute fees based on the batteries they supply to fund the management, administration and operation of the scheme to ensure safe collection and recycling of batteries when they reach end of life.

Key features of the regulation include:

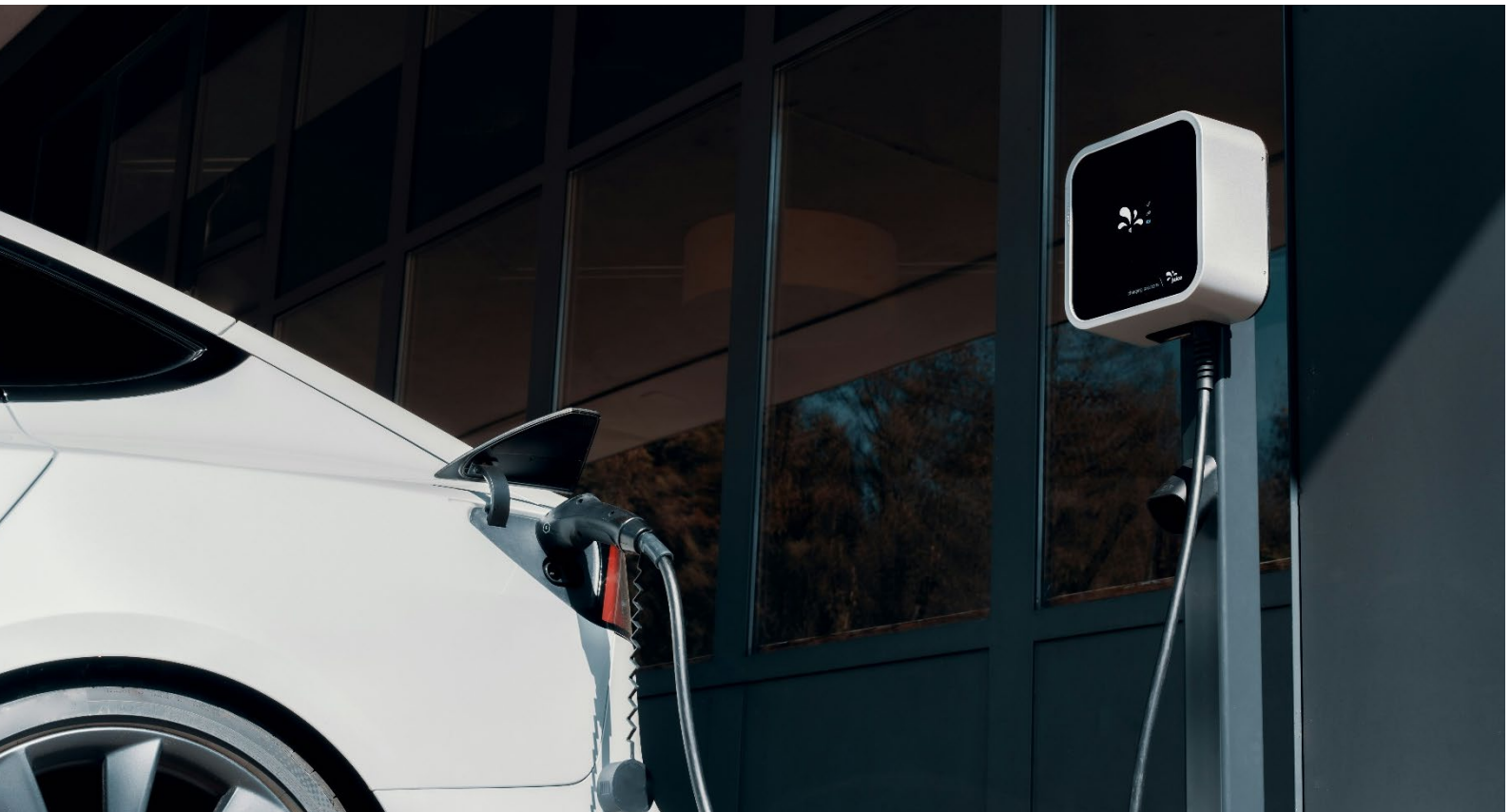
- dedicated battery drop-off points for the community;
- public education to improve awareness of battery fire risks;
- annual reporting on the number and types of batteries supplied in NSW; and
- improved transparency about types of batteries collected and the scheme's performance.

IMPLICATIONS FOR THE AUTOMOTIVE INDUSTRY

In the immediate short term, the new law does not include Electric Vehicle (**EV**) battery packs. However, the legislative framework is expressly designed to expand to other products over time. The NSW law will be supported by a mandatory NSW Product Stewardship scheme with the very real potential to start a move towards Product Stewardship of all Lithium batteries. The automotive industry should be aware of and view the current Regulation as a precursor to future EV battery stewardship.

Further, there could be circumstances where parts of an EV battery (e.g. battery cell) may fall into the category of batteries covered by the new law. Section 6(2)(b) of the Act is of importance to NSW car dealers, and their service departments as it mandates that a 'brand owner' in relation to the supply of the product in that state could be taken to mean a person who is a franchisee under a business arrangement that allows the person to supply the product in the State.

Early alignment with these circular-economy principles, including reviewing investment decisions around battery modularity, recyclability and take-back logistics, may reduce future regulatory shock should this scheme extend to EV battery packs.



2. Proposed Legislative Updates

2.1 ROAD VEHICLE STANDARDS AMENDMENT (SAFER E-BIKES) BILL 2025 (CTH)

The Road Vehicle Standards Amendment (Safer E-Bikes) Bill 2025 (Cth) (t**Bill**) proposes significant reforms to Australia's national vehicle regulatory framework by bringing electrically power-assisted cycles (**e-bikes**) and certain emerging vehicle types within the scope of Commonwealth regulation. The Bill responds to increasing safety, consumer protection and regulatory concerns arising from the rapid growth and technological diversification of e-bikes in Australia.

Introduced as a Private Member's Bill in September 2025 by Dr Sophie Scamps MP, the Bill has not yet been enacted. If enacted, it would mark the first time e-bikes are expressly regulated as road vehicles under Commonwealth legislation, representing a notable expansion of national vehicle standards beyond traditional passenger and commercial vehicles.

LEGISLATIVE OVERVIEW

The Bill proposes amendments to the *Road Vehicle Standards Act 2018* (Cth) (**Act**), which establishes the national framework for regulating road vehicles and vehicle components, including through nationally determined vehicle standards (such as the Australian Design Rules) and controls on vehicle importation and supply. Currently, (e-bikes) are excluded from the definition of 'road vehicle' under legislative instruments made for the purposes of the Act.

The amendments seek to address concerns that existing regulatory settings have not kept pace with increased e-bike uptake, particularly the growing importation of non-compliant or modified models that present safety risks. The Bill highlights the absence of nationally consistent standards governing e-bike safety features, speed capabilities and anti-tampering protections.

KEY UPDATES

The Bill does not replace the Act but expands its scope to incorporate e-bikes and related vehicle categories:

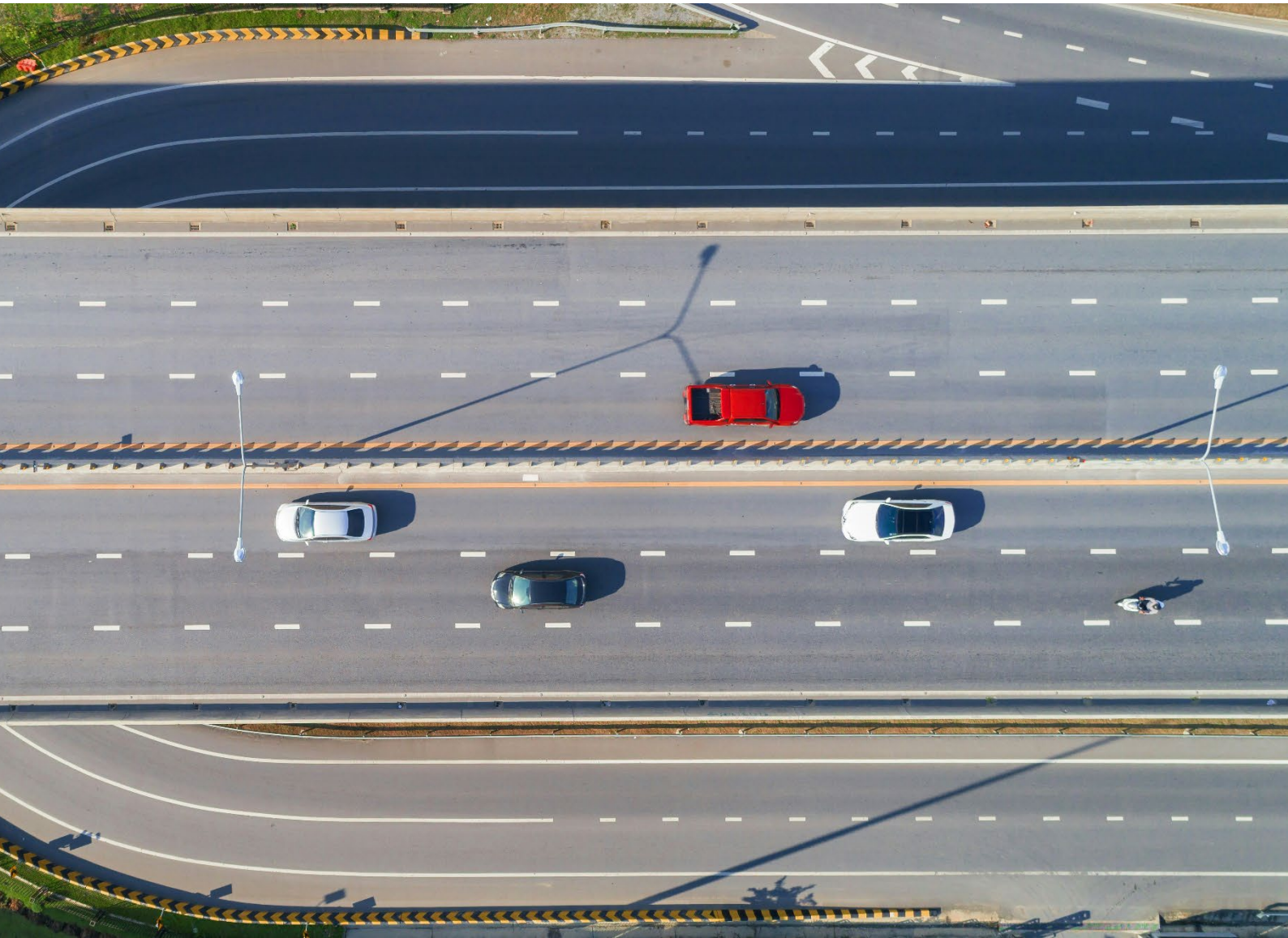
- **Classification of e-bikes as road vehicles:** e-bikes are brought within the definition of "road vehicle", defined consistently with Australian Design Rule terminology as pedal cycles with a maximum continued rated motor power of 250 watts and speed assistance that progressively reduces and cuts out at prescribed thresholds.
- **Mandatory national standard for e-bikes:** The Minister is required to determine a national road vehicle standard for e-bikes within six months of commencement, addressing safety and design requirements aligned with European Standard EN15194, including operational pedal cranks, adjustable seats and anti-tampering protections.
- **Introduction of 'powerful e-bikes' category:** A new vehicle category is created for two- or three-wheeled electric vehicles that do not meet the definition of e-bikes and are not otherwise classified as mopeds or motorcycles. These vehicles are expressly regulated as road vehicles and subject to a separate national standard reflecting higher safety risks associated with increased power and speed.
- **Targeted regulatory exemptions:** e-bikes that comply with the national standard are exempt from Part 2 of the Act, which governs vehicle approval, importation and modification. Additional exemptions may apply to vehicles designed for use by people with disability or for off-road use, through ministerial or secretarial determinations.

- **Legislative alignment**: The Bill removes outdated definitions and provisions from existing vehicle standards to ensure consistency with the updated regulatory framework and alignment across national instruments.

IMPLICATIONS FOR THE AUTOMOTIVE INDUSTRY

The proposed reforms signal a substantial expansion of Commonwealth regulation into the e bike and broader micromobility sector, such as electric scooters and other small, low speed personal transport devices. While this sector sits outside the traditional automotive industry, the changes are relevant for automotive industry participants considering diversification, product development or supply into micromobility markets, given the evolving regulatory landscape.

- **Increased compliance obligations:** Industry participants will be required to meet newly prescribed national standards, particularly in relation to safety systems, speed limitations and anti-tampering requirements.
- **New regulatory framework for higher powered vehicles:** Suppliers of higher-powered electric mobility products will be brought within a formal approval regime through the introduction of the 'powerful e-bikes' category, capturing previously unregulated models.
- **Market standardisation:** The introduction of consistent national standards is likely to improve safety outcomes and reduce fragmentation across jurisdictions, creating a more predictable regulatory environment.
- **Broader policy direction:** The Bill indicates a shift towards greater federal oversight of emerging vehicle technologies, potentially foreshadowing further regulation of micromobility and electric transport devices at the national level.



2.2 ROAD LEGISLATION AMENDMENT (E-BIKE REGULATION) BILL 2026 (NSW)

The Road Legislation Amendment (E-Bike Regulation) Bill 2026 (NSW) (**Bill**) proposed a framework regulating the sale, ownership and use of e-bikes in New South Wales, in response to increasing safety and consumer protection concerns.

Introduced as a Private Member's Bill by Ms Jacqui Scruby MP in March 2026, the Bill lapsed shortly after introduction and has not progressed. However, it provides a useful indication of the likely direction of State-based reform.

OVERVIEW AND KEY FEATURES

The Bill proposes targeted amendments to the Road Transport Act 2013 (NSW), the Road Rules 2014 (NSW) and related legislation to regulate e-bikes into the existing road transport framework, while maintaining their distinction from motor vehicles.

Key elements included:

- **Comprehensive lifecycle regulation:** A framework governing the sale, ownership and on-road use of e-bikes.
- **Point-of-sale obligations:** Retailers and suppliers are required to ensure compliance with prescribed safety and legal standards.
- **Flexible rule-making powers:** Enabling detailed regulation of classification, power outputs and operational requirements.
- **User obligations:** E-bikes are regulated more closely in line with bicycles rather than motor vehicles, requiring riders to operation e-bikes with applicable rules.
- **Enhanced enforcement:** Expanded compliance and inspection powers targeting unsafe or non-compliant devices.

INTERACTION WITH THE COMMONWEALTH FRAMEWORK

The Bill would have operated alongside the proposed in the Road Vehicle Standards Amendment (Safer E-Bikes) Bill 2025 (Cth) (Commonwealth Bill), reflecting the division between.

The two frameworks are complementary and reflect the conventional regulatory division between:

- Commonwealth regulation of vehicle standards and supply; and
- State regulation of road use and enforcement.

Together, the regimes point to a dual-layered framework, with nationally determined product standards complemented by State-based operational control. In particular, higher-powered devices captured as 'powerful e-bikes' at the Commonwealth level may be subject to more restrictive treatment under each State's road rules.

IMPLICATIONS FOR THE AUTOMOTIVE INDUSTRY

Although the Bill has lapsed, it signals a clear direction of regulatory reform at the state level.

- **Dual compliance exposure:** Dealers entering the micromobility market would need to address both Commonwealth product standards and State-based retail and use requirements.
- **Increased retail accountability:** Point-of-sale obligations would require careful product classification and compliance verification.
- **Classification risk:** Higher powered or modified devices may fall outside bicycle-aligned frameworks, attracting greater scrutiny.

- **Regulatory trajectory:** Consistent with the Commonwealth Bill, the Bill indicates increasing regulatory oversight of micromobility, particularly, at the intersection with traditional vehicle markets.

2.3 MOTOR VEHICLES TAXATION AMENDMENT (RURAL VEHICLES) BILL 2026 (NSW)

The Motor Vehicles Taxation Amendment (Rural Vehicles) Bill 2026 (NSW) (**Bill**) proposed targeted reforms to reduce motor vehicle tax burdens for rural residents using heavier vehicles for work and transport.

The Bill was introduced as a Private Member's Bill on 26 March 2026 but did not progress through Parliament, lapsing on 20 May 2026 and is no longer for active consideration.

3. Policy Update

3.1 NEW VEHICLE EFFICIENCY STANDARD 2026 PERFORMANCE PERIOD & FIRST COMPLIANCE SIGNALS

As discussed in section 1.3, the New Vehicle Efficiency Standard (**NVES**) is Australia's mandatory CO_2 emissions standard for new passenger cars and light commercial vehicles (**LCVs**) entering the Australian market. It was established under the New Vehicle Efficiency Standard Act 2024 (Cth) (**NVES Act**) which commenced on 1 January 2025, with compliance and the first performance period beginning on 1 July 2025.

For 2025, the headline fleet-average CO_2 emissions limits were:

- 141 g/km CO_2 for Type 1 vehicles (passenger cars, hatchbacks, most SUVs); and
- 210 g/km CO_2 for Type 2 vehicles (LCVs - utes, vans, and some heavier SUVs).

These limits decrease annually, progressively tightening the standard over time. Regulated entities that outperform their applicable fleet-average emissions target are issued tradeable NVES units, while those that exceed their target accrue liabilities. Entities generally have up to two years to acquire or generate sufficient units to offset those liabilities before final reconciliation, failing which aa financial penalty is payable.

Penalties are calculated by reference to the entity's final emissions value with a statutory maximum of $100 per excess g/km, although infringement notices are typically issued on the basis of $50 per unit. The scheme thereby establishes a tradeable compliance unit framework analogous to a carbon market, specific to the light vehicle sector.

2026 UPDATE

On 18 February 2026, the NVES Regulator published the first performance period results for the 2025 reporting year. This is the first empirical data point on how the scheme is reshaping the Australian new vehicle market, and an important early indicator of likely supply, pricing and compliance dynamics going forward.

The 2025 performance period covered the six months from 1 July to 31 December 2025 only (the only truncated period under the scheme; all subsequent periods run for a full calendar year). Key headline results included:

- 59 regulated entities entered a total of 620,947 NVES-covered vehicles on the Register of Approved Vehicles (RAV) during the period.
- Approximately 68% of regulated entities beat their fleet emissions targets.
- 12% of all covered vehicles were zero-emissions vehicles, supplied across 40 entities.
- 40 outperforming entities generated a combined 17.2 million NVES units in credits.
- The industry-wide net surplus position was approximately 15.94 million NVES units creating a substantial tradeable credit pool from the scheme's first period.
- Overall, new light passenger vehicles beat their emissions targets by 21%, averaging 114 g/km CO_2 against a 141 g/km CO_2 target. Light commercial vehicles cleared the bar more narrowly, averaging 199 g/km CO_2 against a 210 g/km target.
- Estimates suggest that the scheme likely contributed to the first fall in transport emissions in Australia since COVID-19. Early estimates suggest the cleaner vehicles registered under the NVES will prevent between 190,000 and 220,000 tonnes of CO_2 from entering the atmosphere annually over their on-

road life, which is the equivalent of removing approximately 100,000 older, higher-emission vehicles from the road.

The 2025 targets were intentionally designed to be achievable to ease the industry into the scheme. As targets tighten in coming years, particularly from 2027 onwards, the compliance burden on entities currently in deficit will escalate. For light commercial vehicles in particular, analysts have flagged a potential compliance wall as early as the 2026 period if hybrid and electric ute supply does not increase materially.

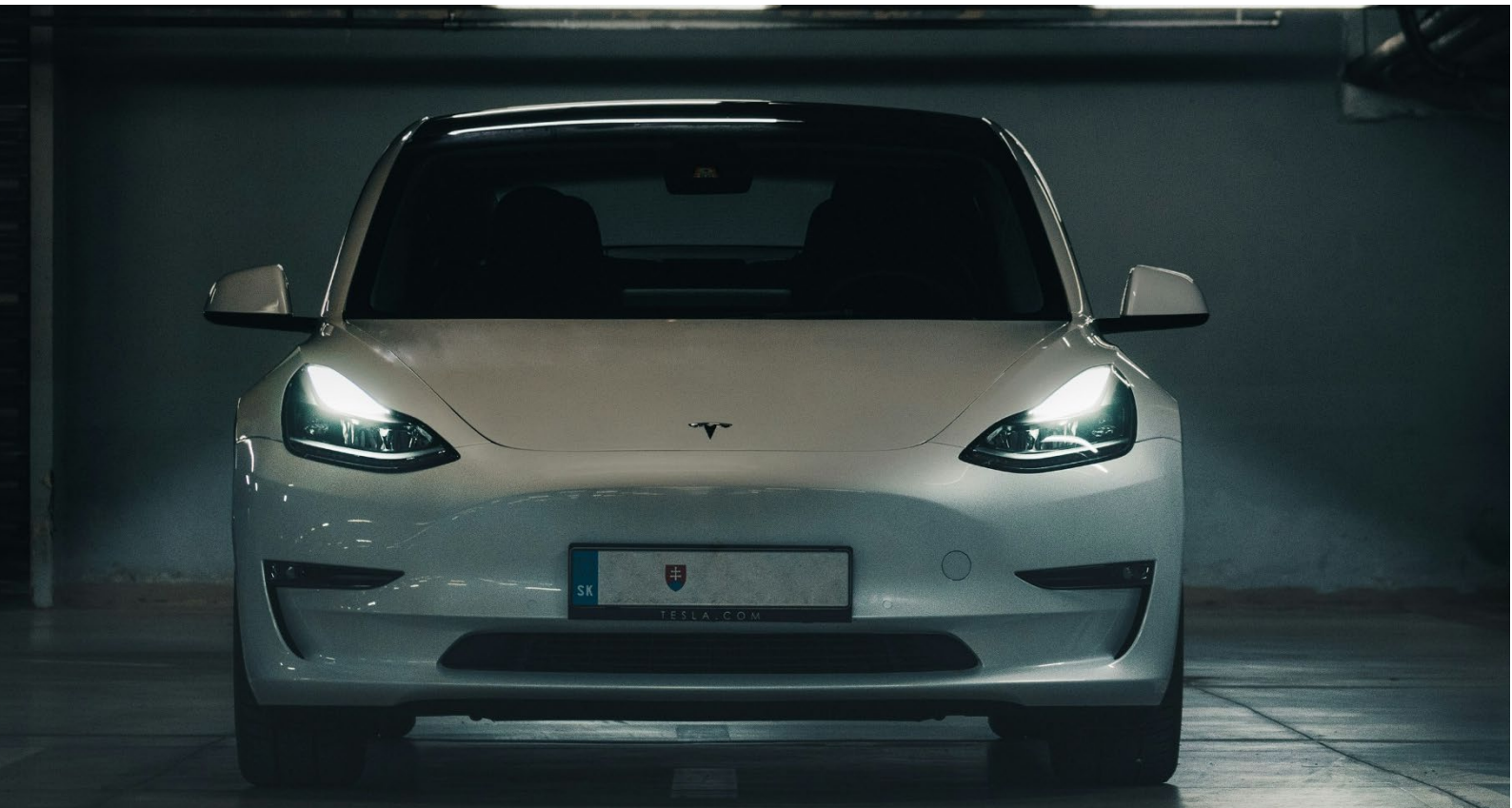
The first performance period results provide several actionable signals:

- Entities accumulating liabilities should urgently review their unit trading options and model mix strategies, as the two-year window to resolve 2025 liabilities runs until end-2027.
- Dealers and distributors should consider how the NVES credit and liability positions of their supplier brands may influence model availability and wholesale pricing going forward.
- The credit surplus currently in the market may support compliance flexibility in 2026, but this buffer is likely to narrow as targets tighten.

IMPLICATIONS FOR THE AUTOMOTIVE INDUSTRY

The NVES 2025 performance results are directly relevant to the Australian automotive industry because they provide the first concrete evidence of how emissions regulation is reshaping vehicle supply, pricing, and competitive strategy across the market. The initial results indicate relatively strong compliance, particularly the large surplus of tradeable credits and widespread target-beating by manufacturers, indicates that many brands can temporarily rely on accumulated credits to manage future obligations, but tightening limits will progressively force a shift toward lower-emission and zero-emission vehicles, particularly in segments such as utes and LCVs where compliance margins are generally narrower.

These dynamics are likely to influence model availability, accelerate the introduction of hybrid and electric variants, and create compliance-related cost pressures that may be passed through the supply chain to dealers and consumers. Ultimately, the NVES embeds emissions performance as a core commercial constraint, making regulatory compliance a central consideration in market competitiveness, product planning, and long-term investment across the Australian automotive sector.



3.2 AUSTRALIAN COMPETITION & CONSUMER COMMISSION'S 2026-2027 ENFORCEMENT PRIORITIES: EMPHASIS ON AUTOMOTIVE SECTOR

On 19 February 2026, Australian Competition & Consumer Commission's (**ACCC**) Chair Gina Cass-Gottlieb delivered the regulator's annual compliance and enforcement address to the Committee for Economic Development of Australia (**CEDA**), formally announcing the ACCC's 2026-27 Compliance and Enforcement Priorities. The motor vehicle sector featured prominently, with the ACCC explicitly naming it as a focus area for consumer guarantee compliance. This is a continued focus from prior years.

The ACCC framed its priorities around two foundational principles: protecting and promoting competition; and strengthening consumer trust in markets. Chair Cass-Gottlieb noted that the ACCC would continue to push for high penalties where deliberate conduct causes significant harm and would focus on the accountability of senior executives where a poor compliance culture exists within a business.

KEY PRIORITIES RELEVANT TO THE AUTOMOTIVE SECTOR

The following three areas from the ACCC's 2026-27 agenda are of direct relevance to automotive industry participants:

1. Consumer Guarantees Compliance: Focus on Motor Vehicles

   For 2026-27, the ACCC has specifically identified the motor vehicle sector as its primary consumer guarantees enforcement focus. Chair Cass-Gottlieb acknowledged that difficulties in accessing consumer guarantee rights remain among the most common issues raised with the ACCC. Given that vehicle purchases represent one of the largest consumer outlays, the ACCC considers enforcement in this space a high priority. The ACCC indicated it would explore collaborative approaches with industry, while making clear that enforcement action would follow non-compliance.

   The Australian Automotive Aftermarket Association (AAAA) has welcomed the ACCC's focus on consumer guarantees in the motor vehicle sector, highlighting persistent consumer confusion around the interplay between manufacturer warranties, extended warranties and statutory rights under the Australian Consumer Law (ACL). The AAAA emphasised that consumer guarantees arise automatically, cannot be excluded, and continue to apply regardless of warranty status or whether a vehicle is serviced by a dealer or an independent repairer. Citing research indicating that up to 60% of consumers may be misinformed or uncertain about these rights, the AAAA noted that this confusion raises both consumer protection and competition concerns. It has accordingly called for clearer, more accurate communications from manufacturers, dealers and warranty providers, particularly where warranty terms or servicing conditions risk overstating limitations on consumer rights and has expressed support for the ACCC's combined approach of industry engagement and enforcement.

2. Misleading Environmental and Sustainability Claims (Greenwashing)

   The ACCC is maintaining an ongoing focus on greenwashing - that is, misleading or unsubstantiated representations about environmental credentials. In the automotive context, this extends to advertising claims about vehicle emissions, fuel efficiency, environmental impact and EV-related sustainability attributes. Claims must be accurate, clear and properly substantiated

3. Unfair Contract Terms

   The ACCC's 2026-27 priorities include continued enforcement of the unfair contract terms (UCT) regime under the Australian Consumer Law, with a particular focus on harmful cancellation practices. This includes automatic renewals, early termination fees and non-cancellation clauses.

These terms frequently appear in extended warranty products, subscription services and vehicle finance agreements in the automotive context.

PRACTICAL IMPLICATIONS FOR DEALERSHIPS AND DISTRIBUTORS

Considering the ACCC's stated priorities, automotive industry participants such as dealers, importers and distributors should undertake proactive compliance reviews of:

- Marketing materials and advertising claims, particularly those relating to emissions, fuel economy, EV range and environmental performance, to ensure they are accurate and not misleading.
- Extended warranty documentation and consumer-facing communications about statutory guarantee rights, including the entitlement to repair, replacement or refund for major failures.
- Online terms of sale, including return and cancellation policies.
- Subscription service agreements and any finance-adjacent product terms, with particular attention to automatic renewal clauses, early termination fees and cancellation mechanics.

The ACCC indicated it will pursue both collaborative industry engagement and enforcement action where necessary. However, given the explicit naming of the automotive sector as the consumer guarantees focus for 2026–27, participants should treat the announcement as a clear regulatory risk signal requiring action.

3.3 PRIVACY ENFORCEMENT UPDATE: OAIC COMPLIANCE SWEEP - FOCUS ON AUTOMOTIVE DEALERS

The Office of the Australian Information Commissioner (OAIC) announced a targeted compliance sweep, commencing in early January 2026, focused on whether organisations that collect personal information in person have compliant privacy policies under Australian Privacy Principle (APP) 1.4.

Notably, car dealerships have been expressly identified as one of the six high risk sectors under scrutiny, alongside industries such as real estate, car rental and licensed venues. This reflects the OAIC's increasing focus on industries that routinely collect customer identification and contact details at the point of sale, test drives, financing arrangements and servicing interactions.

KEY IMPLICATIONS FOR DEALERS

The OAIC's review will assess whether privacy policies clearly address the requirements of APP 1.4, including:

- the types of personal information collected;
- how that information is used and disclosed;
- how individuals may access or correct their information; and
- complaint handling processes.

Dealerships found to have inadequate or non-compliant privacy policies may face regulatory action, including compliance or infringement notices, and potential penalties of up to $66,000 per contravention.

PRACTICAL STEPS FOR AUTOMOTIVE DEALERS

Given the explicit focus on the sector, dealers should take proactive steps to ensure privacy compliance, including:

- Review and update privacy policies to ensure they are current, accurate and aligned with APP 1.4 requirements.
- Reflect actual practices across sales, finance and aftersales operations, particularly where personal information is collected in person.

- Address third party disclosures, including financiers, insurers, marketing providers and OEMs.
- Ensure accessibility, with policies readily available at the point of collection (for example, in showrooms and service centres).

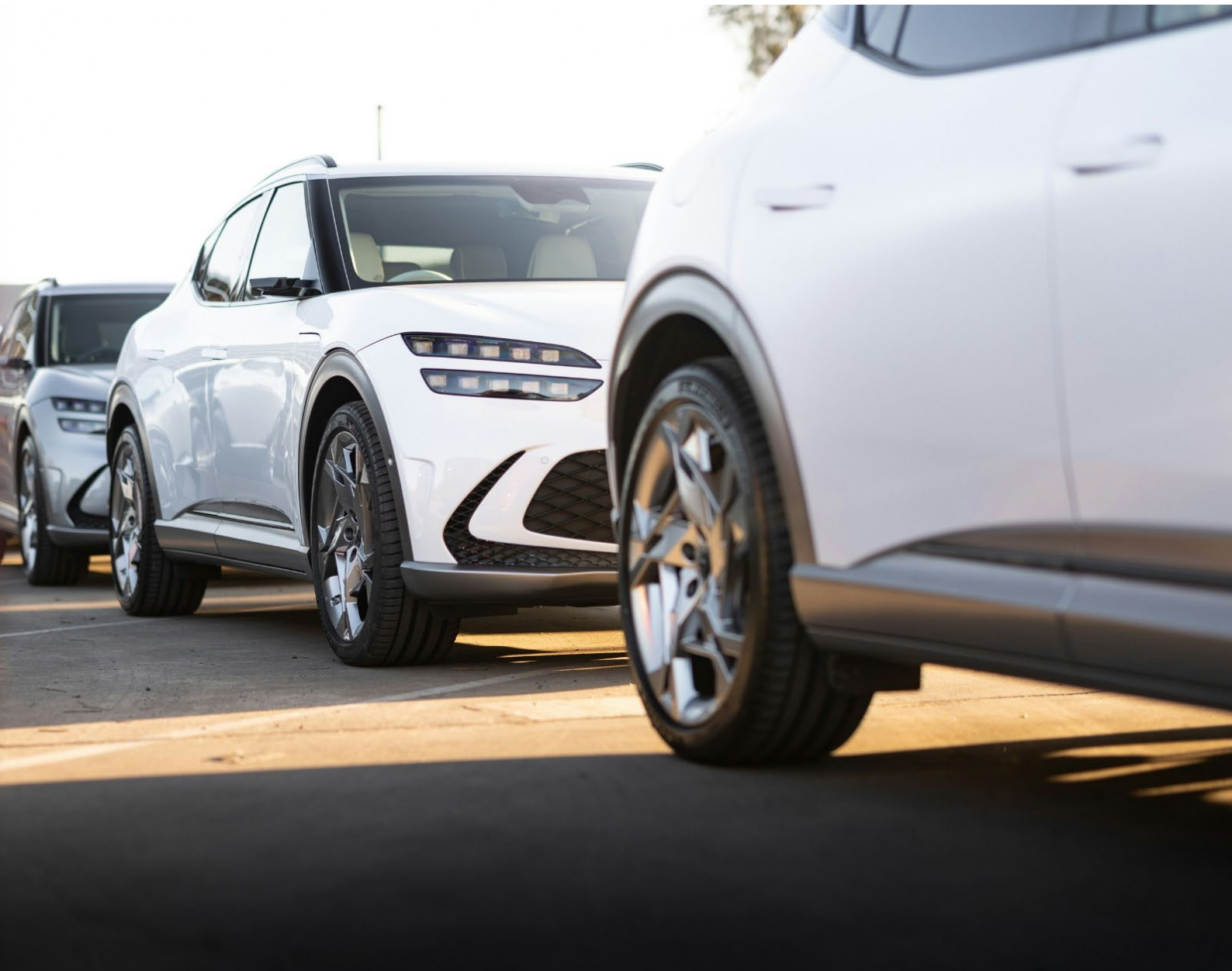
EMERGING CONSIDERATIONS - AI AND DATA USE

Dealers should also ensure that privacy policies are forward-looking and account for evolving data practices, including:

- the use of AI tools and automated decision-making, for example in lead generation, customer profiling or credit assessment;
- transparency around data analytics and marketing technologies; and
- appropriate disclosures regarding overseas data handling where relevant.

TAKEAWAY

The inclusion of car dealerships in the OAIC's initial enforcement sweep signals heightened regulatory scrutiny of the automotive sector. Dealers should treat this as a prompt to conduct an immediate privacy compliance review, ensuring policies are both APP-compliant and reflective of modern data practices, including AI.



3.4 2026–27 FEDERAL BUDGET: EV TAX AND INDUSTRY MEASURES

Treasurer Jim Chalmers handed down the 2026–27 Federal Budget on 12 May 2026, introducing significant changes to the tax treatment of electric vehicles and committing new funding for EV infrastructure. The measures directly affect dealers, fleet operators, novated lease providers, and the broader automotive sector.

FBT EXEMPTION WIND-BACK FOR ELECTRIC VEHICLES

The Budget confirmed a phased wind-back of the Electric Car Discount - the Fringe Benefit Tax (**FBT**) exemption introduced in 2022 which has been credited with putting almost 100,000 EVs on Australian roads. Whilst the FBT exception was effective in encouraging EV uptake in Australia and has had positive impacts on reducing emissions and fuel price volatility, the rising fiscal cost resulted in Treasury proposing a recalibration of the policy. The Treasury indicated that with the New Vehicle Efficiency Standards providing an increase in availability for affordable EV models, now is an appropriate time to make changes to the FBT exemption. The phased approach includes:

- The existing electric car discount continues in full effect until the end of March 2027;
- From 1 April 2027, EVs priced above $75, 000 (but below the luxury car tax (**LCT**) threshold) move from a full exemption to a 25% FBT discount;
- EVs priced at or below $74,000 retain the full exemption until 31 March 2029; and
- From 1 April 2029, the full exemption is replaced with a permanent 25% FBT discount for all eligible EVs below the LCT threshold.

Treasury forecasts the wind-back will recoup approximately $1.9 billion over the forward estimates period. The current rules - including the ability to access the full FBT exemption for eligible EVs (including those priced above $75,000 but below the LCT threshold) - remain in place until 31 March 2027, after which the full exemption is limited to vehicles priced at $75,000 or less.

INFRASTRUCTURE AND INDUSTRY SUPPORT

Alongside the FBT changes, the Budget committed the following EV-related measures:

- $40 million over four years for regional and kerbside public EV charging infrastructure, targeting apartment dwellers and regional motorists;
- $40.5 million to support electrification of the Australia Post delivery fleet; and
- $15.4 million over four years to extend the DRIVEN program (Dealership and Repairer Initiative for Vehicle Electrification Nationally), which supports dealerships and repairers in retraining for EV sales and servicing. No national EV road user charge was introduced, despite ongoing debate about how to replace declining fuel excise revenue as EV uptake grows.

IMPLICATIONS FOR THE AUTOMOTIVE SECTOR

The FBT wind-back has direct implications for dealerships, novated lease providers, fleet operators and EV distributors. Key considerations include:

- **Urgency of timing**: customers considering salary-packaging an EV priced above $75,000 should be advised that the window for the full exemption closes 31 March 2027;
- **Fleet mix review**: fleet operators relying on EVs priced above $75,000 should model the post-2027 and post-2029 cost impacts on their salary-packaging arrangements; and
- **Dealer opportunity**: the DRIVEN program funding extension provides direct financial support for dealerships upgrading their EV capability, and dealers should monitor eligibility criteria and application windows; Broader transition signal - the Budget marks a shift away from upfront EV purchase incentives toward infrastructure and mainstream adoption, consistent with the

government's view that the EV market has matured sufficiently to reduce the most generous concessions.

3.5 INTERNATIONAL POLICY UPDATE: EURO 7 EMISSIONS REGULATION

The European Union's Euro 7 (**Euro 7**) Emissions Regulation formally adopted in 2024, enters its final pre-implementation phase during 2026, ahead of staged mandatory commencement from late 2026. Euro 7 represents the most comprehensive vehicle emissions standard yet adopted anywhere in the world and introduces several significant departures from the Euro 6 regime it replaces.

Most notably, Euro 7 marks a regulatory milestone becoming the first standard to set legal limits on non-exhaust emissions, which is particulate pollution generated by brake dust and tyre wear, in addition to traditional exhaust emissions from the tailpipe.

KEY FEATURES

- Non-Exhaust Emissions (Brakes and Tyres): Euro 7 introduces limits on particulate matter (PM10) from brake wear for passenger cars and vans, including 3 mg/km for battery electric vehicles and 7 mg/km for most internal combustion engines, hybrid and fuel cell vehicles (with higher limits applying to larger vans). The regulation also addresses tyre wear emissions, with testing methodologies to be implemented in accordance with procedures being developed by the United Nations Economic Commission for Europe, when finalised.
- Battery Durability Requirements (Electric Vehicle's (**EV**) and Plug-In Hybrid Electric Vehicle's (**PHEV**)): Euro 7 introduces mandatory minimum battery performance retention thresholds for EVs and PHEVs. For passenger cars, batteries must retain at least 80% of their original capacity retention after five years or 100,000 km, and 72% after eight years or 160,000 km. Slightly lower thresholds apply for vans (75% after five years and 67% after eight years). These requirements aim to protect second-hand EV buyers and support consumer confidence in battery longevity.
- Extended Compliance Duration: Vehicles sold under Euro 7 must comply with their applicable emissions standards for 10 years or 200,000 km, representing a significant extension from prior requirements.
- On-Board Monitoring: Euro 7 requires vehicles to be equipped with on-board monitoring systems capable of continuously measuring exhaust emissions, detecting when emissions exceed regulatory thresholds and alerting drivers when emissions control system repairs may be required to ensure continued compliance.

IMPLEMENTATION TIMELINE

Euro 7 implementation follows a staged timeline:

(1) From 29 November 2026: Euro 7 compliance becomes mandatory for all new types (new models requiring type approval) of passenger cars (M1) and light commercial vehicles (N1) in the EU.

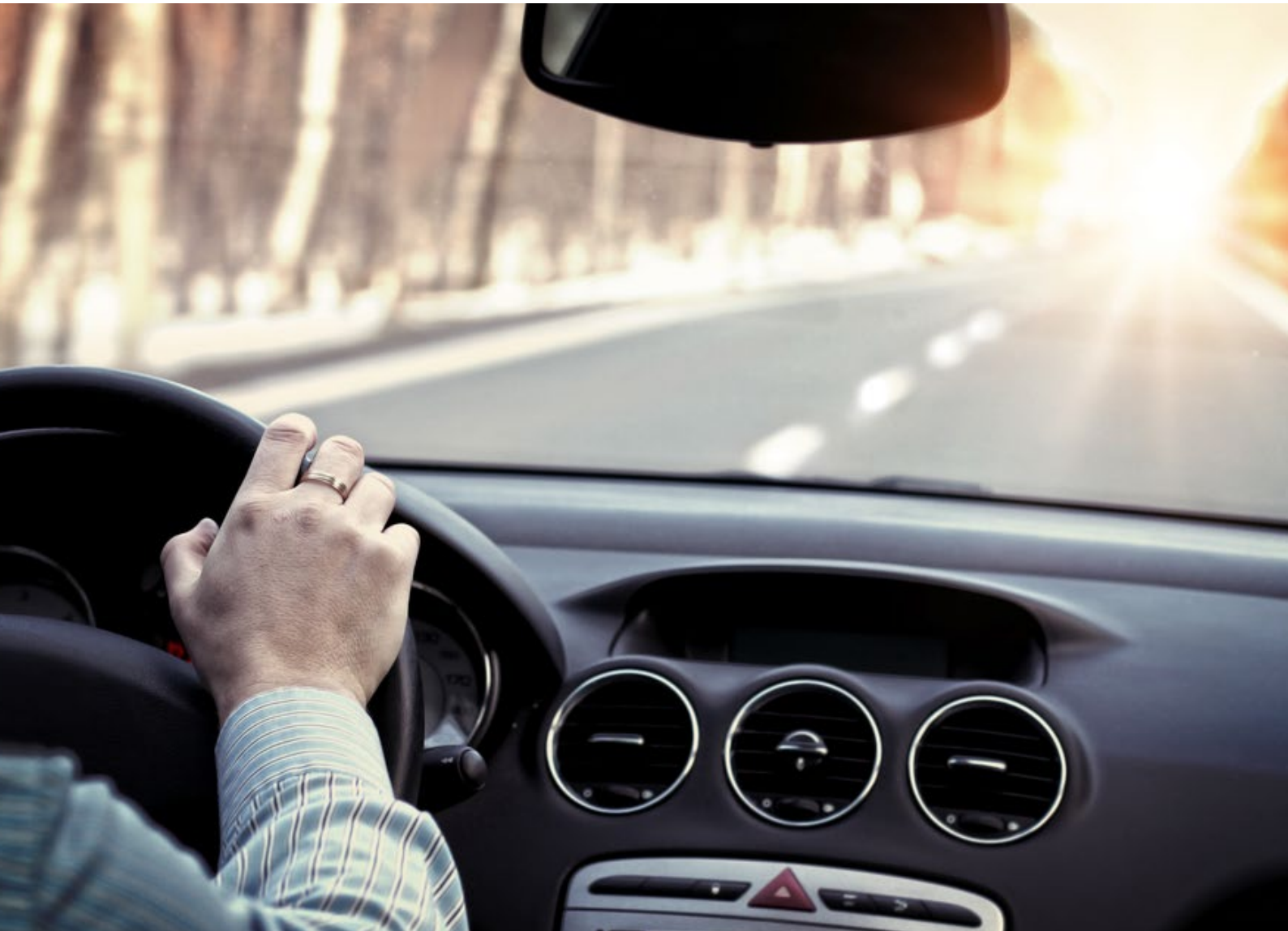
(2) From 29 November 2027: Euro 7 compliance extends to all new vehicles in those categories sold in the EU (i.e., not just new model types, but all sales). Small volume manufacturers are given until 1 July 2030.

(3) Heavy-duty vehicles (trucks, buses): new model compliance from November 2027; all vehicles from November 2028-2029 (category-dependent).

WHY EURO 7 MATTERS FOR AUSTRALIA

Euro 7 applies only within the European Union, and Australia has no direct obligation to adopt it. However, the standard carries significant indirect implications for the Australian market for the following reasons:

- Platform alignment: Many vehicles sold in Australia particularly from European, Japanese and Korean manufacturers are engineered on platforms developed to meet EU regulatory requirements. Changes driven by Euro 7 (including brake system redesigns, tyre specifications and battery management adjustments) will flow through to global vehicle design and may affect the models, variants or specification levels made available in Australia.
- Supply timeline impacts: Manufacturers face significant engineering and testing investment to achieve Euro 7 compliance, particularly for non-exhaust emissions and battery durability requirements. These costs and lead times may affect the timing and pricing of new model launches in Australia, as suppliers prioritise EU homologation.
- Battery durability standards as a market signal: The introduction of mandatory EV battery durability requirements in the EU will likely influence global design standards and consumer expectations around EV battery health disclosure and warranty terms.
- Compliance cost pass-through: Industry analysis suggests Euro 7 compliance requirements will add cost to vehicle manufacturing. While the extent to which those costs are passed through to Australian consumers will depend on competitive dynamics, suppliers and distributors should monitor developments.



3.6 INTERNATIONAL POLICY UPDATE: CHINA EV BATTERY SAFETY STANDARD EFFECTIVE JULY 2026

China's revised mandatory national standard for electric vehicle battery safety GB 38031-2025 (Safety Requirements for Power Batteries for Electric Vehicles) (**GB 38031-2025**) was officially released by the Ministry of Industry and Information Technology (**MIIT**) on 28 March 2025 and takes effect on 1 July 2026 for new vehicle type approvals. Vehicles with existing approvals under the prior standard are expected to have a transition period until 1 July 2027.

GB 38031-2025 is widely regarded as one of the most stringent EV battery safety standards globally. Its most significant requirement is that batteries must not catch fire or explode during or following a thermal runaway event under prescribed testing conditions (typically over an extended observation period of up to two hours), elevating what was previously a voluntary corporate technical target to a mandatory legal requirement.

KEY REQUIREMENTS

The updated standard introduces the following key requirements:

(1) **'No Fire, No Explosion' mandate:** Under the previous 2020 standard (GB 38031-2020), batteries were only required to provide a five-minute warning signal before any fire or explosion following thermal runaway. GB 38031-2025 eliminates this window entirely - batteries must prevent fire or explosion during and following thermal runaway under prescribed test conditions. Any smoke generated must also not endanger vehicle occupants.

(2) **New testing protocols:** The standard introduces 7 single-cell tests and 17 battery pack/system tests, including: a new bottom impact test (assessing battery protection upon underside collision); and a safety test following fast-charging cycles (requiring external short-circuit testing after 300 fast-charge cycles, with no fire or explosion permitted).

(3) **Mandatory third-party certification:** Compliance must be certified by an accredited third party. Contemporary Amperex Technology Co., Limited - the world's largest battery manufacturer - has reported that it was among the first companies to obtain certification for its Qilin battery.

CHINA AS THE WORLD'S LEADING EV EXPORTER

China is the world's largest EV exporter and the leading manufacturer of EV battery systems. Battery systems certified under GB 38031-2025 are expected to set a de facto global benchmark for EV battery safety design, given the scale and influence of Chinese battery supply chains. With Chinese brands now capturing significant market share across global markets the standard's reach extends well beyond China's domestic market.

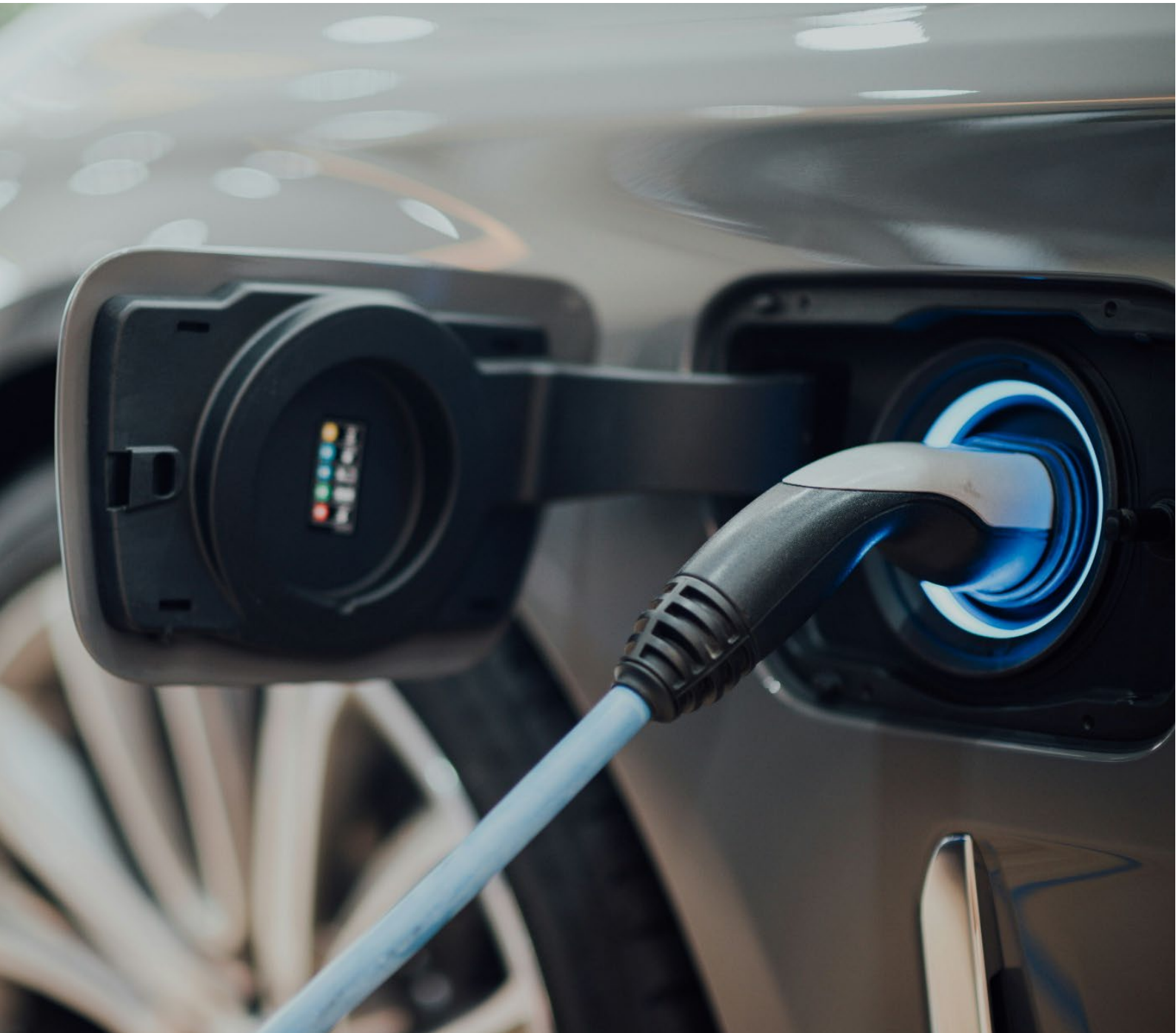
In February 2026, China became the single largest source of new vehicles delivered to Australia for the first time, surpassing Japan. Chinese-manufactured vehicles accounted for approximately one in five new cars sold in Australia in late 2025. Chinese brands including BYD, GWM and Chery are among the top-selling brands in the country, with BYD on track to reach a top three market position by end of 2026.

WHY GB 38031-2025 MATTERS FOR AUSTRALIA

For the Australian market, the implications of GB 38031-2025 operate across several dimensions:

- **Vehicle approvals and supply:** From July 2026, new Chinese EV models exported to Australia will need to meet the GB 38031-2025 standard to obtain type approval in China. This may affect the timing of new model releases and the specifications of vehicles available for export, including to Australia.

- **Warranty risk and product liability:** The 'no fire, no explosion' requirement significantly raises the safety floor for EV batteries. Distributors and dealers of Chinese EVs in Australia should consider the implications for their warranty obligations and product liability exposure including whether Australian consumer guarantee obligations could be triggered by battery incidents.
- **Recall risk:** As the standard comes into force, vehicles that do not meet the new requirements or vehicles that fail in ways not envisaged under the previous standard may face recall exposure. Distributors should review their recall readiness and monitoring frameworks.
- **Consumer perception:** The introduction of a mandatory 'no fire, no explosion' standard is likely to become a marketing and reputational factor in Australian consumer decision-making around EV purchase. It may also raise consumer expectations for existing EV models.
- **Global benchmark:** As Chinese battery systems become a global de facto standard under GB 38031-2025, other major EV markets may face pressure to adopt comparable requirements. Legal and compliance advisers should monitor whether Australian vehicle standards are updated to reflect the new benchmark.



4. Other Developments

4.1 *ROAD TRANSPORT AND OTHER LEGISLATION AMENDMENT (MICROMOBILITY VEHICLES AND SMARTCARDS) ACT* 2025 (NSW)

The *Road Transport and Other Legislation Amendment (Micromobility Vehicles and Smartcards) Act 2025* (NSW) (**Micromobility Act**) was enacted on 26 November 2025 and establishes a statewide framework for the regulation of micromobility devices, including bicycles, e-bikes and e-scooters in New South Wales. The reforms reflect increased regulatory focus on the growing use of these devices in urban environments and transport networks.

The Micromobility Act was introduced into the NSW Parliament on 15 October 2025 as the Road Transport and Other Legislation Amendment (Micromobility Vehicles and Smartcards) Bill 2025 (NSW). It also addresses how injuries arising from micromobility use are treated under the NSW Compulsory Third Party (**CTP**) insurance scheme.

AUSTRALIA LEGISLATIVE OVERVIEW

The Micromobility Act amends key statutes including the *Motor Accident Injuries Act 2017* (NSW), the *Motor Accidents (Lifetime Care and Support) Act 2006* (NSW), and broader road transport legislation.

It establishes a framework for micromobility vehicles while clarifying their distinction from registered motor vehicles, adopting a flexible approach that allows new vehicle types to be prescribed over time.

KEY UPDATES

The Micromobility Act does not comprehensively define micromobility vehicles in primary legislation but introduces a framework to regulate their operation and treatment under existing schemes.

- **Definition of micromobility vehicles:** The Micromobility Act introduces a definition for motor accident purposes, capturing e-scooters and other prescribed vehicles that are exempt from registration requirements.
- **Exclusion from CTP scheme**: Injuries or deaths arising solely from micromobility vehicle use, where no registered motor vehicle is involved, are excluded from the *Motor Accident Injuries Act 2017* (NSW).
- **Nominal Defendant exclusion:** Claims involving micromobility-only incidents are excluded from recovery against the Nominal Defendant for uninsured vehicle claims.
- **Lifetime Care exclusion:** Parallel amendments exclude micromobility-only accidents from coverage under the Lifetime Care and Support Scheme.
- **Safety and equipment requirements:** The Micromobility Act supports the introduction of regulatory standards, including requirements for helmets meeting Australian standards to be available on micromobility devices used in shared services.
- **Flexible regulatory approach**: Rather than exhaustively defining covered devices, the framework allows emerging micromobility types to be prescribed through delegated legislation.

IMPLICATIONS FOR THE AUTOMOTIVE INDUSTRY

The Micromobility Act has important implications for insurers, mobility providers and participants in the micromobility market.

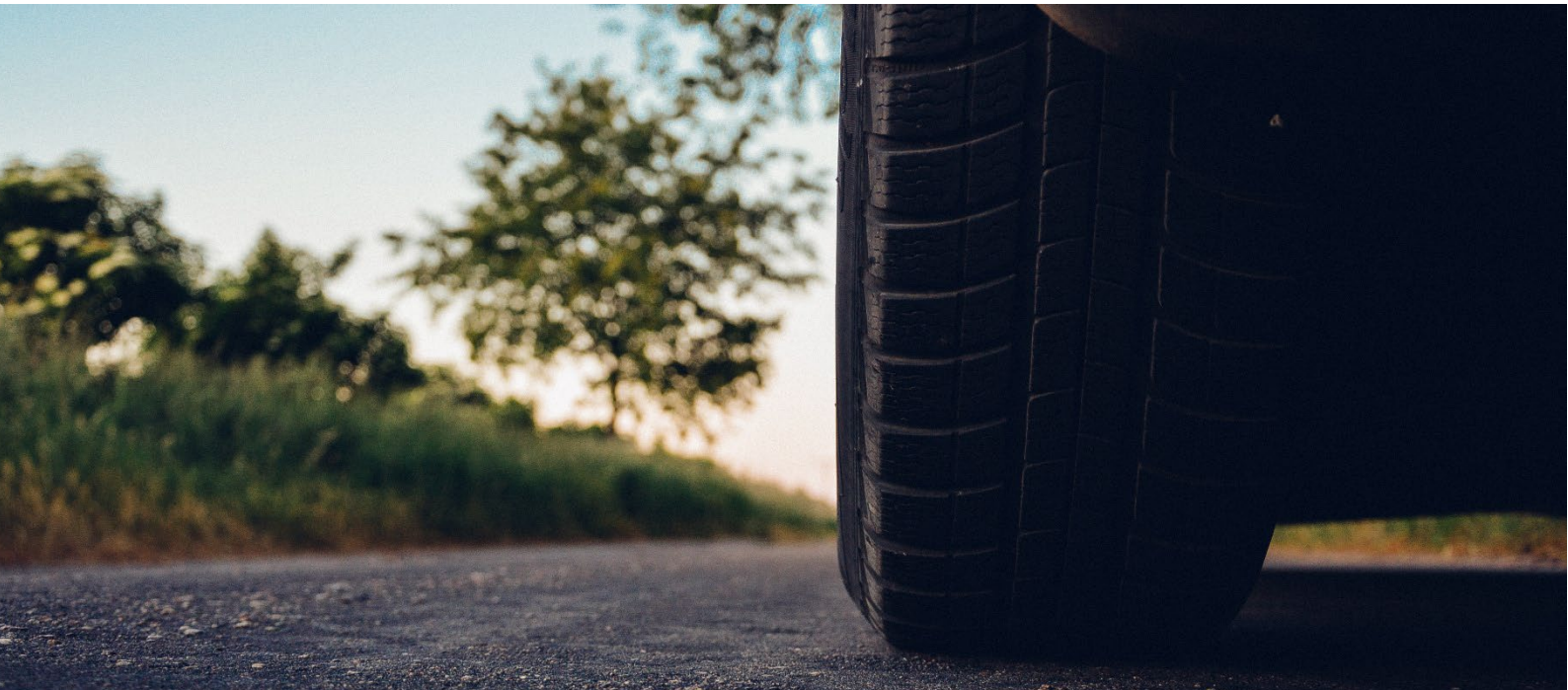
- **Shift in risk allocation:** Exclusion from the CTP and lifetime care schemes narrows statutory compensation coverage and may shift risk allocation to riders, operators and private or commercial insurance arrangements.

- **Increased compliance obligations:** Shared mobility providers and retailers may face additional requirements, including helmet availability and adherence to evolving safety standards prescribed by regulation.
- **Greater regulatory clarity:** The framework provides a clearer delineation between micromobility devices and registered motor vehicles, reducing uncertainty in insurance, liability and compliance settings.
- **Operational cost impacts:** Compliance with new safety and equipment requirements is likely to increase operating and administrative costs for providers.
- **Ongoing regulatory development:** While the Act establishes the core framework, many operational details will continue to be developed through delegated legislation and regulatory guidance, signalling an ongoing policy focus on micromobility regulation, particularly in relation to safety, insurance and injury treatment frameworks.

IMPLICATIONS FOR DEALERS OF NON-REGISTRABLE VEHICLES

Although the Micromobility Act does not impose direct obligations on dealers of non-registrable vehicles, the reforms and broader regulatory focus on micromobility may give rise to a number of practical considerations for dealers supplying high-powered e-bikes, dirt bikes and similar vehicles.

- **No primary liability for on-road misuse:** Responsibility for unlawful use of a non-registrable vehicle, including any seizure or forfeiture consequences, remains with the rider or operator rather than the dealer.
- **Risk arising from the circumstances of supply:** Dealers may nevertheless come under regulatory scrutiny where a vehicle is supplied, promoted or marketed in circumstances suggesting it is intended for on-road use despite being incapable of registration.
- **Sales and marketing controls:** Dealers should ensure marketing materials, sales practices and customer communications clearly state that relevant vehicles are not registrable and are not permitted for use on public roads, avoiding any representation to the contrary.
- **Disclosure and documentation:** It may be prudent for dealers to document purchaser acknowledgements regarding intended off-road use, which may assist in mitigating any downstream regulatory scrutiny.
- **Product mix and positioning:** Dealers stocking non-registrable vehicles should be mindful of models that closely resemble registrable vehicles or are more likely to be misused on public roads, as those products may attract greater regulatory attention.



5. Workplace Relations & Safety Update

5.1 UNDERPAYMENTS UNDER THE VEHICLE REPAIR, SERVICES AND RETAIL AWARD 2020

The *Vehicle Repair, Services and Retail Award 2020* (Award) is complex, and getting it wrong can result in underpayment claims and heavy penalties for employers in the motor trade industry.

This section explores the common Award breaches that employers in the motor trade industry can make, and how to protect against them.

POTENTIAL BREACH #1: PAYING SALESPEOPLE COMMISSION ONLY, OR COMMISSION PLUS AN INSUFFICIENT BASE SALARY

It is standard practice for salespeople in the motor trade industry to be paid commissions on their sales, and many salespeople will often request that they are paid more commission and either less or no base salary.

However, under the Award, an employer must pay a salesperson at least the minimum weekly or hourly rate for their classification level, regardless of any commission arrangement. Commission payments can form part of overall remuneration, but they cannot replace the minimum base rate unless there is a minimum rate guarantee.

If a salesperson has a quiet month, and earns little or no commission, the employer is still required to pay the minimum Award rate for all hours worked. A failure to do so may be a breach of the Award and the *Fair Work Act 2009* (Cth).

POTENTIAL BREACH #2: TREATING A FLAT SALARY OR COMMISSION AS COVERING ALL OVERTIME AND PENALTY RATES

Salespeople in dealerships and retail motor businesses often work evenings, weekends and public holidays. The Award sets out specific penalty and overtime rates for work performed outside ordinary hours.

Employers should ensure they have a valid set off clause and check that any salary arrangement genuinely compensates employees for all Award entitlements in each pay period, including for overtime, weekend penalties and public holiday rates. Where it does not, a top-up payment will be required.

POTENTIAL BREACH #3: RELYING ON A SET OFF CLAUSE WITHOUT CHECKING EACH PAY PERIOD

Many employers pay salespeople an annual salary that includes a contractual set off for Award entitlements such as base salary, overtime, penalties, allowances and leave loading. However, as the Award does not include an annualised wage arrangement, there is no Award-based annual wage reconciliation regime.

Motor trade employers may mistakenly believe that, provided they are paying their employees an annual amount that is not less than the employee's annual entitlement under the Award, that their payroll practices will be compliant with the Award. This is not necessarily correct.

Employers must ensure that, in each pay period, the salary paid is at least what the employee would have received under the Award for the hours worked in each pay period. Robust time and attendance records are essential to test this. If a shortfall arises in a pay period, it should be topped up in that pay cycle. Periodic reconciliations are still good practice and help to identify earlier shortfalls, but they do not replace the need to pay minimum entitlements on time.

POTENTIAL BREACH #4: AWARD CLASSIFICATION ERRORS FOR SALESPEOPLE

The Award contains a detailed classification structure. Salespeople should be classified according to the work they perform and not be assigned the lowest classification by default. If an employee is performing duties at a higher classification level, they are entitled to be paid at the corresponding higher rate. Getting this wrong from the outset can lead to significant underpayment claims over time.

WHAT OUR MOTOR TRADE CLIENTS NEED TO DO FOR COMPLIANCE

We recommend reviewing your current pay arrangements for all employees covered by the Award to confirm they meet the minimum requirements of the Award. Motor trade industry employers should pay particular attention to commission structures, set off clauses, overtime records and annual salaries.

If you are unsure whether your arrangements are compliant, we can assist with advice.

5.2 TRAFFIC MANAGEMENT AND SAFETY IN CAR YARDS

Car yards present a unique set of safety risks that are sometimes overlooked. The mix of vehicle movements, customer foot traffic and staff activity in a relatively confined space creates real potential for serious injury. Regulators expect businesses in the motor trade industry to manage these risks proactively, and a failure to do so can result in injuries and prosecutions under work health and safety (WHS) laws.

THE KEY RISKS

The most common WHS hazards in car yards include:

- vehicles reversing or manoeuvring in areas where pedestrians are present;
- poor separation between vehicle display lots, vehicle servicing areas and walkways;
- limited visibility around corners or between rows of parked vehicles; and
- inadequate lighting and security in vehicle lots accessed after hours.

Test drives starting and ending on the yard also introduce risk, particularly where customers or other staff may be walking nearby.

WHAT THE LAW REQUIRES

Under WHS laws, a person conducting a business or undertaking (PCBU) has a primary duty of care to ensure, so far as is reasonably practicable, the health and safety of workers and others who may be affected by the PCBU's business. Failing to implement basic traffic controls can breach this duty and, if it exposes individuals to a risk of death or serious injury, can amount to an offence under WHS laws. For car yards, this means taking active steps to manage the interaction between vehicles and people on site.

PRACTICAL STEPS TO CONSIDER

- clearly marking pedestrian walkways and vehicle movement areas using line markings or physical barriers;
- installing appropriate signage to direct foot traffic away from vehicle movement zones;
- setting and enforcing speed limits for all vehicle movements on site;
- ensuring adequate lighting across the yard (particularly in areas used for vehicle movement after dark);
- establishing clear procedures for test drives, including designated start and end points that are separated from customer foot traffic areas, designating parking areas and keeping thoroughfares clear;

- using temporary barriers such as cones, tape or concrete blocks where fixed barriers are not practicable; and
- training all staff on traffic management procedures as part of their induction and on an ongoing basis.

PRACTICAL STEPS TO CONSIDER

In a recent NSW decision, a PCBU was fined $300,000 for failing to implement traffic management rules and provide pedestrian walkways in an open work area, even though the likelihood of a collision was low. Unfortunately, in this case, a worker was fatally injured when they were struck by a utility vehicle in an un-delineated thoroughfare.

In this case, the Court found there were no exclusion zones, no designated parking and no pedestrian walkways, and noted that simple controls such as temporary barriers and clear traffic markers were well known and low-cost measures.

A manager who drove the vehicle was also personally fined $5,000 for failing to keep a proper lookout. This fine must be paid personally by the manager as fines under Australia's WHS laws cannot be insured against or indemnified by the employer.

NEXT STEPS

Motor trade clients are encouraged to review their traffic management plans and ensure practicable measures are taken to safeguard pedestrian safety on vehicle lots.

5.3 NATIONAL WORKPLACE BRIEF

Recent national workplace developments highlight several employment and safety issues of direct relevance to automotive manufacturers, dealers and service networks. With large, dispersed workforces and a mix of operational, sales and corporate roles, automotive businesses should closely monitor emerging risks in employee relations, workplace conduct and contractual protections.

Key takeaways include the Fair Work Commission's reforms to its general protection's dismissal processes, which are likely to increase procedural complexity and scrutiny of employer responses to claims. There is also an increased regulatory and judicial focus on discrimination, gender equality and proactive compliance, reinforcing the need for robust policies and frontline management capability across workshops, dealerships and head offices. The updates also reinforce heightened employer obligations around proactively preventing sexual harassment and supporting psychological safety at work, including through reasonable adjustments for neurodivergent employees. Please see the HWLE Lawyers National Workspace Brief: February 2026 for further information.

Of particular importance for automotive employers is the Federal Court's record $305,000 personal damages award for sexual harassment. The decision highlights the expanded "positive duty" on employers to proactively prevent sexual and sex-based harassment, whereby passive or reactive approaches are no longer sufficient. This has clear implications for industries like automotive that can involve male-dominated environments and customer-facing roles. Employers should review training, reporting pathways, supervision practices and workplace culture across showrooms, workshops and warehouses. Please see the HWLE Lawyers Market Insight Sexual Harassment: Record $305,000 personal damages order should prompt employers action for practical guidance.

Automotive businesses should also review their employment contracts and post-employment restraint clauses following recent decisions showing how drafting issues can leave businesses exposed by undermining protections. Courts are applying increasing scrutiny to non-compete, non-solicitation and non-dealing clauses. In a sector where customer relationships, dealer networks, fleet clients and commercially sensitive information are key assets, poorly defined restraint provisions, particularly

around concepts such as "client", can leave businesses exposed when senior sales, service or management staff depart. This is particularly relevant where employers seek to protect customer relationships, confidential information and key staff movements within a competitive market. Please see the HWLE Lawyers Market Insight Define Client: The words that could leave your business unprotected for practical guidance.

5.4 NATIONAL SAFETY UPDATE

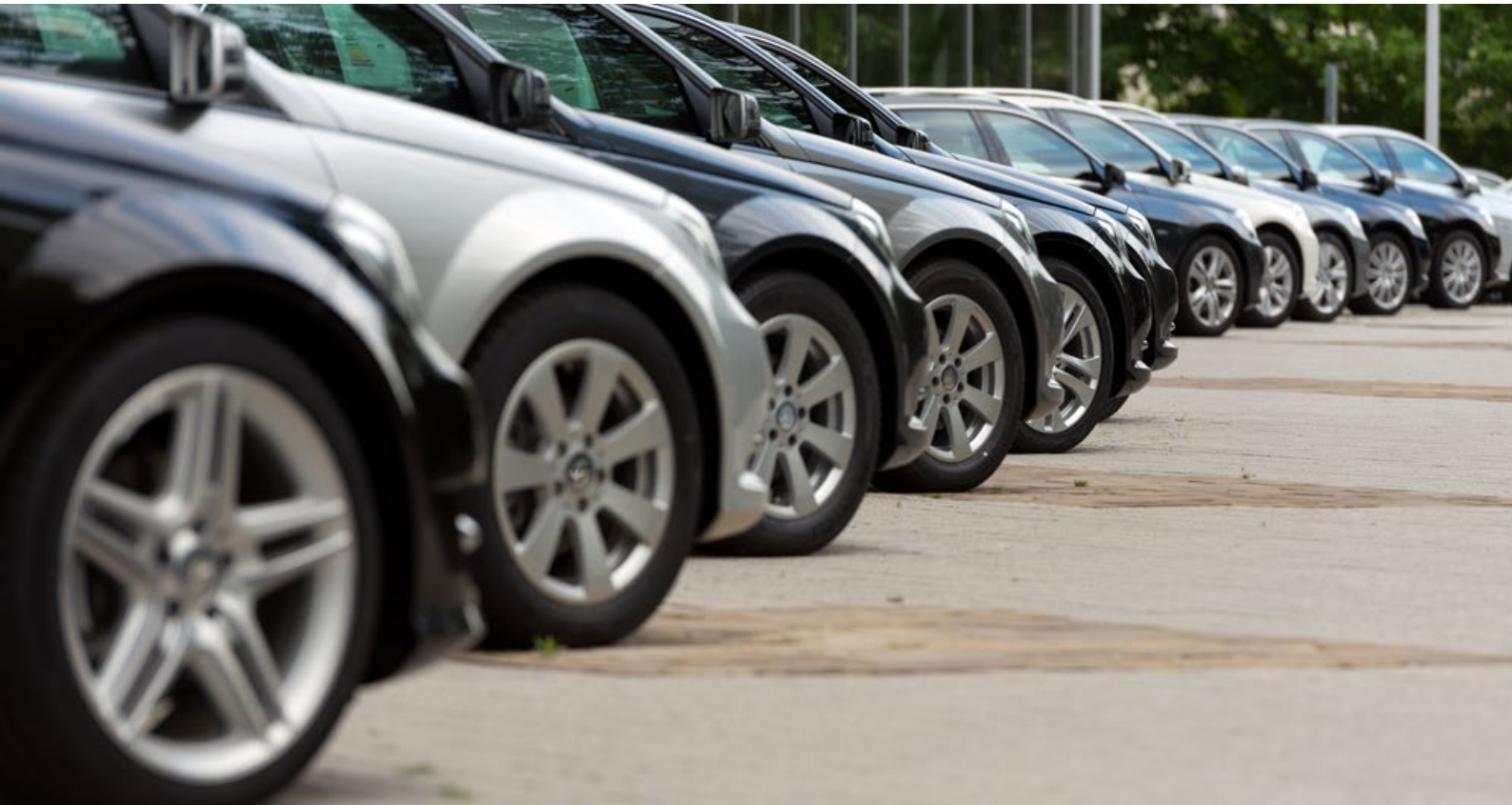
Recent national safety developments highlight critical lessons for automotive manufacturers, dealerships, service centres and transport operations, particularly in relation to machinery safety, high-risk work activities and organisational safety culture. Automotive businesses operate in environments where vehicle movement, heavy plant, lifting equipment and interaction between workers and machinery are routine, making robust WHS systems and supervision essential.

Please see the HWLE Lawyers National Safety Update: March 2026 which reinforces the increasing focus by regulators and courts on 'safety culture', with decisions examining whether businesses have genuinely embedded safe systems of work, training and risk controls, rather than relying on policies alone. The cases profiled underscore the importance of proactive risk management around hazardous equipment, exclusion zones, chemical handling and non-routine tasks. Issues that are directly relevant across workshops, yards, towing operations and manufacturing facilities.

Of particular relevance to the automotive and vehicle-related industries is the acquittal in a lengthy WHS prosecution involving a fatal crush-zone incident between a tilt-tray truck and vehicle headboard. While the prosecution was ultimately unsuccessful due to evidentiary shortcomings, the case highlights the complexity and longevity of WHS enforcement action and the critical importance of expert-supported risk assessments, equipment design considerations and defensible safety controls when managing vehicle and plant risks. The decision serves as a reminder that serious incidents can expose automotive businesses to years of litigation, even where liability is ultimately overturned.

Please see the HWLE Lawyers Market Insight Acquittal in lengthy WHS prosecution for practical guidance.

For more information on Workplace Relations and Safety please contact Danielle Flint (Partner) and Audrey Ooi (Associate).



6. Changes to the 407 Training Visa

The Australian Government has introduced an important procedural change to the Training (subclass 407) visa (Training visa), effective 11 March 2026. The change is simple, but its consequences are not.

The Training visa is not a labour visa. It is intended for structured, workplace-based training, not to fill operational roles. That distinction has always existed, but the new rules reinforce it. Separate visa categories address skills shortages and can be used to fill operational roles, including the subclass 482 (Skills in Demand) visa and the subclass 186 (Employer Nomination Scheme) visa.

The Training visa process involves three stages:

1) sponsorship approval
2) nomination approval (the training program)
3) visa application

Previously, these applications could be lodged at the same time. Businesses could effectively run the process in parallel and wait for approvals to catch up. From 11 March 2026, that approach is no longer available. A visa application will only be valid if, at the time of lodgement:

- the sponsor has already been approved; and
- the nomination has already been approved (unless the sponsor is a Commonwealth agency).

Any visa application lodged before those approvals are in place will be invalid and refunded. The sponsorship and nomination application can still be lodged in parallel.

The nomination stage is where the Department assesses whether the training is genuine. That includes whether the program is:

- structured and documented;
- tailored to the individual;
- progressively builds skills; and
- genuinely training (not productive work).

Requiring nomination approval upfront ensures that this assessment occurs before a visa application can be made.

FOR THE AUTOMOTIVE SECTOR

For automotive businesses, the practical impact is primarily timing. You now need to complete two approval steps before even lodging the visa application. Training programs - particularly those linked to manufacturer schedules or technician onboarding - will need to be planned earlier.

There is also a more immediate risk for candidates already in Australia. Applicants cannot obtain a bridging visa until they lodge a valid Training visa application. They cannot lodge that application until the nomination is approved. If their current visa expires during that period, they may need to leave Australia or apply for another visa to remain lawful.

The change also places renewed focus on the quality of the training program itself. In an automotive context, a compliant program should involve more than general workshop exposure. It should include:

- a structured training plan (for example, diagnostics, EV systems, manufacturer processes);
- staged progression in tasks;
- supervision by experienced staff; and
- a clear link to the trainee's existing skills.

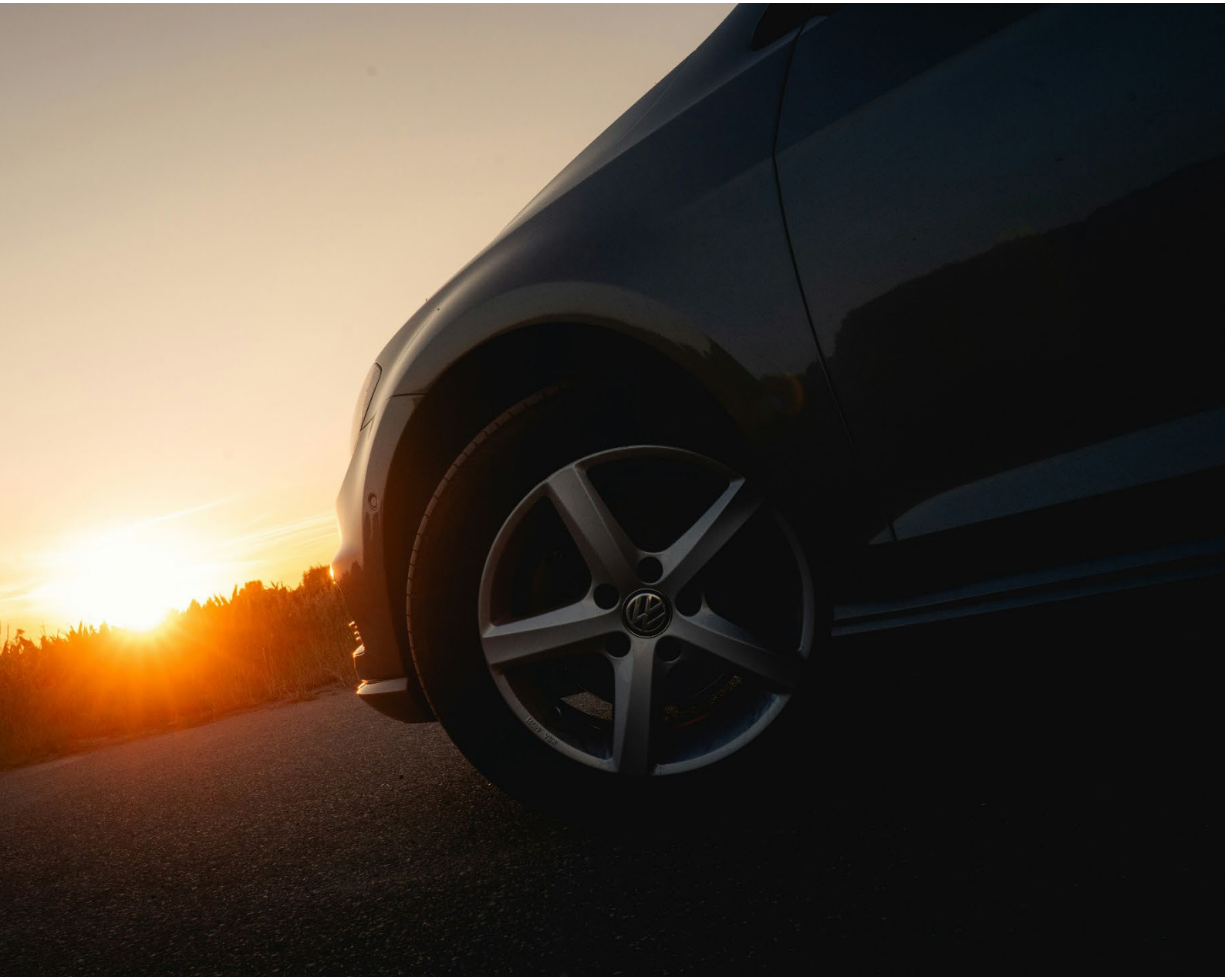
Programs that resemble ordinary technician roles - even if described as 'training' - will be scrutinised. A few practical points follow:

- lodge sponsorship and nomination applications well in advance of the proposed start date;
- ensure training programs are clearly structured and documented from the outset;
- review onshore candidates carefully, particularly visa expiry dates; and
- avoid treating the Training visa as a stop-gap solution for labour needs.

In short, the program itself has not changed. The sequencing has. The Government is requiring sponsors to demonstrate that the training is genuine before a visa application can be made, rather than afterwards. For automotive businesses, the issue is no longer just eligibility. It is planning, timing, and discipline in how the visa is used.

We have immigration law experts that can assist you place overseas workers in training programs or in vacant positions.

For further information on Immigration, Insurance, Government and Health please contact Andrew Allan (Partner).



7. Case Law Update

7.1 *CAPIC V FORD MOTOR COMPANY OF AUSTRALIA PTY LTD (SUPPLEMENTARY COMMON QUESTIONS AND OTHER ISSUES)* [2026] FCA 38

BACKGROUND

The proceedings in this case arise from a long-running class action concerning certain Ford vehicles equipped with Powershift transmissions. In *Capic v Ford Motor Company of Australia Ltd [2018] FCA 68*, the Federal Court held that the affected vehicles were defective and failed to comply with the statutory guarantee of acceptable quality under s 54 of the *Australian Consumer Law* (ACL). The Court also found that Ford had engaged in misleading or deceptive conduct in relation to the performance and characteristics of those vehicles. Those findings on liability were subsequently considered on appeal by the Full Federal Court, which largely upheld the primary judge's conclusions.

The matter later proceeded to the High Court of Australia, which in *Ford Motor Company of Australia Pty Ltd v Capic [2024] HCA* (High Court decision) clarified the proper approach to the assessment of damages under s 272(1)(a) of the ACL. The High Court held that damages are to be assessed by reference to the value of the vehicle at the time of supply, rather than at a later point in time when the defect manifests or loss is otherwise realised.

The present decision, *Capic v Ford Motor Company of Australia Pty Ltd (Supplementary Common Questions and Other Issues) [2026] FCA 38,* addresses supplementary common questions and other outstanding issues arising following those earlier findings on liability and the High Court's guidance on the assessment of damages.

ISSUE

Following the finding of a breach of s 54 of the ACL (acceptable quality) and the High Court's clarification of damages under s 272(1)(a), the Court needed to determine who could recover those damages.

Two key issues arose:

1) Whether later owners of a vehicle can claim: Can a person who did not purchase the vehicle new, but acquired it from the original owner, rely on the earlier breach?
2) Whether second-hand purchasers from dealers can claim: Does the right to claim extend to consumers who bought a defective vehicle second-hand through a dealer, rather than from Ford directly?

OUTCOME

The Court held that second-hand purchasers may recover reduction in value damages under s 272(1)(a), assessed by reference to the vehicle's value at the time of its original supply, rather than the price paid on resale.

However, where a vehicle is purchased second-hand from a dealer, the purchaser does not take on the original purchaser's s 54 claim against Ford. Instead, they are limited to their own statutory rights arising from the later transaction, which may give rise to a separate claim.

The applicants have sought leave to appeal in relation to this latter finding.

SIGNIFICANCE TO THE AUTOMOTIVE INDUSTRY

Clearer scope of claim: The decision provides guidance on when persons other than the original purchaser may be entitled to recover losses from a manufacturer under the ACL.

Extension beyond first purchasers: While not unlimited, the recognition that some second-hand purchasers may recover damages suggests that manufacturer exposure is not confined strictly to initial sales.

Division between manufacturer and dealer: The Court confirmed that purchasers who buy vehicles second-hand from dealers will generally need to rely on their rights against the dealer, rather than any claim tied to the original sale by the manufacturer.

7.2 EL-HELOU V MERCEDES-BENZ AUSTRALIA/PACIFIC PTY LTD (ACN 004 411 410) & ORS [2025] VSC 211

BACKGROUND

An ongoing class action alleges that Mercedes-Benz Australia used defeat devices to conceal detection of diesel gas emissions in vehicles produced by the Mercedes-Benz Group. It is claimed that the devices caused lower levels of pollution emissions during test conditions than in normal driving conditions. This was allegedly to pass government emissions tests, and that without the devices the vehicles would have failed to comply with Australian Design Rule 79 which specifies certain emission limits which diesel vehicles must satisfy.

ISSUE

In a directions hearing presided over by the Victorian Supreme Court Justice Lisa Nichols, Mercedes-Benz claimed that the devices were needed for safety purposes. The class action representative requested that the engine design business records should be subsequently handed over. Mercedes-Benz submitted that the business records span 17 years and that any review would be a "monumental" task, however, it indicated that it would consider engaging in out-of-court discussions should the class action's expert require further information for the purposes of their report.

OUTCOME

Justice Nichols agreed with the defendant's suggestion, however, she stated she could not rule out that the expert would need further information than what was already provided. Currently, the Mercedes-Benz documents have not been requested to be provided, and the parties' legal teams are conferring out of court. The next listing for the matter is a directions hearing to be held on 1 October 2026.

SIGNIFICANCE TO THE AUTOMOTIVE INDUSTRY

Discovery risk: This case demonstrates that, even where compliance would require producing large volumes of records over many years, courts may still order discovery. The burden of production alone is not sufficient to prevent such orders.

Emissions scrutiny: The proceedings reflect ongoing judicial and regulatory attention on emissions-control technologies. They suggest that manufacturers cannot assume that safety-based explanations for the use of defeat devices will prevent closer examination or limit potential liability.

7.3 *ALTO PTY LTD V GENERAL MOTORS AUSTRALIA AND NEW ZEALAND PTY LTD* [2025] NSWSC 1566

BACKGROUND

General Motors (**GM**) stated in 2017 that it was '100% committed' to the Holden brand and its business in Australia. The plaintiff was a motor vehicle dealer that entered into a contract with GM to supply them with Holden cars, but following February 2020 the Holden brand was discontinued in Australia and GM would no longer supply the cars to the plaintiff.

ISSUE

The plaintiff brought a claim in the Supreme Court of NSW alleging that GM made misleading representations. The plaintiff further alleged that GM made the implied representation in a letter of offer to the plaintiff that they would supply them Holden vehicles and parts until the end of 2022.

The defendants claimed they had reasonable grounds to make the representations, as despite observing a falling market share, they had knowledge that new Holden vehicles would be entering the Australian market and expected the market position to subsequently improve. Additionally, they held insight into the communications and plans of the USA parent company that did not indicate a withdrawal from the Australian market.

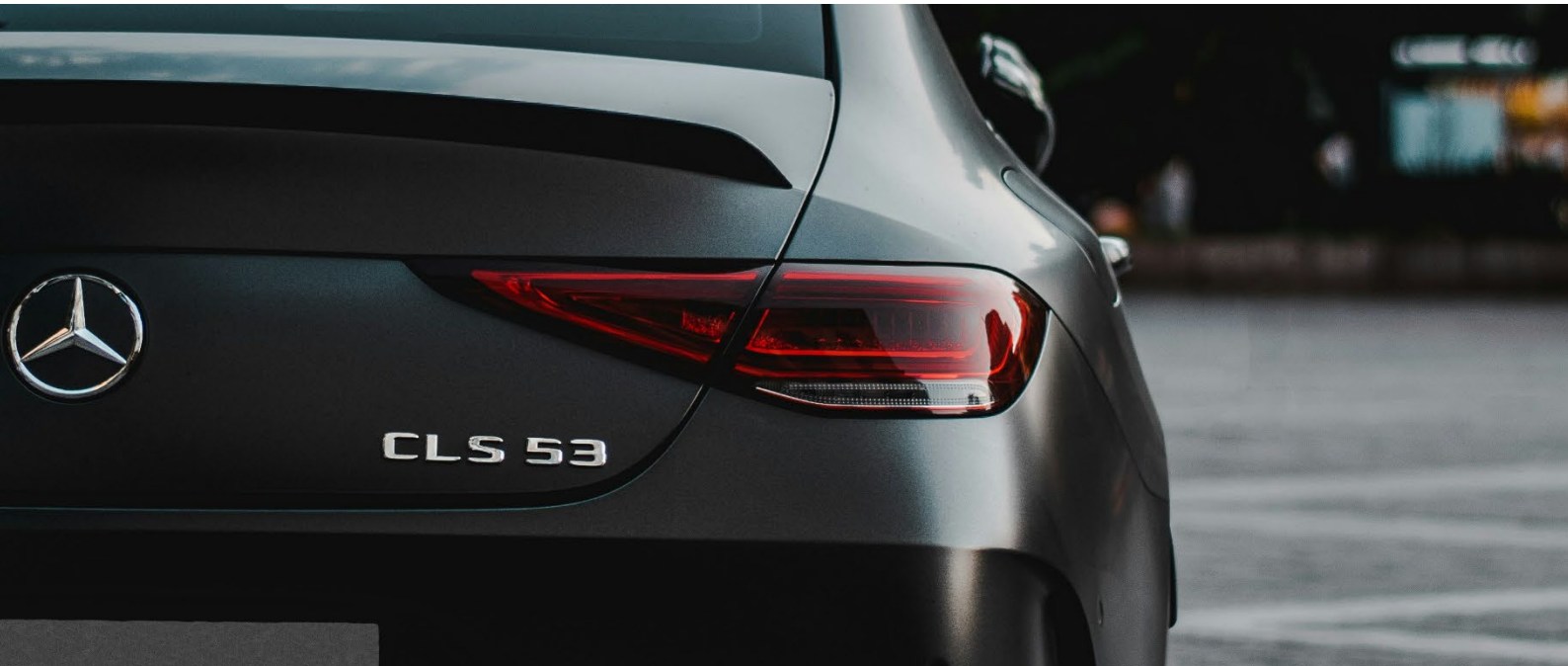
OUTCOME

It has been held by the NSW Supreme Court that GM did not make misleading representations to the plaintiff. The decision found that GM did not plan to exit the Australian market at the time the representations were made and that there were reasonable grounds to make the representations to the plaintiff.

SIGNIFICANCE TO THE AUTOMOTIVE INDUSTRY

Dealer confidence: Automakers are protected when making future business commitments if they had reasonable grounds at the time. The case stresses the importance of clear and well-documented dealer communications.

Strategic change: Where market conditions change, manufacturers may exit a market without automatically breaching misleading conduct laws, even if earlier representations suggested they would continue operating in that market. This provides some flexibility in responding to downturns.



7.4 *FISHER V ISUZU MOTORS LTD (NO 2)* [2025] FCA 1168

BACKGROUND

An ongoing Isuzu class action in the Federal Court alleges the use of emissions cheat devices in some of their vehicles. The presiding judge in the class action, Justice Owens, had previously declined to issue a standalone warning earlier in the proceedings to caution group members that if they sold their cars, they could potentially lose their ability to receive compensation under the class action. This was on the basis that it provided advice relevant to a significant personal decision, namely selling one's car, in a stand-alone communication to the public at large.

The class action representatives have now sought to send a notice to group members that included a warning that if they sell their cars they may "lose some or all of the money" that could be received if there is any settlement.

ISSUE

The issue that arose was whether a similar warning could be issued by the class action representatives to the class action members if it was contained amongst other information in a notice, not in standalone form, and further along in the proceedings.

OUTCOME

The Court has allowed the class action to send an opt-out notice to class members that includes the relevant warning regarding the impacts the sale of their car could have upon the settlement they receive. Justice Owens considered it undesirable to issue a warning to class members, by way of communication to the public at large, in relation solely to a personal decision. However, the warning would be less likely to cause confusion if included within a notice that also provided broader class action and contextual information.

SIGNIFICANCE TO THE AUTOMOTIVE INDUSTRY

Consumer notices: The decision provides clearer guidance on how communications to vehicle owners about the impact of selling affected cars on their compensation rights in class actions should be made.

7.5 *CFD V AAI LIMITED T/AS AAMI* [2023] NSWPIC 592

BACKGROUND

The claimant was pushed from her e-bike by a pedestrian and sustained injuries. She was denied liability by the pedestrian's insurance for statutory benefits under the *Motor Accident Injuries Act 2017*. The claimant then commenced proceedings in the Personal Injury Commission to overturn the insurer's decision.

ISSUE

Two key issues were under contention in the determination of this case.

First issue: Is an e-bike a "motor vehicle"?

Second issue: Was the incident a "motor accident"?

OUTCOME

The Personal Injury Commission held that an e-bike rider was not entitled to statutory benefits under the *Motor Accident Injuries Act 2017* because:

The e-bike was not a "motor vehicle": The statutory definition focuses on whether the vehicle was built to be motor-propelled. There was no evidence the motor and battery formed part of the bike at manufacture, and pedalling was the primary source of propulsion.

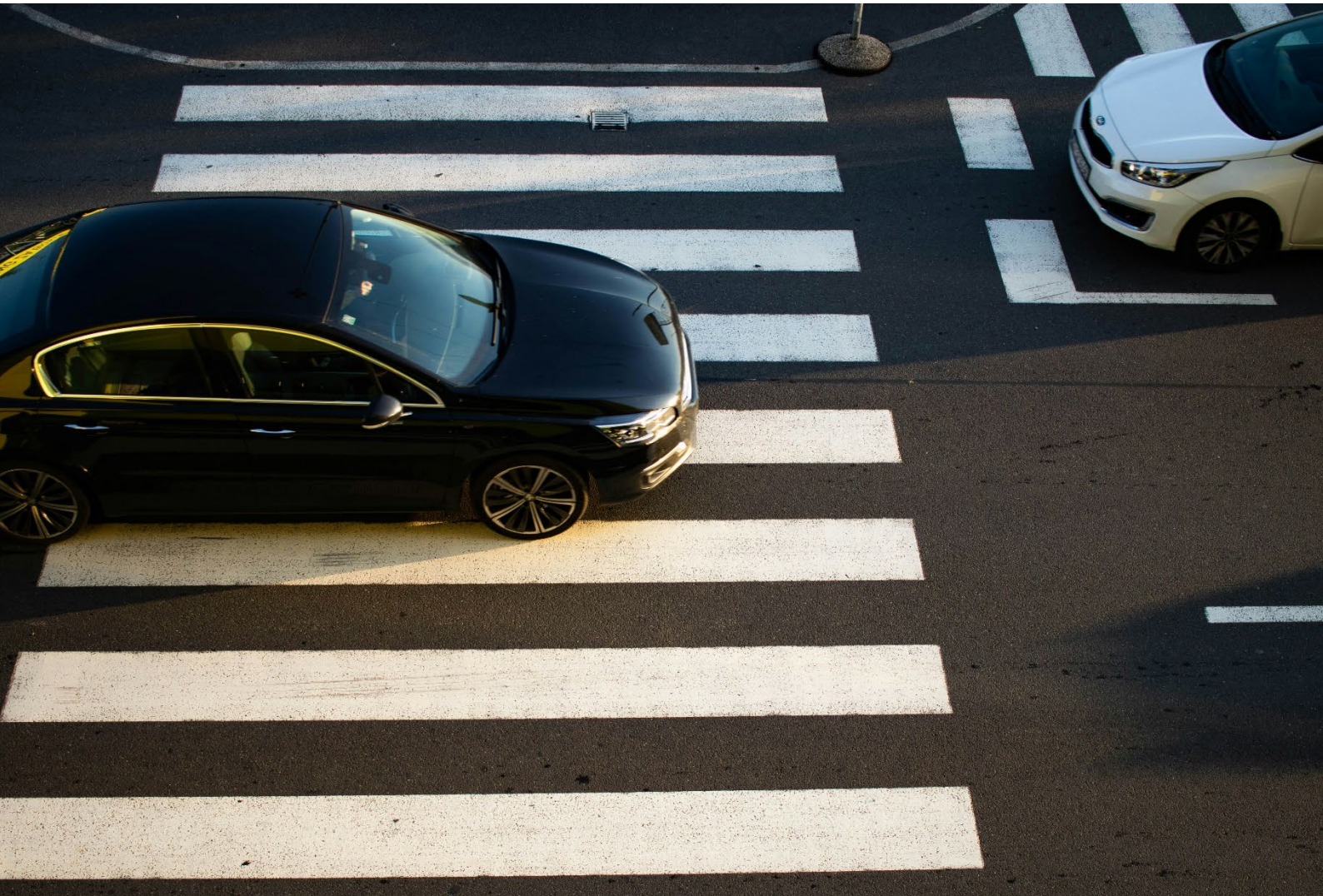
The incident was not a "motor accident": The claimant's injuries were caused by a deliberate push by a third party, not by the operation or use of the bike itself. Even if the e-bike were a motor vehicle, the injury did not arise from driving, a collision, or a dangerous situation caused by the vehicle.

As a result, the claimant fell outside the motor accident compensation scheme.

SIGNIFICANCE TO THE AUTOMOTIVE INDUSTRY

E-Bike classification: The case highlights ongoing legal uncertainty around whether e-bikes fall within the traditional definition of motor vehicle. This has implications for insurance coverage, regulation and liability across the mobility sector.

Coverage limits: Not all incidents involving e-bikes will qualify as motor accidents under compensation schemes. The decision narrows insurer exposure where injuries arise from third-party conduct rather than vehicle operation.



7.6 JAIDEN PETRUCCI V TOYOTA FINANCE AUSTRALIA LIMITED (S ECI 2023 02581); GLENDA WALKER V TOYOTA FINANCE AUSTRALIA LIMITED & ANOR (S ECI 2024 05243)

BACKGROUND

There are currently two ongoing class actions against Toyota's finance arm in the Victorian Supreme Court alleging misleading or deceptive conduct, unconscionable conduct, unfair conduct, unjust transactions and provisions of inappropriate personal advice. The class actions are being managed together.

The *Petrucci* class action concerns the alleged non-disclosure to customers of commissions paid to car dealers, resulting from the gap between Toyota's base interest rate and the higher rate charged to the customer.

The *Walker* class action alleges that car dealers misrepresented low-value add-on insurance products to purchasers as being mandatory.

The two cases have been brought on an "open class basis", meaning any individual in the defined class is a member until they choose to opt-out.

ISSUE

The defendants sought an order that only registered class members would be able to receive money from a pre-trial settlement, as knowing the definite numbers would allow them to calculate a settlement figure.

The class action representatives argued that such orders would unnaturally limit the number of class members.

OUTCOME

The Court denied the request for orders due to the early stage of the cases and their open class nature. The open class nature specifically aims to include vulnerable people who are not aware of the proceedings, and estimates can be made using contracts and information already available to the defendants, rather than negating this aim.

Regarding the overall progress of the cases, a Further Amended Reply was filed by the *Petrucci* class action representatives on 9 April 2026, and a Third Further Amended Statement of Claim was filed by the *Walker* class action representatives on 22 May 2026.

SIGNIFICANCE TO THE AUTOMOTIVE INDUSTRY

Consumer scrutiny: Automotive finance and insurance sales practices face increasing legal scrutiny, particularly where vulnerable consumers may be affected.

Open participation: Courts may resist limiting class action participation for settlement calculation convenience, especially where vulnerable consumers could otherwise be excluded.

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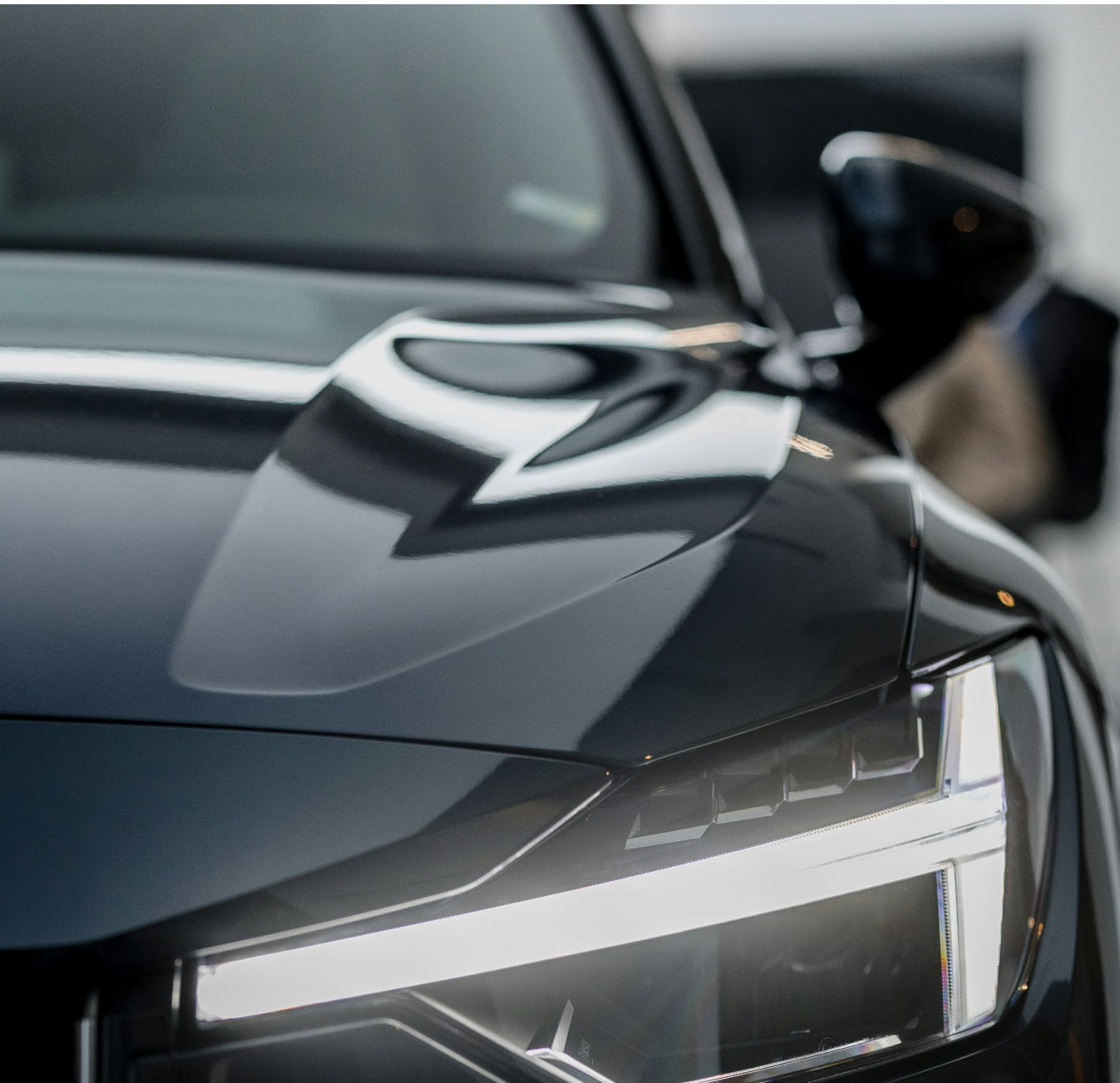

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