REALISING THE POTENTIAL OF DRIVERLESS VEHICLES
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Publication Overview

By almost universal consensus, driverless vehicles are coming and represent as big a disruption to the transport sector as the replacement of horses with the automobile over 100 years ago. The anticipated benefits are significant. Many hope that driverless vehicles will eliminate traffic accidents, end congestion, spark economic growth and provide cheap and convenient mobility for all. But countries that want to fully realise these benefits, and avoid the pitfalls, will need to ensure their legal houses are in order.

New Zealand’s transport laws will need a comprehensive overhaul, but this will take time. In the meantime, there are changes that need to be made soon. This report analyses the issues and provides a suggested blueprint for the immediate reforms that are required.

A top priority is to remove legal uncertainties that may needlessly prevent some driverless vehicles from operating on our roads. Otherwise the introduction of driverless technology and its potential lifesaving benefits may be delayed. It may also mean that New Zealand will lose its chance to meaningfully participate in the development of driverless vehicles, and put the country at a permanent structural disadvantage compared to countries that manage to ride the new wave of robotic automation into the future. While New Zealand law has no explicit requirement for vehicles to have a driver, it is possible that some of the first driverless vehicles deployed overseas would find it difficult to be certified for entry on to New Zealand roads, no matter how safe they were. Chapters 4 and 5 recommend specific amendments to the Land Transport Act 1998 and the Land Transport Rules to help ensure that there is a feasible route for such vehicles to operate legally on our roads.

An equally important priority is to enhance the processes that we will rely on to ensure that the driverless vehicles deployed on to New Zealand roads are sufficiently safe. Chapter 5 recommends this be addressed by adopting a policy similar to that of the US Federal Government, whereby manufacturers would be encouraged to produce safety assessments of their vehicles under New Zealand conditions, backed by the prospect of regulatory action if safety concerns remain.

Clarity is needed as to who will be liable when driverless vehicles make mistakes and cause damage. Chapters 6 and 7 address the question of this liability and recommend specific amendments to the Land Transport Act to create a new product liability regime.
It also needs to be clear who will be liable if driverless vehicles commit offences such as speeding or illegal parking, right through to more serious offences such as dangerous driving. Under current law there will be no liability for some offences, such as speeding, meaning that it is effectively legal for a driverless vehicle to commit these offences. This is not desirable because if driverless vehicles are to be accepted by the public, it is important initially that they should not be excused from following the same rules as everyone else.

For other offences it could be possible for innocent passengers to be criminally responsible for the actions of their driverless taxi. Chapter 8 recommends specific amendments to the Land Transport Act to ensure that driverless vehicles are required to abide by the same laws, and that, when offences are committed, the liability for the offence falls on the logical party. In appropriate cases this could mean that liability (in the form of fines) may fall on the manufacturer of a driverless vehicle. The purpose of this is not primarily to incentivise manufacturers to produce law-abiding vehicles. They are already sufficiently incentivised to do this. Manufacturer liability (in appropriate circumstances) is needed for the simple reason that, without it, it would be effectively legal for driverless vehicles to do some things that are illegal for a human-driven vehicles.

The report also traverses the legal issues surrounding: regulation of testing; cybersecurity; mandated vehicle connectivity; radio spectrum use; urban planning; special lanes and reserved roads; privacy; parking; and ethics.

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Research findings released on 19 April 2018
A full pdf of the report can be downloaded from www.lawfoundation.org.nz/?page_id=2568