

From: [Out of Scope]
To: [Out of Scope]
Subject: RE: Enquiry to the Office of the Privacy Commissioner
Date: Tuesday, 6 July 2021 4:31:48 PM

Thanks [Out of Scope] – no worries at all, will wait to hear from you.

Cheers,

[Out of Scope]

Office of the Privacy Commissioner Te Mana Mātāpono Matatapu
PO Box 10094 | Wellington 6143 | New Zealand
Level 11 | Grant Thornton Building, 215 Lambton Quay | Wellington
E [Out of Scope] [@privacy.org.nz](mailto:[Out of Scope]@privacy.org.nz) | E policy team inbox: xxxxxx@xxxxxxx.xxx.xx
DDI [Out of Scope] | [privacy.org.nz](https://www.privacy.org.nz)



From: [Out of Scope] <[Out of Scope]@nzta.govt.nz>
Sent: Tuesday, 6 July 2021 4:19 pm
To: [Out of Scope] <[Out of Scope]@privacy.org.nz>
Subject: RE: Enquiry to the Office of the Privacy Commissioner

Hi [Out of Scope]

My apologies for the delay in responding – like you I've been swamped with things popping up!

I did receive your email and will come back with some answers.

I think it would be good to catch up over it all.

I'll be in touch very soon!

Many thanks!

[Out of Scope]

From: [Out of Scope] <[Out of Scope]@privacy.org.nz>
Sent: Tuesday, 6 July 2021 3:41 PM
To: [Out of Scope] <[Out of Scope]@nzta.govt.nz>
Subject: RE: Enquiry to the Office of the Privacy Commissioner

Hi [Out of Scope]

Just checking in that (a) this email came through; and (b) whether you had any comments on my comments? More than happy to chat if that is easier.

Cheers,

Out of Scope

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From: Out of Scope
Sent: Wednesday, 30 June 2021 4:38 pm
To: Out of Scope@nzta.govt.nz
Subject: RE: Enquiry to the Office of the Privacy Commissioner

Hi

Thanks again for providing us with this PIA. My apologies for the delay in responding to you regarding this proposal – we have had quite a few relatively urgent bits of work crop up in the interim.

The PIA was a useful read and has some good advice. I note that the PIA it covers more than just the Distracted Driver trial you mentioned (such as the Christchurch Northern Corridor, trialled Nov 2020), but I just wanted to confirm that you only expected comment on the Distracted Driver trial?

Critical to any proposal that involves personal information is the consideration of Information Privacy Principle (IPP) 1, which states that “...organisations must only collect personal information if it is for a lawful purpose connected with their functions or activities, and the information is necessary for that purpose”. NZTA should consider whether this information, collected in the manner proposed (automated photographing of individuals), *necessary* for its functions or activities.

Some comments/questions from an OPC point of view re: the Distracted Driver trial:

- It is important to note that, despite the stated privacy mitigations (e.g. deletion; blurring), this proposal will involve the collection of a *significant* number of pictures of individual faces over the trial period. This is in addition to the other personally identifiable information that
- **Fundamentally, the PIA does not appear to contemplate any other options for this trial.** Has any consideration been given to simply surveying drivers anonymously (thus reducing their incentive to be untruthful about their behaviours)? Why would this not be a useful metric, compared with the seemingly more resource intensive technology trial, which also introduces privacy issues a survey wouldn't. We would expect to see analysis of other options that might be workable, with clear evidence as to why they are not preferred.
- The proposal notes that photos that are not of a distracted driver are deleted at the camera – is there any evidence of the accuracy rate of this process (e.g. is there a failure rate of X%?), and what is done with failures?
- Similarly, the proposal notes that photos capture an individual will be 'automatically blurred' prior to becoming apart of the *evidential* package – what is the accuracy rate

of this process, and where it fails, what is done with those pictures that, presumably, reveal the face of the individual captured?

- While the intention is currently not to utilise evidential packages for any other purposes, if this proposal were rolled out at a wider scale, would they be used for that purpose?
- What is the nature of the 'public advice' that will be displayed to inform drivers of the trial?

I appreciate some of these questions might require a bit of a discussion, so I'm happy to organise a phone call for us to work through them. Have a look at the attached and then feel free to give me a call/email to find a good time. I'm happy to admit that I may have missed something in the PIA that aptly explains the above points, so feel free to point me in the right direction.

Cheers,

Out of Scope

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From: [Out of Scope]
To: [Out of Scope]
Subject: RE: Discussion for Office of the Privacy Commissioner regarding distracted driving_
Date: Tuesday, 2 November 2021 9:58:32 AM

Thanks [Out of Scope] appreciated.

Cheers,

[Out of Scope]

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From: [Out of Scope] <[Out of Scope]@nzta.govt.nz>
Sent: Monday, 1 November 2021 12:36 pm
To: [Out of Scope] <[Out of Scope]@privacy.org.nz>
Subject: RE: Discussion for Office of the Privacy Commissioner regarding distracted driving_

Hi [Out of Scope]

Yes – it's certainly a little crazy!

Auckland levels have had an impact on timelines with things moving further and further out! I'm talking with the installer team later this week to see where things are at and will certainly let you know.

I'm also waiting on an email from the New South Wales Transport Department. They operate all Safety Cameras in New South Wales including the Acusensus system.

As soon as I hear back from them I'll be in touch too – I've asked them about the privacy protections they have in place.

Talk soon!

[Out of Scope]

From: [Out of Scope] <[Out of Scope]@privacy.org.nz>
Sent: Monday, 1 November 2021 12:31 PM
To: [Out of Scope] <[Out of Scope]@nzta.govt.nz>
Subject: RE: Discussion for Office of the Privacy Commissioner regarding distracted driving_

Hi [Out of Scope]

Thanks for the update – the world has changed a bit since we last spoke! I assume the trial has been on hold since the Auckland lockdown – any tentative dates for when it might

commence now?

Cheers,

Out of Scope

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From: [@nzta.govt.nz](mailto:Out of Scope)>
Sent: Tuesday, 26 October 2021 11:31 am
To: [@privacy.org.nz](mailto:Out of Scope)>
Subject: RE: Discussion for Office of the Privacy Commissioner regarding distracted driving_

Hi Out of Scope

It's been some time since I was in touch...

I haven't forgotten about this – has just been a little trying getting hold of people in New South Wales.

I'll be in touch as soon as I have something!

Best regards

Out of Scope

From: [@privacy.org.nz](mailto:Out of Scope)>
Sent: Tuesday, 17 August 2021 9:57 AM
To: [@nzta.govt.nz](mailto:Out of Scope)>
Subject: RE: Discussion for Office of the Privacy Commissioner regarding distracted driving_

Hi Out of Scope

Thanks for the discussion the other day about the Distracted Driving trial – it was very informative for me.

You agreed to find some information on the international uses of this technology and provide that through to me for review – this info is important for understanding how the privacy issues of previous trials were managed, and what concerns might have been reasonably raised (and NZTA should consider mitigating). I'll wait to receive these before providing a briefing to the Commissioner, and then feedback to you.

Thanks again – please feel free to give me a call if you would like to discuss.

Cheers,

Out of Scope

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From: [@nzta.govt.nz](mailto:Out of Scope)>
Sent: Tuesday, 10 August 2021 1:15 pm
To: [@privacy.org.nz](mailto:Out of Scope)>
Cc: [@nzta.govt.nz](mailto:Out of Scope)>; [@nzta.govt.nz](mailto:Out of Scope)>
Subject: Discussion for Office of the Privacy Commissioner regarding distracted driving_

Good afternoon Out of Scope

As a precursor for this afternoon's meeting, please find attached responses to the points you raised which we can work through during the meeting.

I have a room booked at our Chews Lane office where you are most welcome to join if you feel like a change of scenery.

Looking forward to catching up this afternoon!

Best regards

Out of Scope

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From: [Out of Scope]
To: [Out of Scope]
Subject: RE: Distracted Driving
Date: Friday, 26 November 2021 9:59:49 AM
Attachments: [image002.png](#)

Hi [Out of Scope]

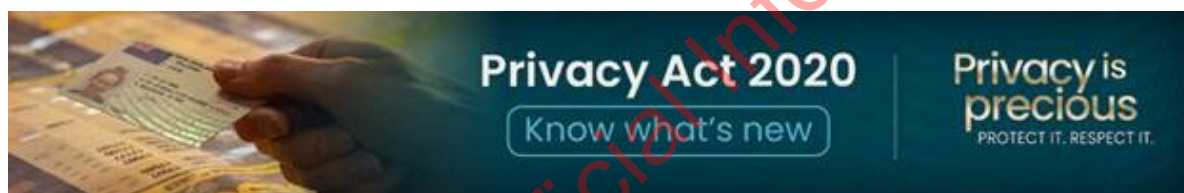
I just wanted to touch base to say that I've received this information, and will provide some more fulsome comments in the near future, once I've digested it all and considered our previous conversations.

How likely do you see mid-December as a start date?

Cheers,

[Out of Scope]

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From: [Out of Scope] <[\[Out of Scope\]@nzta.govt.nz](mailto:[Out of Scope]@nzta.govt.nz)>
Sent: Tuesday, 16 November 2021 12:56 pm
To: [Out of Scope] <[\[Out of Scope\]@privacy.org.nz](mailto:[Out of Scope]@privacy.org.nz)>
Subject: Distracted Driving

Hi [Out of Scope]

Apologies for the delay in getting back to you!

I have met with Transport New South Wales, who operate all safety cameras in New South Wales including the distracted driving systems. The focus of my discussion with them was around matters put in place to satisfy any concerns held by the state Privacy Commissioner.

The NSW installations were quite pioneering in Australia, particularly as it was a new area of enforcement for them (NSW had always intended to enforce from the cameras, which is different to our stance).

A number of operational conditions were put in place as part of initial roll out of the detection systems with a particularly strong focus on data security and identity protection.

A base principal of delete everything that is not an offence immediately or as soon as a non-offence is confirmed via verification.

The images taken by the cameras are scanned by the system at the road side. All images that do not identify an offence or potential offence are automatically deleted.

The identified or potentially identified offences are then sent for verification. The verification is a human step where cropped images are viewed, and where a driver is seen holding a phone ,confirmed as an offence. All non-offence images are deleted.

The human verification staff (all security vetted before employment by Acusensus) are provided with tightly constrained ipads on which they view the cropped image. These ipads only operate as viewers for the image – all other functionality has been locked.

The verifiers simply tick yes or no for an offence on each image they view.

As a live enforcement programme, the verified offences detected in NSW are then pushed through for infringement processing where the entire image is used to support the charge.

Our NZ trial is considerably more constrained as we are simply capturing numbers (besides the very limited number of 'evidential' images being used to evaluate system performance.

The principal applied to the NSW operation lead to the development of what is now the standard operating process for the Acusensus system. The system we are installing here has all of these features.

Timeline wise, COVID impacts have pushed us yet again, and we are now considering mid December as the first possible potential start date for hardware installation.

Please feel free to call at anytime for clarification!

Best regards

Out of Scope

Out of Scope

Safety, Health and Environment

Email: Out of Scope@nzta.govt.nz

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Waka Kotahi NZ Transport Agency

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From: Out of Scope
To: [Redacted]
Cc: [Redacted]
Subject: RE: Distracted Driving Project
Date: Thursday, 12 May 2022 11:07:45 AM
Attachments: [image003.png](#)
[image004.png](#)

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Hi [Redacted]

Thanks for the update. Do keep us in the loop on the PIA process!

Ngā mihi

[Redacted]

[Redacted]

[Redacted] r

Office of the Privacy Commissioner Te Mana Matapono Matatapu

Ph: [Redacted]

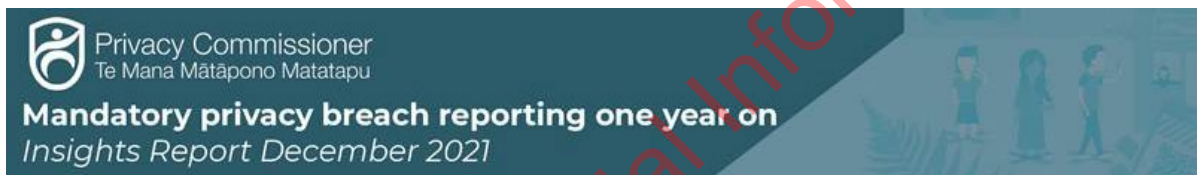
Email: [Redacted]x@xxxxxxx.xxx.xx

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From: [Redacted]@nzta.govt.nz>

Sent: Thursday, 12 May 2022 10:58 am

To: [Redacted]@privacy.org.nz>

Cc: [Redacted]@privacy.org.nz>

Subject: Re: Distracted Driving Project

Hi [Redacted] and [Redacted]

Thanks for contacting me on this.

I have 'commissioned' a PIA specifically relating to the seatbelt detection as aspects with [Redacted] of simply privacy Ltd.

What we desire is (subject to the findings of the PIA and implementation of any recommendations) to activate seatbelt wearing counts - again, only getting numbers of offences disclosed.

If the PIA raises issues that are in the too hard basket, we won't be going down the seatbelt path. The whole issue came about from disco earring that the camera system had the seatbelt capability available.

I don't have a timeline for the PIA completion as yet - it may not even be done in time for this trial, but rest assured, seatbelt detection will not be turned on until we have the PIA and the recs therein completed.

We thought it prudent to flag the potential for seatbelt checking as part of the comms to maintain transparency.

Happy to discuss at any time!

Best regards

[Redacted]

Out of Scope

Safe System Crash Analysis
Safety Camera System Programme

From: Out of Scope <[redacted]@privacy.org.nz>
Sent: Thursday, May 12, 2022 10:18:46 AM
To: Out of Scope <[redacted]@nzta.govt.nz>
Cc: Out of Scope <[redacted]@privacy.org.nz>
Subject: RE: Distracted Driving Project

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Kia ora [redacted]

I hope you have been well over these past few months!

Can I please check on the status of the additional collection of information on seatbelt wearing. I see that the comms material says "There is also the possibility to detect seatbelt wearing through the technology, which may be turned on during the trial period."

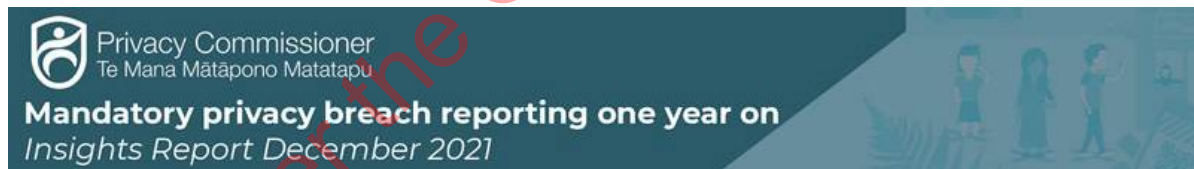
Is there a PIA on this? Could you please let me know what process was undertaken on assessing the privacy implications of this addition?



Ngā mihi

[redacted]

Out of Scope

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From: Out of Scope <[redacted]@privacy.org.nz>
Sent: Wednesday, 23 March 2022 10:25 am
To: Out of Scope <[redacted]@nzta.govt.nz>
Cc: Out of Scope <[redacted]@privacy.org.nz>
Subject: RE: Distracted Driving Project

Kia ora [redacted]

Thanks for the update. Looking forward to seeing your comms!

Even though there are some similarities between cell phone use and seatbelt wearing, this is adding an additional purpose and use for your collection of personal information. OPC would therefore expect that seatbelt wearing be added to the PIA as an additional purpose and run through all of the same privacy analysis. Let me know if you have any questions on what this should look like, happy to help!

Ngā mihi

Out of Scope

Out of Scope

Office of the Privacy Commissioner Te Mana Matapono Matatapu

Ph: 9(2)(a)

Email: Out of Scope@privacy.org.nz



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From: Out of Scope@nzta.govt.nz

Sent: Monday, 21 March 2022 10:48 am

To: Out of Scope@privacy.org.nz

Cc: Out of Scope@privacy.org.nz

Subject: RE: Distracted Driving Project

Hi Out of Scope

Thank you very much for this!

The comms package is currently being refreshed to update dates and ensure the messaging clearly spells out that this is not about enforcement.

The trail technology also has the capability to detect seatbelt wearing (using the same detection and verification process as for cell phone use.

My manager has said that we should test this capability as part of the trial with exactly the same approach; i.e to obtain count data of the non-wearing rate of seatbelts.

The comms package will include reference to this.

I'll send you a copy as soon as I receive the updated version.

Many thanks!

Out of Scope

Out of Scope

Safety Camera System Programme

Safety, Health and Environment

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Mobile: 9(2)(a)

Waka Kotahi NZ Transport Agency

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Private Bag 6995, Wellington 6141, New Zealand



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From: [Out of Scope] <[redacted]@privacy.org.nz>
Sent: Monday, 21 March 2022 8:40 AM
To: [Out of Scope] <[redacted]@nzta.govt.nz>
Cc: [Out of Scope] <[redacted]@privacy.org.nz>
Subject: RE: Distracted Driving Project

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Kia ora [Out of Scope]

Thanks for the chat late last week on NZTA's Distracted Driving Project.

We're really appreciative of the consultation with OPC so far to understand this trial and its privacy implications.

To summarise our conversation, the OPC position is that while we can see that there is privacy risk here, but we also see the case for collecting data to understand distracted driving and ultimately improve road safety. We're supportive of your policy aim - we are keen to see improvements in road safety achieved in a privacy protective way.

The critical factor in our view is that NZTA ensure this trial is implemented safely and that the technology is robust. In particular, we encourage NZTA to fully understand and mitigate for any risk of deletion/anonymisation processes failing.

As I flagged, to understand the privacy risks of any given proposal we often try to assess what the worst possible privacy scenario could be and work back from there. For this, I think it would be for images of distracted drivers showing faces and/or licence plates to somehow leak. This would obviously only happen if there was a failure in the anonymisation and storage processes, hence why we were keen to emphasise the importance of fully unpacking the robustness of the technology you're proposing to use. If details of possible distracted driving offences somehow leak this could have significant impact for individuals – e.g. someone who relies on a driver's licence for employment.

As you know, OPC does not "approve" Privacy Impact Assessments – NZTA will of course be responsible for any residual unmitigated privacy risk.

I'd be great to take a look at your comms if you're able to flick it through. It's great that you plan to notify the public of the trial (taking your Information Privacy Principle 3 notice requirements into account). We did think that in the interests of transparency it would be good to flag to the public that while the trial will just be gathering information on the scale of the problem, use of this kind of technology for enforcement may be considered at a separate future stage.

If you do consider moving to use this technology for enforcement, we'd of course expect to be involved. This would have significantly higher privacy implications than the current trial. You'd need to think very carefully about privacy implications if enforcement is to be a possible next phase, carefully considering factors like:

- 1) Whether this is the best option for achieving the objective.
- 2) False positives – Extremely high degree of certainty would be required for enforcement.
- 3) What linkages would be needed across datasets and implications for privacy – licence plates, driver licences, faces (identification of individuals driving while using phones - how would this be done?)
- 4) Whether facial recognition would be used for identifying drivers. Refer to our [biometrics position paper](#) for an outline of our expectations around automated recognition of individuals based on biological or behavioral characteristics.

I hope that is useful feedback for you - always more than happy to have another conversation if you'd like.

Again, thanks so much for getting back in touch with OPC!

Ngā mihi

[Out of Scope]

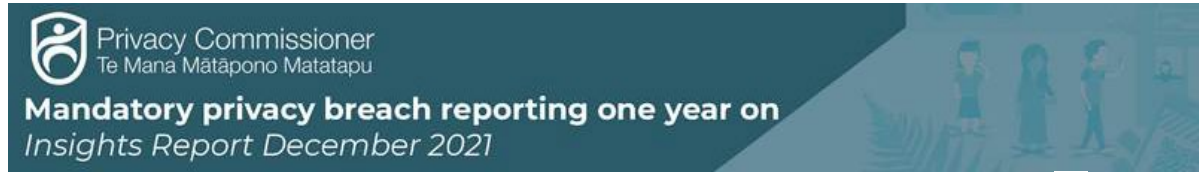
[Out of Scope]



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From: Out of Scope @privacy.org.nz
Sent: Thursday, 10 March 2022 4:02 pm
To: Out of Scope @nzta.govt.nz
Cc: Out of Scope @privacy.org.nz
Subject: RE: Distracted Driving Project

Hi Out of Scope @privacy.org.nz

Happy New Year! I can't believe it is March already...

Thanks for the update on the trial – I must confess it had slipped my mind in the hurried madness of last year and feverish start to this one.

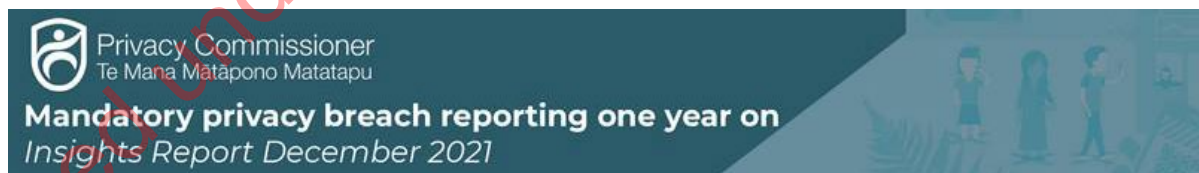
We are just reacquainting ourselves with the proposal – I did have some comments based off our last meeting that I would like to revisit. Ultimately the decision to proceed with the trial will be one of Waka Kotahi, but we will articulate any remaining questions/concerns in the next week or so, and how we think these can be safeguarded. My colleague Out of Scope @privacy.org.nz (cc'ed) will be leading that work and will be in touch at that time.

Happy to discuss now; otherwise talk soon when we have regathered our thoughts.

Cheers,

Out of Scope @privacy.org.nz

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From: Out of Scope @nzta.govt.nz
Sent: Thursday, 10 March 2022 11:43 am
To: Out of Scope @privacy.org.nz
Subject: Distracted Driving Project

Hi Out of Scope @privacy.org.nz

I hope all is well with you and you've managed to avoid the madness that seems to be prevalent everywhere these days!

Just a quick catch up regarding the Distracted driving trial...

We are aiming to install the first system at the end of the month – there have been a number of issues with equipment supply thanks to COVID impacts on supply lines and staff.

I just wanted to check that we have addressed any concerns you have.

Please feel free to call to discuss should you wish.

Best regards

Out of Scope

Out of Scope

Safety, Health and Environment

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Released under the Official Information Act 1982

From: [Redacted]
To: [Redacted]
Cc: [Redacted]
Subject: RE: Annexure 3_Final PIA
Date: Monday, 23 May 2022 4:13:35 PM
Attachments: [image005.png](#)
[image006.png](#)

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Kia ora Mark

Yes, we saw this in the media. Thank you for keeping us in the loop.

We will definitely take a look at this and provide you with feedback. What kind of timeframe are you looking for? We usually turn PIA feedback around in 6 weeks, but happy to discuss a potential different timeframe given that this is only an annex.

Let me know.

Ngā mihi nui

[Redacted]

[Redacted]

Office of the Privacy Commissioner Te Mana Matapono Matatapu

Ph: [Redacted]

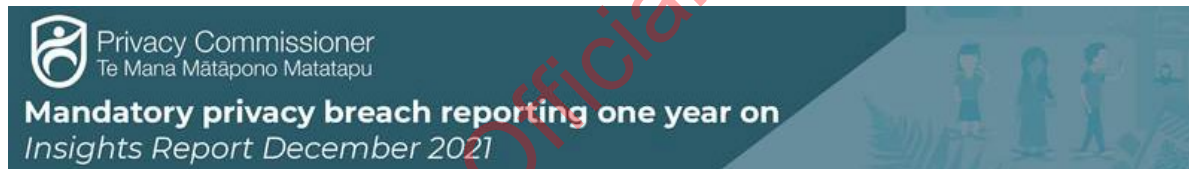
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From: [Redacted]@nzta.govt.nz>

Sent: Monday, 23 May 2022 4:06 pm

To: [Redacted]@privacy.org.nz>

Subject: Annexure 3_Final PIA

Good Monday afternoon [Redacted]

Please find attached the updated annexure from the PIA Waka Kotahi has had completed by Simply Privacy.

The updated annexure includes seatbelt detection along with cell phone use.

The protection of personal information relating to seatbelts is as per the cell phone situation.

You may have seen the media on the trial today – it gets turned on at midnight tonight.

Although the media stories reference seatbelt wearing rates, that component will not be activated pending your feedback on the PIA aspects.

As per the cell phone side of this trial, no enforcement action of any sort will occur for any seatbelt offence detected.

Please let me know if you would like to discuss further, and please do let me know your thoughts!

Best regards

Out of
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Safety, Health and Environment

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Distracted Driving Trial

Office of the Privacy Commissioner Correspondence

Out of Scope

16 May 2022

0.1

Background

The Safety Camera System Programme has commenced a six month trial of Distracted Driver Detection (cell phone use by drivers) using automated detection technology. The detection system is built around frontal images of passing traffic being interrogated (at roadside) by Artificial Intelligence (AI) to identify potential use of handheld cell phones by drivers.

Those images identified by the AI system as being probable offences are then verified by human verification staff. All images not identified as probable offences are deleted at roadside.

For the purpose of this trial, no prosecution of any form (warning, infringement or letter of advice) is being undertaken. The trial will determine metrics (offence rates) only, that metric being used to inform future activity in this area.

Privacy considerations

The imagery captured by the detection system is particularly invasive, as it 'looks' into the cabin of the incident vehicle to allow a view of the driver's hands. This brings with it the potential for unintended identification of real persons. In understanding this, a full Privacy Impact Assessment (PIA) has been completed, in order to identify areas where risk mitigation steps and processes are defined.

The Office of the Privacy Commissioner (OPC) was also engaged (Waka Kotahi initiated) to provide advice on the trial and managing risk.

The Security Development Life Cycle Tool (SDLT)

A new process, the SDLT, was introduced after this project was launched. This project completed the SDLT process.

The Privacy Impact Assessment

Simply Privacy were engaged to undertake the PIA, as part of a larger PIA capturing camera based activity within Waka Kotahi as a whole. The matters relating directly to the Distracted Driving Trial were provided as an annexure to the main PIA and are summarised below. It must be noted that the overall PIA covers the use of camera technology in general and will require agency wide consideration.

The recommendations included in the PIA have all been actioned.

Annexure 3 - Distracted Driver Road Camera Proof of Concept Trial (February 2021)

This trial involves the deployment of three roading management cameras to detect the incidence of distracted driving. Using a mobile phone while driving is the predominant cause of distracted driving while other activities may also be relevant, such as reading printed material and consuming food.

Waka Kotahi is trialling a camera system provided by Acusensus Pty Ltd of Australia, the *Acusensus Heads-Up Solution*. The system is designed to detect illegal mobile phone use by drivers. Through artificial intelligence the camera system detects drivers whose hands are not both on the steering wheel of the vehicle and are potentially otherwise occupied with a mobile phone. A front of vehicle still photo image is captured which also includes an additional close up still image of the driver.

All vehicles passing the camera site are photographed. Images that are not of a distracted driver are deleted at the camera. Those of an apparently distracted driver are packaged in an encrypted file (described as a *evidential package*) and forwarded to an Acusensus server on the Amazon Web Services Cloud solution in Australia. The decryption key is held only by Waka Kotahi.

The trial is to ascertain the effectiveness of the *Acusensus Heads-Up Solution* and ascertain the extent of non-compliance over a 6 month period at three sites within the Auckland roading network. Waka Kotahi will manually check the *evidential packages* to establish the rate at which the solution positively identifies a distracted driver.

No drivers will receive infringement notices, warnings or communication from NZTA as a result of the trial.

Public advice about the future advent of the trial is contemplated without disclosing the exact site of each camera deployment to avoid a prejudice to the acquisition of accurate statistics of the rate on driver non-compliance.

Personal Information

The individual images packages of an incidence of a distracted driver contain limited information. The package will identify the particular site of the camera and therefore the monitored roading space. The vehicle registration plate, passengers and the face of the driver will be automatically blurred prior to becoming part of the *evidential* package.

The verified distracted driver's information will be used in an anonymous manner to determine the statistical efficacy of the *Solution* and establish the volume of non-compliant road user behaviour.

At the completion of the trial all *evidential* packages information will be destroyed.

Intended Controls

- Information that does not identify a distracted driver will not be retained and deleted at the camera.
- Information that apparently identifies a distracted driver, *evidential packages*, will be delivered to the trial storage server with limited information. Passengers, registration details and the driver’s face will all be blurred.
- *Evidential packages* will be assessed by Waka Kotahi staff to provide assurance that the images confirm a distracted driver event.
- *Evidential packages* are encrypted from the camera to the storage server at Amazon Web Services in Australia.
- File decryption keys will be held only by Waka Kotahi.
- *Evidential packages* information will not be used to the detriment of the non-compliant individuals – no infringement notices, warning or other communications will be directed to them by Waka Kotahi.
- At the completion of the trial all information acquired including *evidential packages* will be deleted and destroyed.

Recommendations specific to the Distracted Driver Proof of Concept Trial	Recommendation Reference	Date
		<ul style="list-style-type: none"> • Accepted • Implemented
Designate an appropriate governance group to have oversight of the trial taking into account the overall need to establish adequate governance for the whole of the roading management camera system	R2	Accepted. For this project it will be managed by the project team including [Out of Scope]
Consider the requirements for technical security within the roading management camera system and storage that is commensurate with the Waka Kotahi responsibility for security	R7	Implemented.
Ensure the AWS system logs access to and activity within the <i>evidential packages</i> in the event that an audit of the access to the information is required.	R9	Implemented.
Despite limited personal information and a short trial it is appropriate to designate users for the analysis of the information so that access is limited to defined and appropriate staff	R8	Implemented. Users are [Out of Scope] and [Out of Scope]
Establish assurance reporting about the technical and analytical aspects of the system as required in the context of the proof of concept trial	R11; R12	Implemented – is part of the project reporting
Devise a strategy for advising the public and other stakeholders about the trial recognising the prejudice that might accrue if the exact locations of the trial cameras are divulged.	R6	Implemented Comms package completed

<i>Responses to recommendations (in same order)</i>	
Recommendation 1	An interim group is to be formed (who forms this panel) to monitor privacy compliance. Group to be informed through monthly trial reporting
Recommendation 2	A full technical security appraisal has been completed by our IT security group. System is deemed to have the appropriate security measures in place.
Recommendation 3	As above
Recommendation 4	Very limited access to raw information (likely project manager only)

Recommendation 5	The trial has a weekly and monthly reporting requirement that captures this.
Recommendation 6	A full and frank communications strategy and release has been developed.

Summary Table of PIA Recommendations		
Recommendation 1	Undertake an agency risk workshop to qualify the risk assumptions made within this assessment.	Will be part of Rec 2 response
Recommendation 2	Identify a national governance structure for the national deployment of roading management cameras that includes regular oversight and assurance reporting.	Given the policy and strategic levels implied further work within Privacy group to wrap this up. Have commenced initial discussions and documentation within Ac workstream.
Recommendation 3	Acquire a legal opinion on the lawfulness of collection of personal information in the context of the deployment of roading management cameras	Have this. Paper by Out of Scope Haymans Lawyers 7-7-2017
Recommendation 4	Establish at an early stage the primary and directly related purposes for using a roading management camera system and collecting personal information.	Will be stated in the objectives for any deployment/investment in camera tech business cases and programmes.
Recommendation 5	Establish policy or guidance for each targeted deployment of roading management cameras, that prescribes the expectations of data minimisation so that collection of unnecessary personal information is eliminated.	Underway – Work has commenced on a paper outlining Privacy Impacts relating to enforcement cameras in general
Recommendation 6	Implement a transparency strategy to cover the deployment of a roading management camera system including comprehensive advice through appropriate agency channels.	Underway – sort of exists within the strategy and action plan documents under Road to Zero
Recommendation 7	Establish technical security within the roading management camera system and storage that is commensurate with the agency’s responsibility for security	Having an IT Security audit of every planned introduction of equipment is a standard part of any project development using technology. This has been completed for the distracted driving trial.
Recommendation 8	Develop a carefully designed set of user roles for retained information, ensuring that access to personal information is limited to the appropriate staff.	Covered in Op Policy – only trained and approved personnel.
Recommendation 9	Ensure the system logs access to and activity within the roading management camera data and the log is audited.	BaU for this type of equipment but needs to be checked and verified for each vendor’s processes. Has been done for Distracted Driver trial
Recommendation 10	Develop a business process for approving and documenting legitimate disclosures of information from the roading management camera data to external agencies.	Addressed under existing OIA and personal information rules within WK

Recommendation 11	Create business processes that provide assurance that the technical system is accurate and reliable.	Gazette Testing, Annual calibration and certification is an annual requirement under the Land Transport Act 1998. This aspect is being delivered as part of the roll out of new equipment.
Recommendation 12	Create business processes that provides for human oversight of roading management camera data that contributes to decision making.	Impacts potential automated processing work. Needs careful consideration in terms of the overall programme. I personally have concerns at losing the human intervention.
Recommendation 13	Set retention periods for personal information collected by individual roading management camera systems.	Evidential requirements to consider, Standard government 7 year retention rules?
Recommendation 14	Establish a business process that administers the various requests that will be made for roading management camera data/personal information.	Within existing WK personal information policies. Also impacted by disclosure rules
Recommendation 15	Establish comprehensive guidance and training for staff and a business process that provides oversight of the way roading management camera data is managed and used.	To be written. A full training package is yet to be written. Will include generic privacy and camera operation along with role specific sections (can likely 'borrow' the existing Police documents as a guide.

The option to not disclose any information on the trial using the exemption in the Privacy Act that disclosure may unduly influence the trial result) was considered but it was decided a more open approach was appropriate; however, it was decided to not disclose the exact installation locations, instead announcing a Greater Auckland trial.

Office of the Privacy Commissioner

The Distracted Driving Trial project group front footed engagement with the OPC, initiating contact upon receipt of the PIA documents.

A number of verbal and email conversations followed ,with OPC being supplied with the full PIA and the project answering questions as they emerged.

The following table captures the conversations with OPC.

Question / Matter raised	Project Response
1. It is important to note that, despite the stated privacy mitigations (e.g. deletion; blurring), this proposal will involve the collection of a <i>significant</i> number of pictures of individual faces over the trial period. This is in addition to the other personally identifiable information that may be obtained.	While the system collects images on which the assessment of distraction is made, this trial is focused on offending rates. Waka Kotahi will examine a very limited sample of images to determine overall quality and if they meet New Zealand's evidential standards. Completely anonymised copies may be used in the final report. All other images will be deleted upon completion of that verification. The only two people to see the initial images will be myself and [Redacted] (Waka Kotahi staff member). As Waka Kotahi staff we are both subject to strict private information policy rules. We ought to emphasise that the only images acquired from the system will be those that detect a distracted driver, that is committing an offence, and for the trial the image will only show the driver's hands, the face being pixelated by the system. All other human images will also be pixelated i.e. passengers.

Question / Matter raised	Project Response
<p>2. Fundamentally, the PIA does not appear to contemplate any other options for this trial. Has any consideration been given to simply surveying drivers anonymously (thus reducing their incentive to be untruthful about their behaviours)? Why would this not be a useful metric, compared with the seemingly more resource intensive technology trial, which also introduces privacy issues a survey wouldn't. We would expect to see analysis of other options that might be workable, with clear evidence as to why they are not preferred.</p>	<p>This trial is centred on identifying offending rates in a large metropolitan area (Auckland). We seek a significantly large sample on which to make a sound appreciation of the extent of the problem and evaluate the capability of the equipment to manage large numbers of vehicles. We anticipate over one million vehicles will travel past the systems over the duration of the trial. A human based survey does not offer the coverage available through the technology approach and introduces potential skewing of results based on matters such as;</p> <ul style="list-style-type: none"> • Difficulty in seeing drivers of some vehicles from the roadside, • Assumptions of cell phone use due to lack of time to observe fast moving traffic, • Health and safety concerns for surveyors on the roadside – particularly in high speed environments, • Motorway sampling requires extensive traffic management including high visibility procedures for survey staff, making it a highly overt sampling operation which will impact results, • Large staff requirements to complete the survey, and manual watching surveys are only efficient over a limited time period and offer a limited deterrence
<p>3. The proposal notes that photos that are not of a distracted driver are deleted at the camera – is there any evidence of the accuracy rate of this process (e.g. is there a failure rate of X%), and what is done with failures?</p>	<p>This is one of the key focusses of the trial, with the system reliability in identifying potential offences or instances of distraction being critical in the overall evaluation. Reliability and repeatability of offence recognition will be evaluated as part of the trial.</p>
<p>4. Similarly, the proposal notes that photos capture an individual will be 'automatically blurred' prior to becoming a part of the <i>evidential</i> package – what is the accuracy rate of this process, and where it fails, what is done with those pictures that, presumably, reveal the face of the individual captured?</p>	<p>As above, the trial aims to evaluate the entire detection and identification process as part of the offence rate establishment. Aside from the completely anonymised images that may be used in the final report, all images will be destroyed on completion of the trial. Note – any image used in the final report will be manually anonymised by me if required to ensure absolutely no identifiable information is visible in the image.</p>
<p>5. While the intention is currently not to utilise evidential packages for any other purposes, if this proposal were rolled out at a wider scale, would they be used for that purpose?</p>	<p>This trial is exactly that, a trial to determine the extent of the problem of distracted driving and the capability of the technology to identify potential offences. None of the information received will be used to support any traffic charge or prosecution.</p>

	<p>The ability to use this technology to capture legal evidence will require further work including legislative changes to the definition of a 'Moving Vehicle Offence' which defines the offences that may be enforced as owner liable offences detected via camera and Gazette Approval of the system to have it defined as Approved Vehicle Surveillance Equipment under the Land Transport Act.</p>
<p>6. What is the nature of the 'public advice' that will be displayed to inform drivers of the trial?</p>	<p>While provision exists within legislation to not notify the public of the trial (based on potential influence on results) we will be advising the public of the trial and that it is happening in Greater Auckland. We will not however be advising of the exact location of installation of the systems in order to achieve uninfluenced results. This is about public safety - driver distraction being a contributor to injury and death on the roads and anecdotally a significantly greater contributor than traffic accident statistics perhaps indicate. In most circumstances public safety overrides privacy and while that doesn't mean there are no mitigations to privacy this trial has adequate controls - images limited to those that detect distraction/phone - pixelated data including face of driver - limited meta data about the time and location of the vehicle - data held for a short period in safe and limited circumstances to enable analysis following which the data will be destroyed - no prejudice or detriment to the subjects -</p> <p>And in keeping with IPP1(2) as far as able the trial is not collecting identifying information and it will not be associated with other information that will enable identity to be established.</p>

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of OPC provided the following email at the conclusion of initial discussions.

We're really appreciative of the consultation with OPC so far to understand this trial and it's privacy implications.

To summarise our conversation, the OPC position is that while we can see that there is privacy risk here, but we also see the case for collecting data to understand distracted driving and ultimately improve road safety. We're supportive of your policy aim - we are keen to see improvements in road safety achieved in a privacy protective way.

The critical factor in our view is that NZTA ensure this trial is implemented safely and that the technology is robust. In particular, we encourage NZTA to fully understand and mitigate for any risk of deletion/anonymisation processes failing.

As I flagged, to understand the privacy risks of any given proposal we often try to assess what the worst possible privacy scenario could be and work back from there. For this, I think it would be for images of distracted drivers showing faces and/or licence plates to somehow leak. This would obviously only happen if there was a failure in the anonymisation and storage processes, hence why we were keen to emphasise the importance of fully unpacking the robustness of the technology you're proposing to use. If details of possible distracted driving offences somehow leak this could have significant impact for individuals – e.g. someone who relies on a driver's licence for employment.

As you know, OPC does not “approve” Privacy Impact Assessments – NZTA will of course be responsible for any residual unmitigated privacy risk.

I'd be great to take a look at your comms if you're able to flick it through. It's great that you plan to notify the public of the trial (taking your Information Privacy Principle 3 notice requirements into account). We did think that in the interests of transparency it would be good to flag to the public that while the trial will just be gathering information on the scale of the problem, use of this kind of technology for enforcement may be considered at a separate future stage.

If you do consider moving to use this technology for enforcement, we'd of course expect to be involved. This would have significantly higher privacy implications than the current trial. You'd need to think very carefully about privacy implications if enforcement is to be a possible next phase, carefully considering factors like:

- 1) Whether this is the best option for achieving the objective.
- 2) False positives – Extremely high degree of certainty would be required for enforcement.
- 3) What linkages would be needed across datasets and implications for privacy – licence plates, driver licences, faces (identification of individuals driving while using phones - how would this be done?)
- 4) Whether facial recognition would be used for identifying drivers. Refer to our [biometrics position paper](#) for an outline of our expectations around automated recognition of individuals based on biological or behavioral characteristics.

I hope that is useful feedback for you - always more than happy to have another conversation if you'd like.

The communications strategy and content was shared with OPC. That strategy included reference to the potential of the system to identify non-seatbelt wearing.

The OPC advised seeking a further PIA relating to seatbelt detection prior to activating this capability during the trial. Simply Privacy have been asked to explore seatbelts by way of a PIA.

Upon receipt of, and completing any recommendations, it is the intention to activate seatbelt offence counting as part of the trial.

Summary

The Distracted Driving Trial has forced a very considered approach to image based data capture using automatic enforcement equipment. While the individual recommendations for this trial have been met, there is further work required to establish the strategic measures falling out of the overall PIA.