

OC2240842

19 August 2024

New Zealand Council for Civil Liberties

Email: fyi-request-27753-e3c421d8@requests.fyi.org.nz

Tēnā koe New Zealand Council for Civil Liberties,

I refer to your email dated 22 July 2024, requesting the following under the Official Information Act 1982 (the Act):

"Dear Ministry of Transport,

The Council was notified shortly after the closing of your consultation on Land Transport Rule: Setting of Speed Limits 2024 of the following statement in the supporting material:

"We may use an artificial intelligence tool to help us analyse submissions We may use an AI tool to help us analyse submissions. We will take steps to avoid inputting personal information into any AI tool that is outside our network." [1]

Hereafter this "artificial intelligence tool" is referenced as "the tool".

The New Zealand Council for Civil Liberties requests:

- 1. The name of the tool, and the names of any supporting external tools.*
- 2. The Privacy Impact Assessment for this use of the tool.*
- 3. The privacy policies, if any, of the tool.*
- 4. As the Ministry is a signatory to the Algorithm Charter, we request the supporting material for the tool produced in accordance with the Algorithm Charter, including but not limited to: [2]*
 - 4a. "plain English documentation of the algorithm."*
 - 4b. explanations of "how data are collected, secured and stored."*
 - 4c. evidence of how a Te Ao Māori perspective was embedded in the development.*
 - 4d. the analysis of the tool for compliance with Te Tiriti o Waitangi.*
 - 4e. the process used to identify, engage and consult "with people, communities and groups who have an interest in algorithms."*
 - 4f. the documents resulting from that consultation.*
 - 4g. the report or other evidence of the peer review of the tool for unintended consequences.*
- 5. In July 2023, Government Chief Digital Officer (GCDO) issued "Initial advice on Generative Artificial Intelligence in the public service" (GCDO advice) [3]. As this advice was issued under authority delegated under the Public Service Act, it binds the Ministry. The Council requests:*
 - 5a. the Ministry's policies or standards for "trailing and using GenAI", whether developed in response to the GCDO advice or independently.*
 - 5b. the assessment of the tool against the policy or standard, or other evidence that the policy or standard was used when procuring or creating the tool.*

5c. the details of the “guard rails” which ensure that the tool is used safely.

5d. evidence that the tool was tested, that it passed testing, and a summary of the test procedures.

6. Any internal or external ethics advice the Ministry has on the tool, or, if none, on Generative AI.

7. The processes by which the Ministry “avoid[s] inputting personal information into any AI tool that is outside [your] network”, including how the Ministry audits, or plans to audit, these processes.

8. The Ministry’s policy on using AI tools to process, summarise and/or analysis submissions, including any external guidance the Ministry has received.

9. What efforts, other than this small section in the consultation document, the Ministry has made to let members of the public know about the Ministry’s use of AI tools.

10. How NZTA allows members of the public to opt out of their submissions being entered into an AI tool.

11. The list of consultations on which the Ministry has used AI tools.

Under section 16(2) of the OIA our preferences are (a) to receive a copy of the whole document (b) that the information is disclosed in a text searchable format, either Word or PDF, and (c) that it is sent to the email address from which the Ministry received this request.

If the Ministry decides that there is 'good reason' under the OIA to withhold any of the information we are requesting, then under section 19(a)(ii) of the OIA, we further request that the Ministry provides us with the grounds in support of each withholding reason cited for refusal.

If any part of our request is unclear, please don't hesitate to contact us.

Yours faithfully,

New Zealand Council for Civil Liberties”.

Before responding to the detail of your Official Information Act request, the Ministry would like to provide some general context about the Ministry’s use of generative artificial intelligence (GenAI).

In June 2024, the Ministry’s Leadership Team approved a limited pilot to test the ability of GenAI to support the analysis of public submissions. The key features of this pilot included:

- Using Microsoft CoPilot to test the ability of GenAI to review and summarise submissions
- Using both staff and Microsoft CoPilot to undertake the analysis.
- Ensuring the information analysed by CoPilot would remain inside the Ministry’s IT tenancy, that is, treated in the same way as public submissions already are.

The intent was to test how well AI can perform a task which is labour intensive and support staff to focus on analysis and advice.

The Ministry of Transport is using the ‘Land Transport Rule: Setting of Speed Limits 2024’ as a test case for AI. As noted in the consultation, the Ministry has avoided inputting personal information into any AI tool that is outside our network.

Our response to your request is as follows:

Question 1 - *The name of the tool, and the names of any supporting external tools* - CoPilot Studio

Question 2 - *The Privacy Impact Assessment for this use of the tool* - Annex 1 (attached) outlines the Ministry of Transport's Privacy Impact Assessment for the AI Pilot.

Question 3 - *The privacy policies, if any, of the tool* - The information you have requested is available at <https://learn.microsoft.com/en-us/copilot/privacy-and-protections>.

More generally, the Ministry's own privacy policy applies to the use of AI, in the same way it applies across all our work.

Questions 4 – 4.d - *The Algorithm Charter*

As explained in the Charter, it is intended that the Charter applies in cases where algorithms are being employed in a way that can significantly impact on the wellbeing of people, or there is a high likelihood many people will suffer an unintended adverse impact.

In this instance, given the content noted above and the details in the Privacy Impact Assessment, the limited pilot undertaken by the Ministry is not expected have a significant impact on wellbeing, nor is there a high likelihood that people will suffer an unintended adverse impact.

Question 5 - *In July 2023, Government Chief Digital Officer (GCDO) issued "Initial advice on Generative Artificial Intelligence in the public service" (GCDO advice) [3]. As this advice was issued under authority delegated under the Public Service Act, it binds the Ministry. The Council requests:*

- a. *the Ministry's policies or standards for "trialling and using GenAI", whether developed in response to the GCDO advice or independently.*

The Ministry applied the following standards/policies to the pilot:

- A Privacy Impact Assessment was completed – the assessment shows the pilot was compliant with the Ministry's privacy obligations
 - A governance group was established to monitor the use of GenAI in the pilot to manage any risks and issues associated with the pilot
 - As advised under the public sector systems leaders' guidance for use of GenAI, the pilot was run in a sandboxed area to reduce risk.
- b. *the assessment of the tool against the policy or standard, or other evidence that the policy or standard was used when procuring or creating the tool* - the security and governance guidelines and policies of CoPilot Studios can be found at. - <https://learn.microsoft.com/en-us/microsoft-copilot-studio/security-and-governance>
 - c. *the details of the "guard rails" which ensure that the tool is used safely* - An isolated CoPilot Studio instance was used to reduce risk, this means the information was completely ringfenced from all other data. No information from the pilot left the Ministry's IT tenancy.
 - d. *evidence that the tool was tested, that it passed testing, and a summary of the test procedures* - The Ministry is currently testing CoPilot in an isolated environment within our IT tenancy for testing purposes.

Question 6 - *Any internal or external ethics advice the Ministry has on the tool, or, if none, on Generative AI.* - No ethics advice was sought because of the limited nature of the pilot.

Question 7 - *The processes by which the Ministry “avoid[s] inputting personal information into any AI tool that is outside [your] network”, including how the Ministry audits, or plans to audit, these processes* - The Ministry set up a specific internal SharePoint site with named individual access where the submission information was held. This ensured that no information left the Ministry’s IT tenancy. It is equivalent or more restrictive to how we would hold, and store submissions being analysed by staff.

Question 8 - *The Ministry’s policy on using AI tools to process, summarise and/or analysis submissions, including any external guidance the Ministry has received.* – Please refer to Question 5.

Question 9 - *What efforts, other than this small section in the consultation document, the Ministry has made to let members of the public know about the Ministry’s use of AI tools* - The front page of the consultation document clearly stated:

“We may use an artificial intelligence tool to help us analyse submissions

We may use an AI tool to help us analyse submissions. We will take steps to avoid inputting personal information into any AI tool that is outside our network”

Question 10 - *How NZTA allows members of the public to opt out of their submissions being entered into an AI tool.* - It is important to note that the consultation was managed by the Ministry of Transport and not NZTA. As this was a pilot the submissions were reviewed by people (CoPilot did not replace any human review) and all personal information was removed before any information was entered into the tool, as a result we did not provide an opt-out.

Question 11 - *The list of consultations on which the Ministry has used AI tools.* - The Ministry’s pilot is assessing the ability of AI to support the assessment of public submissions for the ‘Speed Rule’ and retrospectively (after submissions were assessed and reported on) for the 2024 Government Policy Statement (GPS) on land transport as part of the testing process. Given the GPS submissions had already been reviewed at the time of the pilot, the pilot had no effect on the outcome of the review of submissions.

You have the right to seek an investigation and review of this response by the Ombudsman, in accordance with section 28(3) of the Act. The relevant details can be found on the Ombudsman’s website www.ombudsman.parliament.nz

The Ministry publishes our Official Information Act responses and the information contained in our reply to you may be published on the Ministry website. Before publishing we will remove any personal or identifiable information.

Nāku noa, nā



Richard Kelly
Manager Business Enablement & Support / CIO

BRIEF PRIVACY IMPACT ASSESSMENT

AI Pilot – submissions analysis

24 June 2024

1. Project summary: AI Pilot – submissions analysis

1.1 Brief description of the project

This project is a pilot at the Ministry of Transport to test the effectiveness of using Microsoft CoPilot as an Artificial Intelligence tool in summarising submissions on the 'Setting of Speed Rule 2024' and draft Government Policy Statement on Land Transport 2024.

The [Speed Rule consultation](#) is a live consultation where those providing submissions have been informed that "We may use an AI tool to help us analyse submissions. We will take steps to avoid inputting personal information into any AI tool that is outside our network."

Consultation on the draft GPS has already closed and submissions have already been assessed by Ministry staff. The pilot will look back to assess the difference between AI generated reviews and staff reviews. The purpose of the pilot is to test whether there can be time savings and higher quality reviews of submissions through the use of AI. It is a one-off exercise at this point.

Privacy will be managed in the same way as all Ministry consultation with the public and consistent with our obligations under the Privacy Act. In the case of the pilot, we will take the extra step of not adding personal information (contact details and names) into the AI tool. The information will be held within the Ministry's IT tenancy, in the same way as all other information is. There will be no external sharing of the submissions outside of the Ministry's IT systems.

1.2 Personal information that the project will involve

Type of personal Information	Source of Information	Purpose of information for the project
The personal information involved in this pilot is any personally identifying information provided by public submitters, including names and contact details	Provided by public submitters on the speed rule and the review of the GPS.	CoPilot will review the content of the information provided by submitters, but no personal details (names and contact information) will be provided to the CoPilot tool. All information will remain within the Ministry's IT tenancy.

2. Privacy assessment

2.1 Areas that are risky for privacy

Some types of projects are commonly known to create privacy risks. If the project involves one or more of these risk areas, it's likely that a PIA will be valuable.

Use this checklist to identify and record whether your proposal raises certain privacy risks. Delete any that do not apply.

Does the project involve any of the following?	Yes (tick)	No (tick)	If yes, explain your response
<i>Information management generally</i>			
A substantial change to an existing policy, process or system that involves personal information Example: New legislation or policy that makes it compulsory to collect or disclose information		✓	
Any practice or activity that is listed on a risk register kept by your organisation Example: Practices or activities listed on your office's privacy risk register or health and safety register		✓	
<i>Collection</i>			
A new collection of personal information Example: Collecting information about individuals' location		✓	
A new way of collecting personal information Example: Collecting information online rather than on paper forms		✓	
<i>Storage, security and retention</i>			
A change in the way personal information is stored or secured Example: Storing information in the cloud		✓	
A change to how sensitive information is managed		✓	

Does the project involve any of the following?	Yes (tick)	No (tick)	If yes, explain your response
<i>Example: Moving health or financial records to a new database</i>			
Does the project involve any of the following?	Yes (tick)	No (tick)	If yes, explain your response
Transferring personal information offshore or using a third-party contractor <i>Example: Outsourcing the payroll function or storing information in the cloud</i>		✓	
A decision to keep personal information for longer than you have previously <i>Example: Changing IT backups to be kept for 10 years when you previously only stored them for 7</i>		✓	
<i>Use or disclosure</i>			
A new use or disclosure of personal information that is already held <i>Example: Sharing information with other parties in a new way</i>		✓	
Sharing or matching personal information held by different organisations or currently held in different datasets <i>Example: Combining information with other information held on public registers, or sharing information to enable organisations to provide services jointly</i>		✓	
<i>Individuals' access to their information</i>			
A change in policy that results in people having less access to information that you hold about them <i>Example: Archiving documents after 6 months into a facility from which they can't be easily retrieved</i>		✓	
<i>Identifying individuals</i>			
Establishing a new way of identifying individuals		✓	

Does the project involve any of the following?	Yes (tick)	No (tick)	If yes, explain your response
<i>Example: A unique identifier, a biometric, or an online identity system</i>			

RELEASED UNDER THE
OFFICIAL INFORMATION ACT 1982

Does the project involve any of the following?	Yes (tick)	No (tick)	If yes, explain your response
<i>New intrusions on individuals' property, person or activities</i>			
Introducing a new system for searching individuals' property, persons or premises <i>Example: A phone company adopts a new policy of searching data in old phones that are handed in</i>		✓	
Surveillance, tracking or monitoring of movements, behaviour or communications <i>Example: Installing a new CCTV system</i>		✓	
Changes to your premises that will involve private spaces where clients or customers may disclose their personal information <i>Example: Changing the location of the reception desk, where people may discuss personal details</i>		✓	
New regulatory requirements that could lead to compliance action against individuals on the basis of information about them <i>Example: Adding a new medical condition to the requirements of a pilot's license</i>		✓	
List anything else that may impact on privacy, such as bodily searches, or intrusions into physical space		✓	

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

2.2 Privacy assessment

#	Description of the privacy principle (These can be deleted from your final report if they're not relevant to your project – but you should at least consider each principle)	Summary of personal information involved, use and process to manage	Assessment of compliance	Link to risk assessment (if required)
	<p>Principle 1 - Purpose of the collection of personal information</p> <p>Only collect personal information if you really need it</p>	<p><i>The pilot will not collect any personal information beyond the status quo. Personal information (names and contact information) is provided regardless of who reviews submissions.</i></p>	<p>Compliant</p>	
	<p>Principle 2 – Source of personal information</p> <p>Get it directly from the people concerned wherever possible</p>	<p><i>Any information is provided directly by those submitting on the proposals. This is outside the scope of the pilot as it would be required regardless of whether CoPilot is used</i></p>	<p>Compliant</p>	
	<p>Principle 3 – Collection of information from subject</p> <p>Tell them what information you are collecting, what you're going to do with it, whether it's voluntary, and the consequences if they don't provide it.</p>	<p><i>Submitters have been told that we may use an AI tool to help us analyse submissions. We will take steps to avoid inputting personal information into any AI tool that is outside our network</i></p>	<p>Compliant</p>	
	<p>Principle 4 – Manner of collection of personal information</p> <p>Be fair and not overly intrusive in how you collect the information</p> <p>Take particular care if collecting information from children or young people</p>	<p><i>The pilot will not collect any personal information beyond the status quo. Personal information (names and contact information) is provided regardless of who reviews submissions.</i></p>	<p>Compliant</p>	

#	Description of the privacy principle (These can be deleted from your final report if they're not relevant to your project – but you should at least consider each principle)	Summary of personal information involved, use and process to manage	Assessment of compliance	Link to risk assessment (if required)
	<p>Principle 5 – Storage and security of personal information</p> <p>Take care of it once you've got it and protect it against loss, unauthorised access, use, modification or disclosure and other misuse.</p>	<p><i>The pilot does not change the Ministry's existing policy. The pilot will remove personal information before it is assessed by CoPilot</i></p>	<p><i>Compliant</i></p>	
	<p>Principle 6 – Access to personal information</p> <p>People can see their personal information if they want to</p>	<p><i>The pilot does not change the Ministry's existing policy.</i></p>	<p><i>Compliant</i></p>	
	<p>Principle 7 – Correction of personal information</p> <p>They can correct it if it's wrong, or have a statement of correction attached</p>	<p><i>The pilot does not change the Ministry's existing policy.</i></p>	<p><i>Compliant</i></p>	
	<p>Principle 8 – Accuracy etc. of personal information to be checked before use</p> <p>Make sure personal information is correct, relevant and up to date before you use it</p>	<p><i>The pilot will not use personal information to assess submissions</i></p>	<p><i>Compliant</i></p>	
	<p>Principle 9 – Not to keep personal information for longer than necessary</p> <p>Get rid of it once you're done with it</p>	<p><i>The pilot will not use personal information to assess submissions</i></p>	<p><i>Compliant</i></p>	

#	Description of the privacy principle (These can be deleted from your final report if they're not relevant to your project – but you should at least consider each principle)	Summary of personal information involved, use and process to manage	Assessment of compliance	Link to risk assessment (if required)
	Principle 10 – Limits on use of personal information Use it for the purpose you collected it for, unless one of the exceptions applies	<i>The pilot will not use personal information to assess submissions</i>	Compliant	
	Principle 11 – Limits on disclosure of personal information Only disclose it if you've got a good reason, unless one of the exceptions applies	<i>The pilot will not disclose personal information</i>	Compliant	
	Principle 12 – Disclosing information outside New Zealand Only share information with an agency outside New Zealand if the information will be protected	<i>The pilot will not disclose personal information</i>	Compliant	
	Principle 13 – Unique identifiers Only assign unique identifiers where permitted	<i>The pilot will not use unique identifiers</i>	Compliant	
	Other privacy interests	NA	NA	

3. Summary of privacy impact

The privacy impact for this project has been assessed as:	Tick
Low – There is little or no personal information involved; or the use of personal information is uncontroversial; or the risk of harm eventuating is negligible; or the change is minor and something that the individuals concerned would expect; or risks are fully mitigated	✓
Medium – Some personal information is involved, but any risks can be mitigated satisfactorily	
High – Sensitive personal information is involved, and several medium to high risks have been identified	
Reduced risk – The project will lessen existing privacy risks	
Inadequate information – More information and analysis is needed to fully assess the privacy impact of the project.	

3.1 Reasons for the privacy impact rating

There is little or no personal information involved; and the use of personal information is uncontroversial.

Section 2 shows there are no privacy risks from the pilot because the information is retained in the same way a standard submissions process is at the Ministry.

The Governance Group established to support the pilot will continue to monitor the process and any future risks that may arise.

4. Recommendation

The Recommendation(s) from the Advisory Group to the Project Sponsor is set out below.

The Governance Group **recommends**:

Note that a privacy assessment has been carried out.

Note that there are no privacy risks from the pilot because the information is retained in the same way a standard submissions process is at the Ministry.

5. Sign off

Advisory Group:

Chris Nees

Director Sector Strategy

Name

Position



Signature

____25____/____06____/____24____
Date

Richard Kelly

Business Enablement and Support Manager

Name

Position



Signature

____25____/____06____/____24____
Date

Project Sponsor:

Carmen Mak

Acting DCE, Corporate Services

Name

Position



Signature

____25____/____06____/____24____
Date