

Closing out the NZTD Tranche 1

Report

To:	Mat Black, Programme Director, Finance Technology and Infrastructure Glenn Patrick, Programme Manager Information Systems – NZTD
From	Benjamin Scully, Privacy Advisor, Information Sharing and Privacy team Kevin Linnane, Privacy Advisor, Information Sharing and Privacy team
Sponsored by	Siobhan Hale-Pennington, Manager, Information Sharing and Privacy Team
Date	25 May 2022
SUBJECT	Final risks – closing out NZTD tranche 1 PIA

1. This is the close out report for the Privacy Impact Assessment (**PIA**) completed in respect of tranche 1 of the New Zealand Traveller Declaration Programme (**NZTD**).

Executive Summary

2. The agencies involved in NZTD prepared a PIA and provided it to the Office of the Privacy Commissioner (**OPC**) in early April. That Office asked a range of questions and some of the responses required changes to the PIA. A small number of issues could not be comprehensively addressed for a range of reasons, although this did not create an unacceptable risk to go-live for Tranche 1. We anticipate these issues will be resolved in Tranches 2 and 3.

Final response to privacy risks and residual risks

3. The privacy issues raised by OPC and the response of relevant agencies are set out in the table of questions and answers in **Appendix 1**. That table also includes a small number of residual risks for acceptance by the project.

Engagement with OPC

4. The **PIA** was provided to OPC on 4 April 2022. Following that point we engaged in a short period of question and answer as members of that Office probed policy rationale and the overall intent of the project. Subject matter experts from across Customs and the Ministry of Health (**MOH**) contributed to this process. It culminated in a close out meeting on 12 May 2022 attended by OPC, Customs and MOH. A Timeline of Engagement is provided below at **Appendix 2**.
5. In addition, whilst ISP was working with OPC, the office of the Government Chief Privacy Officer (**GCPO**) was supporting ISP/Customs, providing feedback on draft PIAs and attending meetings.

Actions and recommendations

6. We recommend that you:

- a. **note** the table of questions and answers at **Appendix 1**; Yes No
- b. **confirm** your acceptance of the residual risks highlighted; Yes No
- c. **confirm** the five questions for the MBIE members of the NZTD project team will be handed over to them (one relates to standard call centre processes, and 4 relate to the MBIE contract for services with Datacom) Yes No
- d. **agree** to close out the privacy engagement for Tranche 1, noting privacy engagement will continue for the work underway in Tranche 2 and Tranche 3. Yes No

Signature	
Name	Mat Black
Role	Programme Director, Finance Technology and Infrastructure
Date	220/07/2022

Signature	
Name	Glenn Patrick
Role	Programme Manager Information Systems – NZTD
Date	21/7/2022

Appendix 1 – OPC Questions and Answers

Original Questions from OPC – raised in tracked changes on the PIA dated 12 April 2022

No.	Question from OPC	Response from SME	Response from ISP	NZTD Project Acceptance
Policy Questions				
1	<p><i>There's a lot of personal information that's being collected and retained because of this/the ABO/DG Notices. I think it's important to hear from MoH or have some wording here that sets out the why. I see some superficial public health wording in the orders, but from a privacy POV, we'd like to know how this actually serves the public health purposes... e.g., are we afraid of another more dangerous variant? What are the practical risks that add context to this project? ... still like to a fuller picture from MoH.</i></p>	<p>MOH response As previously indicated, I have spoken to the Ministry policy team and I understand that there is nothing specifically available in terms of updated health advice at present.</p> <p>The wording used to describe the multiple purposes for use of the information in NBS is as follows:</p> <p style="text-align: center;"><i>Identifiable information is collected by the NBS to support the public health response to COVID-19, including management of border arrivals to meet applicable requirements under relevant Orders or Notices both at arrival and after arrival (including mandatory testing requirements at day 0/1 and 5/6), contact tracing (which may reactivate in the case of a new variant at the borders) or to provide relevant public health related information, request participation in relevant surveys, and reporting and analysis (where reports produced will not contain any identifiable information)</i></p> <p>Customs also has a dataset it retains for NZTD purposes and will be able to address its retention directly.</p> <p>Customs Policy team Note updated advice being prepared by Health for Ministers on the information and health requirements</p> <p>Programme team response Customs, MBIE and Health are retaining all declaration information including the uploaded vaccination and PDT certificates. The declaration information is retained "until the end of the Covid-19 pandemic".</p> <p>The vaccination and PDT certificates are retained for 6 months after the traveller arrives in NZ (if the certificates are manually verified) or 7 days after the traveller arrives in NZ (if the certificates are automatically verified).</p>	<p>Additional text (<i>italics in the preceding column</i>) has been added to the NBS description in the PIA at para 12.</p> <p>Further discussion with OPC and MOH and Customs at meeting dated 12 May.</p>	<p>21/7/22 The 12 May meeting with OPC was a broad policy discussion, the outcome was that OPC were reassured of their queries.</p> <p>No further action from NZTD programme.</p> <p>Closed.</p>
2	<p><i>Would also like a quick run through of the stat framework – not all the fields of info in the DG Notice need to be collected do they?</i></p>	<p>MOH response I suggest Customs indicate that NZTD collects some information for the declaration purpose only (such as the declaration details) and these are not passed on to MoH, and only the information relevant to MoH for the purposes noted above is passed to NBS.</p> <p>The NZTD list is more extensive than the Gazette requirement for NMR – not sure that NBS collects all of these NZTD details. Immediately below is the old NMR collection – longer box below is the NZTD list of information</p> <p>Customs As above; it's only a 'may' be required.</p>	<p>Additional clarification inserted in PIA regarding ABO and current growth from NMR to make it clear that the vast majority of the information was already being collected.</p> <p>Further discussion with OPC and MOH and Customs at meeting dated 12 May.</p> <p>We note the reminder from Customs policy that these <i>may</i> be required. The ABO responds to the settings in terms of the</p>	<p>21/7/22 The 12 May meeting with OPC was a broad policy discussion, the outcome was that OPC were reassured of their queries.</p> <p>No further action from NZTD programme.</p> <p>Closed.</p>

			information being collected.	
3	The strategic direction of the NZTD, the policy analysis or legislative settings that reflect that direction “seem quite important for understanding the proportionality” of connection’	<p>Customs response with MOH edits</p> <p>The NZTD was initially developed, and is currently in place to help operationalise the government’s response to COVID. While the policy settings and legislative settings for the individual public health requirements e.g. vaccination certificates and pre-departure tests, are out of scope and sit within the requirements of the various Orders, the following settings were facilitated as part of the NZTD establishment:</p> <p>That every traveller is required submit a traveller declaration and receive a traveller pass prior to arrival in New Zealand – this facilitates the intent of the system and process in managing the public health risk of COVID-19</p> <p>Exceptions to this requirement is limited to unplanned emergency landings – as above. This recognises that in the circumstances it is reasonable to accept that persons in these situations cannot physically interact with the system</p> <p>To support compliance, a low-level infringement fee may be applied for travellers who manage to arrive without a traveller pass.</p>	<p>Additional clarification inserted in PIA regarding ABO and current growth from NMR to make it clear that the vast majority of the information was already being collected.</p> <p>Further discussion with OPC and MOH and Customs at meeting dated 12 May.</p> <p>We note that there is also the backup option of a paper form being taken by less than 10% of travellers.</p> <p>Further discussion is out of scope for this PIA.</p>	<p>1/7/22 The 12 May meeting with OPC was a broad policy discussion, the outcome was that OPC were reassured of their queries.</p> <p>No further action from NZTD programme.</p> <p>Closed.</p>
4	<p>Would like to chat through the statement:</p> <p><i>Alleged fairness issues, such as rights of unvaccinated people (in particular, the right that unvaccinated New Zealander’s will be able to enter regardless of vaccination status) to travel or the status of natural immunity are not considered as this PIA does not address the underlying policy decisions or strategic direction of NZTD (3. PIA Scope).</i></p>	<p>MOH response</p> <p>Health doesn’t decide – it works on the policy aspects of the Orders, provides information / recommendations and then the decisions on the final provisions of the Orders is not in the hands of Health</p>	<p>Additional clarification inserted in PIA noting this is government strategy.</p>	<p>1/7/22 No further action from NZTD programme.</p> <p>Closed.</p>
5	<p>Regarding retention:</p> <ol style="list-style-type: none"> 1. <i>Is retaining until the end of the Pandemic actually necessary? I note that some agencies are beginning to disgorge themselves of PI collected during this pandemic.</i> 2. <i>How does retention until the end of the Pandemic support the public health response?</i> 3. <i>How does retention for (potentially years) support enforcement? Seems mean spirited.</i> 	<p>Customs response</p> <p>It wouldn’t be unusual to retain information for a period – again seemingly indexed to the COVID-19 response act so that if the information is available, it could support enforcement action where identified as appropriate.</p> <p>MOH response</p> <p>Regarding (1) and (2) this is covered in the NBS PIA.</p>	<p>Already addressed in NBS Statement at para 12 of PIA.</p> <p>Retention also addressed by Health at meeting with OPC on 12 May 2022.</p>	<p>1/7/22 The 12 May meeting with OPC was a broad policy discussion, the outcome was that OPC were reassured of their queries.</p> <p>No further action from NZTD programme.</p> <p>Closed.</p>
6	Regarding the ABO as the foundation (rather than relying on policy...)	There were discussions about the challenges of the rapidly changing policy landscape re health requirements, the balance between domestic and border settings and proportionality of the border responses re those	This is a broad strategic / government wide risk.	<p>1/7/22 No further action from NZTD programme.</p> <p>Closed.</p>

	<i>From a policy POV, I'm interested in an erosion of public expectation of respect for privacy. With the erosion of that expectation, people question less about whether to provide information or not. Partly linked to the sunken cost idea...</i>	health requirements to enter the country – and by extension the ongoing justification to collect information etc.	Not in scope for the PIA to address this. PIA demonstrates compliance with collection related IPPs.	
Legal Questions				
7	How in the know are you/Customs about whether another change [to Director General Notices] are coming?	Customs legal would trigger the process for any further Director General notices and would do so to ensure that notice reflected the ABO. An example of this is that a new Notice is in preparation to exempt NZ Residence Class Visa holders from the vaccination requirements.	Nothing further required from a privacy perspective.	1/7/22 No further action from NZTD programme. Closed.
8	Regarding the use of the ABO as sole IPP1: <i>I suppose the lawful basis is clear yes – but I suspect people will still be quite unhappy with the amount of PI NZTD collects. Maybe another risk is public frustration and unhappiness with this collection.</i>	We agree that the lawful basis is clear. The broad considerations raised are outside the scope of Legal input and reflect policy considerations (e.g. proportionality, social impact etc.). Refer to Questions directed to the Policy Team.	Nothing further required from a privacy perspective.	1/7/22 No further action from NZTD programme. Closed.
Project Questions				
9	Regarding the statement that: <i>Agencies also need to use the information that is collected to support the ongoing development and improvement of the NZTD system. Improvements such as fixing bugs, and increasing the efficiency for travellers, industry partners and border officials.</i> Can we explain this further? Might this jeopardise the accuracy or security of the PI?	When the project hears of issues travellers are having with the NZTD system, we query the information they have provided to determine what has gone wrong. This analysis will then result in improvements made to the system in terms of bug fixes and feature enhancements. The personal information is never used outside of the production environment, however the pattern of the information will be used to support development and testing. For example, if we found a bug with a “British Citizen” over the age of 2 years, we would create synthetic data for development and testing purposes to support this specific scenario. We would NOT use the production record of Mr James Smith, British Passport 874976568 with the date of birth 08 August 1964 in our development and testing. The PI is only ever queried in the production environment in a read only fashion to understand the problem or opportunity for improvement	Not needed in PIA. Nothing further required from a privacy perspective.	1/7/22 No further action from NZTD programme. Closed.
10	Statement: <i>Access to information and resources will be granted to only those individuals whom have a specific business purpose to access the information.</i> Can we list those roles?	System Administrators, Business Analysts, Contact Centre operators, Customs Officers supporting Verification, Decision Review and Border Operations, Ministry of Health staff supporting Contact Tracing and Border Operations	List of access rights is acceptable, no obvious need to publicise (have already made a clear statement about this to the public). Little to be gained from adding this level of granularity.	1/7/22 No further action from NZTD programme. Closed.
11	Retaining information for development and improvement of the NZTD. Can we rule out ‘Testing’ in terms of using real PI?	The PI is only ever queried in the production environment in a read only fashion to understand the problem or opportunity for improvement.	Not needed in PIA. Nothing further required from a privacy perspective.	1/7/22 No further action from NZTD programme. Closed.
Privacy Questions				

12	<p>Statement:</p> <p><i>The border agencies and MOH are reliant on this being appropriate, and view any action on such reliance as appropriate (noting that a fraudulent or duplicitous representation would breach the ABO).</i></p> <p>What does this mean?</p>	<p>What it means that we are relying on the <i>representation</i> rather than the underlying data.</p>	<p>Additional clarification inserted in PIA (noting we would continue to investigate fraudulent behaviour).</p>	<p>1/7/22 No further action from NZTD programme. Closed.</p>
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Second round of Questions from OPC – email dated 27 April 2022

No.	Question from OPC	Response from SME	Response from ISP	NZTD Project Acceptance
13	<p>Has Customs considered what it will do if a future ABO provides that less PI needs to be collected in this process? Wouldn't it render previous mandated information collected unnecessary and therefore needs to be deleted?</p>	<p>Not necessarily – as above, enforcement would be a time and place action.</p> <p>Customs policy response Re: <i>has Customs considered what it will do if Health requirements are rolled back (the ABO provides that less PI needs to be collected) –</i></p> <p>Yes OPC is correct. We continue to work closely with Health to make sure we implement any changes to the health requirements which means we move to stop asking for certain information if it's no longer required/no longer has a lawful process. Of course in parallel agencies are giving consideration to what new primary leg would be required to maintain the requirements if the Epidemic Notice is not renewed (is that the phrase?), plus our own enduring leg work for T2 and 3.</p>	<p>Agree that the principle raised here merits consideration and have directed this to the project team as a 'flag' in order for this to be added to their work programme as soon as resourcing permits.</p>	<p>1/7/22 NZTD project will ensure it only collects PI that is consistent with the ABO for the future.</p>
14	<p>During the pilot, did any key privacy learnings come out? And if so, has Customs responded to them?</p>	<p>NZTD project team response: I do not recall any key privacy learnings during the pilots.</p>	<p>The pilot was fundamentally oriented towards resolution of technological issues. IPP8 considerations – accuracy – were taken into account but pilot was consent based and no priv. breaches, only updating tech.</p> <p>Nothing further required.</p>	<p>1/7/22 No further action from NZTD project. Closed.</p>
15	<p>You might want to just update some of the wording, e.g., para 16.</p>		<p>Issue relates to syntax concerning date / timeline.</p> <p>Correction made.</p>	<p>1/7/22 No further action from NZTD project. Closed.</p>
16	<p>I was a little confused by para 18 which says that the information collected is more than what the ABO requires, but I'm not sure that this is reflected</p>		<p>Additional clarification inserted in PIA to refer to "previous iterations" of the ABO.</p>	<p>1/7/22 No further action from NZTD project. Closed.</p>

	in the IPP 1 privacy analysis. More information is required here: it needs to be explained clearly why.		Correction made.	
17	Under heading/chapter 7 there's consideration of support systems. Staff dealing with customers over the phone, insofar as they may be collecting PI, may need to make those customers aware of the certain matters pursuant to IPP 3 (unless an exception applies).	<p>This is a question for MBIE.</p> <p>5/7/22 MBIE response This messaging is to be communicated via the Change Team to MBIE Contact Centre personnel (and third-party Contact Centre personnel) as part of ongoing training updates.</p>	<p>Recommend that NZTD Project team commit to passing this comment to MBIE.</p> <p>Nothing further required from Customs.</p>	<p>21/7/22 MBIE responded with mitigations and accepted risk. No further action from NZTD programme.</p> <p>Closed.</p>
18	This point relates to access to files, particularly if employee browsing possible: service support staff and all other associated officers' access to customer files should be audited, unless there is a good reason otherwise. Furthermore, access should be audited. Strong messaging should be provided to staff to ensure that they are aware that unauthorised access is prohibited and will be monitored.	<p>NZTD project team All access to declarations is logged. We do not currently have any strong messaging within this application.</p> <p>5/7/22 MBIE response This messaging is to be communicated via the Change Team to MBIE Contact Centre personnel (and third-party Contact Centre personnel) as part of ongoing training updates.</p> <p>Access to voice recordings is role based managed and Supervisor access is required to access a call recording. Access to ascertain customer complaints, measure call quality and if requested Official Information Act requests. Audit checks on access is available. Clear messaging to staff along with relevant policies in place regarding the access of customer information for the sole purpose of resolving a traveller's call.</p>	<p>A moderate level of risk (of inappropriate use/disclosure) remains here. Medium likelihood x high impact.</p>	<p>21/7/22 MBIE responded with mitigations and accepted risk. No further action from NZTD programme.</p> <p>Closed.</p>
19	On a related point, there appears to be quite a few external / non-government agencies involved in NZTD. The PIA needs to expand on the nature of the contractual arrangements between them and the government agencies involved. Specifically, what contractual obligations are in place in regard to security, confidentiality, retention, restriction of unauthorised disclosure and use, accountability in the situation of a data breach, processes for dealing with a breach, and firm commitments to comply with the Privacy Act 2020 or other restrictions etc.	<p>NZTD project team [We] assume you are talking about Air Carrier Partners and Datacom.</p> <p>Contracts were not entered with Air Carriers – NZTD is reliant on the overarching considerations of the ABO. It is noteworthy that during tranche 2, more work is being done with Air partners.</p> <p>ISP response With regards to Datacom, this is an MBIE consideration as the party who has entered the contract with Datacom for services.</p> <p>5/7/22 MBIE response The contract with Datacom includes these provisions and has been reviewed by MBIE Legal, Commercial and Security.</p>	<p>A moderate level of risk (of inappropriate privacy practice by NZTD external suppliers) remains here.</p> <p>Medium likelihood x medium/high impact.</p> <p>Recommend that NZTD Project team commit to passing this comment to MBIE.</p> <p>Nothing further required from Customs.</p>	<p>21/7/22 MBIE responded with mitigations and accepted risk. No further action from NZTD programme.</p> <p>Closed.</p>
20	Do voice recordings need to be retained for 24 months? [para 29].	<p>ISP response With regards to Datacom, this is an MBIE consideration as the party who has entered the contract with Datacom for services.</p> <p>5/7/22 MBIE response Voice recordings are retained for two years as per para 29 of PIA in case there are decision reviews requested by travellers.</p>	<p>Recommend that NZTD Project team commit to passing this comment to MBIE.</p> <p>Nothing further required from Customs.</p>	<p>21/7/22 MBIE responded with mitigations and accepted risk. No further action from NZTD programme.</p> <p>Closed.</p>
21	Para 30 touches on a customer relationship management system: we would merely state that this may create a justification for keeping hold of records for an unreasonably long period of time.	<p>ISP response With regards to Datacom, this is an MBIE consideration as the party who has entered the contract with Datacom for services.</p>	<p>Recommend that NZTD Project team commit to passing this comment to MBIE.</p>	<p>21/7/22 MBIE responded with mitigations and accepted risk. No further</p>

	How normal is this type of thing? I've not heard of it before...	<p>5/7/22 MBIE response Note here is no Customer Relationship Management system used in the Contact Centre for NZTD.</p>	Nothing further required from Customs.	action from NZTD programme. Closed.
22	Para 31 notes that certain staff can WFH and can use their own devices – has Customs considered any risks associated with this?	<p>ISP response With regards to Datacom, this is an MBIE consideration as the party who has entered the contract with Datacom for services.</p> <p>5/7/22 MBIE response MBIE has specific mitigations in place for how the risk associated with using own devices in managed covering malicious use and integrity concerns, non-adherence to process for system use, access and mishandling of personal and confidential information in addition Security Certification and Accreditation focussed on potential risks and signed off certification following the stringent review.</p>	<p>Recommend that NZTD Project team commit to passing this comment to MBIE.</p> <p>Nothing further required from Customs.</p>	21/7/22 MBIE responded with mitigations and accepted risk. No further action from NZTD programme. Closed.
23	Query how para 39 relates to privacy? Probably does, it's just not clear...	<p>ISP response Articulating the function of enforcement as a potential use of the information is worthwhile. This para describes some underlying policy (but does not judge it/ justify / explain it).</p>	<p>Noted.</p> <p>Nothing further required from Customs.</p>	1/7/22 No further action required. Closed.

Appendix 2 – Timeline of Engagement

1. The NZTD solution went live on 25 March 2022, and became the sole solution available to travellers to New Zealand at 23:59 on 31 March.
2. The PIA went to OPC on 4 April.
3. Feedback on the PIA was provided on 12 April.
4. The first discussion was held on 13 April.
5. ISP circulated questions following this meeting. OPC engagement was primarily focussed on policy / broad thematic questions including those requiring specific input by **MOH**. This likely reflected the strategic decision in the PIA to rely solely on the Air Border Order to establish the purpose of tranche 1 (i.e. respond to information privacy principle 1). Input was also required from Customs' Policy and Legal teams as well as the project team. Responses were provided to ISP as follows:
 - a. For the NZTD Project team, Andrew N responded on 22 April.
 - b. For MOH, Fiona W responded on 29 April.
 - c. For Customs Policy, Francesca H responded on 2 May.
 - d. ISP discussed the two 'legal' questions directly with Patrick T (Customs Legal).
6. A subsequent email dated 27 April raised further questions. Again, many of these questions required input from Policy (including Ministry of Health Policy), Legal, and the project team. Responses were provided to ISP as follows
 - a. For the NZTD Project team, Andrew N responded 11 May.
 - b. For the Customs Legal team, Patrick T responded 11 May.
 - c. For the Customs Policy team, Francesca H responded 11 May.
7. A close out meeting on 12 May was chaired by Ministry of Health Policy; many of the underlying questions reflected OPC questions concerning the policy assumptions. Discussion was robust but relatively general in nature, with an emphasis on discussing themes rather than asking and answering specific questions.