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# Appendix two – Statutory and regulatory framework related to DRIVES

The information in this appendix was provided by TfNSW to help set out the context which DRIVES operates within. The Audit Office of New South Wales has made minor adjustments for readability purposes.

## Summary

DRIVES was created to meet TfNSW's statutory obligation to create, hold and maintain accurate road registers which align with a uniform national approach to road safety via driver licensing, vehicle registration and standards. As a road regulatory authority, TfNSW uses the information in DRIVES to support its regulatory functions and objectives. The nature of the information kept matches that retained by road agencies in other jurisdictions to support a national approach to driver licensing and competency, road rules, enforcement and vehicle safety.

A range of legislation governs DRIVES purpose, usage, data protection, retention and data access including the:

- *Road Transport Act 2013* ('the Act') and Regulations and statutory rules under the Act
- *Photo Card Act 2005*
- *State Records Act 1998*
- *Privacy and Personal Information Protection Act 1998*.

Because of its nature, DRIVES contains personal information. NSW driver and vehicle information are routinely shared with other state and territory road agencies for road safety purposes (for example, to exchange information about a NSW driver who was penalised for speeding in another jurisdiction). In addition, the information in DRIVES is accessed by other NSW agencies for purposes associated with their own statutory functions including law enforcement and, more recently, digital identity.

Although there are a range of alternative uses for driver and vehicle registration data, the data is only collected for purposes associated with road safety laws. It is accessed by other NSW agencies under legislative exceptions which allow driver and vehicle information to be used in specific circumstances for purposes unrelated to road safety, or where there is consent from the individual who the data relates to. That is, the primary purpose for collection of the information in DRIVES is to meet regulatory requirements arising under road safety laws.

Sharing of driver licensing and vehicle registration information with other government entities is a secondary feature of TfNSW's regulatory role and is not without risk. Provisions in the *Road Transport Act 2013* impose an obligation on TfNSW to ensure that sensitive information is not released except as allowed by law. Expanding the role of DRIVES beyond its core function increases the risk profile of data security and protection of private information, and require an enhanced data management and security posture across the proposed utilisation and lifecycle of the data.

## Statutory and Regulatory framework within which DRIVES operates

DRIVES (**DRIVER VEHICLE System**) is the name given to the computer system which was introduced to store and house the statutory road registers. It also stores other information managed and collected by TfNSW in the course of its obligations under the road transport and other legislation.

### **The Statutory Registers**

Under the *Road Transport Act 2013*, TfNSW is the road authority and regulator. It administers the driver licensing regime and the vehicle registration regime. The object of the Act is to (relevantly) provide for, in a manner consistent with national reforms a:

- driver licensing system as part of a uniform national approach to driver licensing (including uniform driver licence classes and licence eligibility criteria)
- vehicle registration system as part of a uniform national approach to vehicle registration and standards.

In its role as a road authority, TfNSW is required to maintain statutory registers, including a register of:

- driver licences (section 27 of the Act)
- driver licence photographs (kept notionally separate from the driver licence register because of the different rules that the Act provides for how photographs may be stored, used and disclosed – see section 30 and Part 3.5 of the Act)
- demerit points (section 31 of the Act)
- registrable vehicles (section 64 of the Act)
- written off light vehicles (section 83 of the Act)
- written off heavy vehicles (section 104B of the Act).

These statutory registers are contained in the DRIVES database. The statutory registers are required in each case to be maintained (that is, kept up to date and accurate) and to be kept secured (that is, to only be used, accessed, or disclosed as permitted). The following Regulations also provide for the specific type of data that is required to be recorded in each register:

- Road Transport (Driver Licensing) Regulation 2017
- Road Transport (Vehicle Registration) Regulation 2017
- Road Transport (General) Regulation 2021
- Road Rules 2014.

### **Privacy and data sharing**

The data in each road transport register is personal information and is generally not permitted to be dealt with under the Act other than in compliance with NSW privacy legislation (*Privacy and Personal Information Protection Act 1998*), or as authorised under an Act.

The data in the photograph registers has an elevated privacy regime applied to it, and may only be used and disclosed under the provisions in Part 3.5 of the Act, which is more stringent than the state privacy legislation.

The road transport legislation provides for certain exemptions from the state privacy regime for their respective registers, for instance to enable the conduct of routine business and to allow important functions to occur which require access by third parties to a register or registers (for example, for driver licences see Part 13 Division 1 of the Road Transport (Driver Licence) Regulation 2017, for vehicle registration see Part 8 Division 4 of the Road Transport (Vehicle Registration) Regulation 2017).