

# LAND TRANSPORT ACT 1998

## S.241 APPLICATIONS CASE STUDIES

---

### Introduction

1. On 1 May 2011, restrictions on access to the Motor Vehicle Register (the MVR) came into force. One consequence is that the names and addresses of individuals currently registered in respect of motor vehicles are no longer available on request. However, the new law will permit the release of personal information for the following purposes:
  - enforcement of the law
  - maintenance of the security of New Zealand
  - collection of charges imposed or authorised by an enactment;
  - administration and development of transport law and policy.
2. Anyone who wishes to obtain names and addresses held on the MVR outside of these purposes may either seek a special 's.241 authorisation' from the Secretary for Transport or apply to the NZTA on a case-by-case basis for the information. The principal advantages of authorised access are that information can be obtained quickly and in volume, and a justification for access does not have to be provided on each occasion. The names and addresses of companies remain available on request, as do all vehicle details. Previous registered persons' names and addresses must be applied for on a case-by-case basis.
3. To obtain an authorisation under s.241, applicants must answer a number of prescribed questions about the nature of their business and the purpose(s) for which they wish to obtain names and addresses held on the MVR. Applications can be made at any time.
4. Applications are assessed considering:
  - *The intended use of the information and what the 'specified purposes' of the authorisation might be in light of that intended use;*
  - *Whether access is necessary for the intended use/specified purpose;*
  - *Whether access is in the public interest, to the extent that individual privacy interests might be outweighed; and if so*
  - *Whether any general or specific conditions are necessary or appropriate to mitigate privacy concerns.*
5. An authorisation may be for any specified purpose and subject to any conditions specified by the Secretary. It is up to the applicant to make a persuasive case. An application may be valid for up to 5 years. The Secretary may cancel or amend an authorisation if thought fit. This would allow the Secretary to impose additional conditions on an authorisation or

limit its terms where a breach has occurred. An example of a breach would be where an authorisation is granted for a specified purpose but the information obtained under that authorisation is used for a different purpose.

6. The core feature of assessing applications is to strike the right balance between the privacy interests of individuals and the legitimate needs of users of MVR information.
7. The intent of the law change was to restrict the use of personal information held on the MVR for purposes for which it was not collected. At the same time it is important that businesses that need access in order to lawfully carry out their legitimate activities are not unreasonably affected by the restrictions.

## Implementation

8. Since late 2010, the Ministry has been engaged in processing s.241 applications from a diverse range of organisations and others who use personal information from the MVR for an equally diverse range of purposes. Because of the complexity, the assessment process has been deliberate and conservative. As a result the Ministry has established a cohesive process and amassed a body of defensible decisions to serve as useful precedents for ongoing decision making.
9. These precedents have sought to balance the legitimate needs of entities where access is an integral part of business models, against the need to adequately safeguard and support the policy intent focusing on the harms the new legislation is seeking to mitigate. Fuller explanations as to rationale and the details of 'case studies' are covered in subsequent sections.
10. By December 2011, the Ministry had received some 130 applications. It is estimated that there are several thousand users of MVR personal information nationally. Users and usage patterns were partially visible through analysis of transaction data sourced from the NZTA, but the major proportion of activity was invisible. This was due to the market preference for access delivered via a range of user-friendly portals operating in the market – products spanning both open-access general service portals and highly-regarded portals providing composite 'value-added' vehicle, 'ownership history', and registered security reports.
11. In this context, the volume of applications has been unpredictable and the processing of applications has been complex and demanding. However, from the second half of 2011 the numbers of applications have steadily diminished to less than one a week.

## Alternatives to s.241 authorisation

12. Before authorisation is granted under s.241, it is appropriate to consider whether other avenues of access to the information are available to the applicant and, if so, whether they are practicable. While the availability of other avenues of access is not a disqualifying ground under s.241, it is considered to be a relevant consideration in the weighing up of the merits of an application for authorisation.
13. Perhaps the most common alternative to authorised access is case-by-case request for personal information under s.236(1)(a)(ii). This is equivalent to a request under the Official Information Act 1982 and the principles under that Act will be pertinent to the assessment of such requests. The principal resistance to this means of obtaining information is the time taken to process a request. It has been commonly assumed by applicants that the 20 working day time limit under the OIA would apply to s.236 requests. This is in fact not the case, and NZTA has undertaken to adhere to a maximum 10 working day response period wherever possible. An advantage of a s.236(1)(a)(ii) request is that the opt-out does not apply and personal information of persons who have opted out is therefore accessible.
14. Not to be overlooked is that consent of the person the subject of the information sought is sufficient to gain access to name and address information. If part of the applicant's processes is to secure the written consent of the subject person to the obtaining of such information from sources such as the MVR, s.241 authorisation is not necessary.
15. Another alternative to s.241 access is the confirmation service under ss.236(1)(b) and 238. This allows an enquirer enquiring about a specified vehicle and who has name and/or address details to contact the Registrar and confirm whether that information matches that of a person registered in respect of that vehicle.
16. There is also the availability of information for the purposes specified in s.235. These are the purposes for which the MVR exists. Section 237(2)(b) permits the release of personal information from the register where the Registrar is satisfied that the information is required for one of those purposes. The most commonly relevant purpose is that of enforcement of the law. This has been interpreted as applying to the criminal law whether before or after court proceedings, but applying to civil law only after court proceedings (i.e. in the enforcement of judgments).

## **Constraints and problem areas**

### ***Impact of opt-outs on Financial Service Providers (FSPs) and Motor Vehicle Traders (MVTs)***

17. People have the right to opt-out of having their name and address details made available under s.241. However the NZTA can still provide details of opted-out people on a case-by-case basis after weighing up the privacy and public interests involved.
18. In May 2011, Motorweb highlighted problems being experienced by their authorised s.241 users – mainly those involved in the financing of vehicles and ongoing monitoring of their security interests.
19. If a vehicle has 'joint registered persons' and the first person has opted-out, then the other registered person is invisible and there is no residual indicator signifying that a joint registered person exists. This is a problem for finance companies using vehicles as security for loans, as they need both owners' agreement for the vehicle to be used as security.
20. FSPs are concerned that this constraint will be exacerbated as the NZTA continues to promote the 'opt-out' facility on the mail it sends out. As a result the attrition rate will continue to cause problems for those with s.241 authorisation as the pool of transparent information reduces.
21. However, it needs to be observed that s.243(3) provides that in future where more than one person owns a motor vehicle, only one may be registered in respect of the vehicle. Therefore, over time as new vehicles are registered and existing registered vehicles are bought and sold, there will be a decreasing number of multiple registered persons on the MVR. While this will exacerbate rather than relieve the problem identified, it does mean that FSPs and MVTs will need to adapt their processes to reflect the information held on the MVR.

### ***Impact of de-registered vehicles***

22. A complaint, from finance companies in particular, is that s.241 cannot be used to get name and address information about a registered person where the vehicle is no longer registered. Finance companies find there are numbers of people who default on loan payments (which triggers a repossession process) where the vehicle has become de-registered. They can, of course, apply for the information on a case-by-case basis.
23. The issue is that it is the vehicle that is de-registered, not the person, and the person is still on the register ("registered person") in relation to a motor vehicle, whether the vehicle remains registered or not.

24. The Ministry's view is that a person cannot be 'registered' in respect of a vehicle that is no longer registered. It is vehicles that are registered, and 'registered person' follows that event. If a vehicle is de-registered, the 'registered person' information becomes historical information and not accessible under s.241. One-off requests are the appropriate way to seek the information. This is an example of the MVR **not** existing for the convenience of finance companies and other commercial users – they have to take the access regime as they find it when designing their business processes, rather than expect the regime to be engineered to suit those processes.

### ***Historical 'owner' information***

25. Historical personal information (name and address information about individuals who have previously been registered in respect of a vehicle) cannot be accessed under s.241. However, information about the number of previous registered persons, and name and address information about companies and other corporate bodies, is not restricted.
26. Following a discussion between the NZTA and the Financial Services Federation it became apparent that the latter's members frequently access historical registered person information. Their reasons for doing so are to:
- *investigate claims of fraud where a third party states that 'ownership' of the vehicle was changed without their knowledge*
  - *establish patterns where a vehicle has repeatedly changed 'ownership' between 2 parties to obtain finance fraudulently, and*
  - *confirm whether a security vehicle has been on-sold to a third party.*
27. While these reasons suggest that financiers may still rely on the MVR for an indication of legal ownership, the use of historical registered person information does, on the face of it, appear to be a useful tool for detecting fraud. As such there seems to be a public interest in favour of disclosing an individual's name and address for these reasons. Assuming this to be the case and information is disclosed, it could be expected that many requests for the same reasons (whether or not from the same applicant) would follow.
28. A finance company contacted the NZTA and advised that they currently run 35-40 checks on historic registered persons on a daily basis. The Financial Services Federation has approximately 42 members so potentially there could be many hundreds of applications every day. Applications of this volume would affect the NZTA's ability to service these in a timely and acceptable manner and would likely draw criticism of both the new regime and the NZTA.
29. Consequently it has been suggested that disclosure of historic registered person information be allowed for a set of core purposes to specified types of applicants through the Motochek system without the need for each application to be assessed. This is analogous to the class authorisations

issued to MVTs and FSPs which allow access to the names and addresses of individuals currently registered in respect of a vehicle for a set of core purposes. However, it could not be the subject of a s.241 authorisation as s.241(7) explicitly excludes historical registered person information. Details of historic individuals who have opted-out would still be withheld and application on a case-by-case basis would have to be made to the NZTA for their information.

30. There is a risk that this approach might be viewed as a departure from the principle that each request for historic registered person information is to be considered on a case-by-case basis. However, the approach is considered acceptable on the rationale that the weighing of the public interest against privacy interests is undertaken at the time of first application for that purpose and that type of applicant.
31. The Panel endorsed this approach, although with the qualification that each individual applicant (rather than a class of applicant) should be considered on a case-by-case basis first, before being allowed this form of access. The reason for the qualification is that not all people of a class will require historic information, so to minimise privacy intrusion, only those who need it should be given access. The Panel noted that this scenario is outside s.241 and not strictly within the intent of the policy changes, but s.237(2)(a)-(c) are excluded – only leaving the 'OIA' option (para.(d)). The NZTA process would have to be shown to weigh up benefits and detriments and also comply with s.237(4) (on request, informing the former registered person of the name of the person to whom the information has been disclosed and the reason for disclosure).
32. The Panel considered the possibility that people ask for this information purely because it is or has been available. The Panel also questioned what risk (legal and political) is posed if the disclosure of information is not assessed on a case-by-case basis.
33. The Panel suggested that if the proposal is accommodated, it would be better to state that it applied for a core set of circumstances (rather than set parameters) for that applicant. If released, the information should have a rider as to why it was released and that it is to be used only for that purpose.

### ***Vehicle direct marketing***

34. Consideration has been given to whether, and in what circumstances, direct marketing (including market research and client surveys) by vehicle manufacturers and distributors might be an acceptable purpose under s.241.
35. The Panel considered that accessing personal information of people on the MVR based on the specific brand of vehicle they are registered in respect of is acceptable. An existing relationship between these parties exists. However, wider targeting to a market segment or to all is not acceptable. A

relationship does not exist and is not directly related to the purposes for which the information was collected on the MVR.

36. The following principles were agreed:

- any marketing must be in relation to the purpose for which it was collected on the MVR. Therefore, it is okay if it is directly related to the vehicle.
- a relationship exists between the registered owner and the car brand company. And therefore, marketing based on this relationship is okay.
- no existing relationship exists between a company and people who do not own that brand of vehicle. And therefore, wider marketing of this nature is not okay.

37. In view of the class authorisation for MVTs, a direct marketing purpose of this kind will be considered only where requested, and will be granted on the condition that people are informed of their right to be removed from the relevant mailing list and excluded from any further marketing-related correspondence. The generic condition is:

*(h) Everyone contacted through names and addresses accessed under this authorisation must, at the first opportunity, be informed of their right to opt-out under section 241(7)(b) of the Act, and also that they may request that [the applicant] immediately remove them from its mailing list so that they will not receive any further market or market research-related correspondence;*

## Enforcement agencies

### ***Ministry of Economic Development's Insolvency and Trustee Service***

38. The Ministry's Legal team received an application in late 2010 and advised that this agency does not need to apply for access under s.241. The Insolvency and Trustee Service is entitled to unrestricted access under section 237(2)(b), including past history of ownership, because it will be using the personal information for an authorised purpose (i.e. enforcement of the law under s.235).

39. Applications or enquiries from other enforcement agencies have been dealt with in a similar way. For instance, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

## Class authorisations

### *MVTs and FSPs*

40. Following feedback on early draft decisions, the Ministry modified its approach to the assessment of certain kinds of applications. Changes reflected the fact that a large number of applications had come from Motor Vehicle Traders and Financial Service Providers. There is a strong public interest in ensuring that these groups, who conduct financial transactions in respect of motor vehicles, have access to information which helps minimise fraud or error. The outcome of this reconsideration of approach was the concept of class authorisations.
41. Access was given first to these two groups as classes for a set of core common purposes, to enable them to access name and address information from the MVR for legitimate business transactions relating to motor vehicles. Authorisation for anything beyond these authorised core purposes remains to be assessed on a case-by-case basis.
42. FSPs and MVTs are both subject to new legislation governing their respective activities, including registration and Codes of Conduct, which provides greater confidence that these groups will not abuse the privileges afforded by the class authorisations, and that there are effective sanctions should they do so.
43. The development of the Motor Vehicle Trader (MVT) and Financial Services Provider (FSP) class authorisations has reduced the projected application processing workload substantially, compared to assessment of potentially hundreds of individual applications for the same or similar purposes. Instead, any registered MVT or FSP (as defined in the relevant legislation) can avail themselves of the class authorisation to access the MVR under s.241.
44. Examples of applications from MVTs:

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

Examples of applications from FSPs:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

The specified purposes for MVTs are:

- *To facilitate safety recalls and service campaigns for motor vehicles*
- *To assist in verifying the person(s) registered in respect of a motor vehicle when the vehicle is being considered for purchase by the Motor Vehicle Trader from another person*
- *To assist in verifying that change of registered persons has been completed correctly; and*
- *Any other purpose that is necessary to facilitate the sale or purchase of a motor vehicle, other than for marketing purposes.*

The specified purposes for FSPs are:

- *To check or confirm details where the Registered Financial Services Provider has an existing security interest in the relevant motor vehicle, either in the form of a Personal Property Securities Register (PPSR) interest or similar security interest*
- *To assist in verifying the owner of a motor vehicle when assessing an application to provide finance in relation to that vehicle;*
- *If the Financial Service Provider is an Insurer –*
  - (i) *To obtain names and addresses of persons registered in respect of vehicles that have been involved in motor vehicle accidents with the Insurer’s clients;*
  - (ii) *To obtain name and address details to assist in verifying that payment for claims are made to the owner of the vehicle; and*
  - (iii) *For any other purpose that is reasonably required for the purpose of assessing or processing an insurance policy or claim in relation to a motor vehicle.*

45. The respective authorisations are –

- the *Authorised Access to the Motor Vehicle Register (Motor Vehicle Traders) Notice 2011* [NZ Gazette No.35 24 March 2011 p.920] and
- the *Authorised Access to the Motor Vehicle Register (Financial Services Providers) Notice 2011* [NZ Gazette No.35 24 March 2011 p.921].

***Petrol retailers***

46. Another significant cluster which warranted a class authorisation was petrol retailers.
47. Petrol retailers have relied on access to the MVR to identify owners of vehicles in circumstances where customers have driven off without paying or where customers have been 'unable to pay' and enter into an arrangement with the retailer to repay the cost of the petrol.
48. One application provided a financial analysis which graphically portrayed the extent of this problem for the network of [REDACTED] Service Stations in the Wellington region. This prompted the Ministry to undertake further investigation into the potential adverse impact of the MVR access changes on this particular industry group nationally.
49. Given the surprisingly low number of s.241 applications submitted from petrol retailers, concerns arose that publicity about the changes may not have created sufficient awareness about the potential impacts of the changes. Accordingly, the Ministry contacted the seven major oil companies operating in New Zealand, in order to gauge the extent of problems that could arise from restricted access to the MVR. It became apparent that the changes had the potential to adversely affect some 1200 petrol retailers.
50. At an operational level, the feedback received cited many situations (regional variations exist) where the Police, particularly in metropolitan areas, do not appear to have the resources to pursue what is, on an individual transaction basis, relatively minor theft. It is acknowledged, however, that perpetrators of such offences are often the same people who are actively engaged in other criminal activity in the community. In many instances, petrol retailers are also able to identify switched plates and pass that information to the Police. We received advice that if action is taken immediately the success rate in recovering payment is significantly enhanced.
51. The cumulative national economic impact was conservatively estimated to be in the vicinity of \$50 - \$70 million annually. Given increases in fuel prices and the impact of the recession on personal budgets and employment, there is increased potential for the number of 'drive-offs' and 'unable to pay' to escalate, further eroding retailers' already low margins. While it does not appear to be standard practice across all oil companies, we have learned that [REDACTED] supply fuel to [REDACTED] retailers nationwide and underwrite petrol losses from theft to the tune of \$10

million annually. One would expect that, as a 'quid pro quo' for such a guarantee, the retailers would be incentivised in turn to take all possible steps to report and/or identify the thieves.

52. In devising an industry-wide solution in a very short timeframe, the Ministry explored options to minimise retailer exposure, including a scenario where each of the major oil companies could submit an application on behalf of their respective retailer network. The processing mechanism would ideally allow the Ministry to respond rapidly to fast track those applications and hence we sought agreement from Advising Agencies that this would be acceptable in set circumstances, and for pre-agreed purposes.
53. An alternative option of developing a 'class authorisation' similar to the model applying to MVTs and FSPs was progressed with support from the Advising Agencies.
54. Examples of applications of this type:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

The specified purpose is:

*To trace registered persons in respect of vehicles where the occupants fail to pay for goods or services from a Service Station*

*A Service Station is defined as a site –*

- (a) Used for the sale of fuel to the public; and*
- (b) For which a test certificate is issued pursuant to section 82 of the Hazardous Substances and New Organisms Act 1996.*

Significant conditions include:

- (a) Access must be restricted solely to a centralised location and to members of staff for whom authorised access is essential to achieving the specified purpose*

55. The relevant authorisation is –

- the *Authorised Access to the Motor Vehicle Register (Service Stations) Notice 2011* [NZ Gazette No.67 19 May 2011 p.1626].

## Other sector solutions

### *Novel business models*

56. Some applications have been received from applicants who are launching novel business models and who have not previously relied on personal information from the MVR. These applications have been subject to close scrutiny to ensure that the business models will involve legitimate uses of register information and that the proposed businesses are credible. Businesses with a proven business track record and an established reliance on personal information from the MVR provide more ready assurance that access is in fact necessary and will be conducted appropriately in light of the objectives of the new access regime.
57. Examples of applications of this type:

- [REDACTED]  
[REDACTED]

### *Portals*

58. Portals play a significant role in providing information (including MVR information) to a wide clientele. Major players are [REDACTED]. [REDACTED] is an example of a portal with a limited clientele, being departments and other agencies that are entitled to access in their own right. Other portals provide information (to a greater or lesser extent) to all comers. These variations meant that each applicant's operational model required careful scrutiny to ensure that portal access did not lead to de facto open access to personal information from the register.
59. An overview of the considerations that have been brought to bear on portal applications can be gained from the [REDACTED]. [REDACTED] was advised that it would need to satisfy the Panel that their portal had robust systems and processes, both contractual and IT- based, to ensure that access to personal information on the MVR was restricted to only those with s.241 access in their own right and for the specified purposes. Further, the Panel looked at a range of factors when considering applications, but the purposes for which the information will be used and the systems and processes to control the use of the information are very important. Where the applicant doesn't use the information itself, but provides it to its customers, then systems and processes for control will be one of the key factors. Each applicant needs to be able to persuade the Panel that its systems and processes provide a means, to the greatest extent possible, of ensuring that the information sourced from the register will only be used for an authorised purpose and that the underlying rationale for the change in legislation – protecting individual privacy – is not compromised. Being able to demonstrate this through a robust audit process will also be important.

60. Some characteristics to consider are:
- Evidence of direct end-user relationships
  - In-built systems/controls on access channels reflecting levels of authorised access by end users
  - Formal contracts, including the nature of use (allowable purposes) and privacy clauses, where users are seeking full access to personal information on the MVR
  - Audit procedures to monitor usage, including for evidential purposes in the event of a complaint.
61. The Panel has also been interested in sighting a diagram of an entity's 'technical infrastructure' to help them to visualise how data is flowing from the MVR through the portal to their customers. They have also been recommended to modify their user interface / login screen to include an additional step where authorised users must state the purposes for which they are accessing personal information.
62. The Ministry fielded several requests for decisions to be reviewed in light of new information being provided. One high-profile applicant, [REDACTED] [REDACTED] who looked unlikely to be granted authorisation, engaged with the Ministry and undertook a significant amount of work to develop and demonstrate the robustness of its systems and processes.
63. [REDACTED] was granted authorisation for its customers who have access in their own right (essentially MVTs and FSPs). The Ministry worked closely with [REDACTED] to achieve a positive outcome for this popular portal. Not only is it the largest user of Motochek providing a service to many approved users, it also provides a third-party information feed through [REDACTED]  
[REDACTED]  
[REDACTED] This arrangement did not come to light until after the draft decision stage.
64. [REDACTED] have back-to-back legally enforceable contracts in place to satisfy the Ministry's requirements around information controls and direct sub - account management. [REDACTED] operates SAM and ORION software solutions for many garages, workshops, MVTs and LMVDs.
65. The Ministry leveraged this experience and worked proactively with other major portals to allow restricted access to those customers who have s.241 access in their own right or access by virtue of the class authorisations. The Ministry was conscious that all portals needed to be given an opportunity to maintain their services to authorised users (including enforcement agencies). The Ministry was also aware of the risks that could arise if its decisions were perceived as inequitable across all portal services and inadvertently creating an anti-competitive environment.
66. Examples of applications of this type:
- [REDACTED]  
[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

The specified purpose for [REDACTED] is:

*To provide names and addresses to customers who themselves hold an authorisation under section 241 or who have a right to such information under other legislation (for example, for enforcement of the law under the Land Transport Act 1998)*

The specified purposes for [REDACTED] are:

- *to check or confirm details where the client has an existing security interest in the relevant motor vehicle*
- *for a client who holds an authorisation under section 241 of the Act or who has a right to such information for one of the purposes of the Motor Vehicle Register set out in section 235 of the Act, information may be provided for the purposes for which the client is allowed access*
- *to allow registered persons to be contacted where the client is in lawful possession of the vehicle, but the owner is unknown*
- *to allow credit providers, including banks, to verify information provided by customers where consent to obtain this information has been given by the person to whom it relates*
- *for a client who is a debt collector, to assist in recovering debts where the debt collector has, or has been engaged as an agent by a person who has, a security interest in the relevant vehicle*

The specified purposes for [REDACTED] are:

- *To obtain name and address details in respect of a vehicle where the authorised business user has a security interest in the vehicle*
- *To provide reminder notification of upcoming expiry of vehicle certificates, warrants of fitness and licences to customers of the authorised business users only*
- *For an authorised business user who is a repossession agent or debt collector, to assist in locating a motor vehicle, or recovering a debt in relation to a motor vehicle, where the repossession agent or debt collector has, or has been engaged as an agent by a person who has, a security interest in the vehicle*
- *For an authorised business user who holds an authorisation under section 241, or who has a right to such information for one of the purposes of the MVR set out in section 235 of the Act, information may be provided for the purposes for which the authorised business user is allowed access*

Significant conditions include:

- (d) [the applicant] must require and enforce, as a term of its contractual agreement with its clients, that its clients only access personal information from the motor vehicle register for a specified purpose, or for a purpose set out in section 235 of the Act, and must inform its clients of this condition*
- (i) [the applicant] must provide an annual report to the Secretary for Transport on its compliance with the conditions set out in this letter by 1 May each year beginning with 1 May 2012 (this requirement may be incorporated into the company's usual audit practices)*

### **Private Investigators**

- 67. There are some 400 registered private investigators operating in New Zealand and many of them access personal information from the MVR. Of this user group, only 9 have applied for s.241 authorisation, which has surprised not only the Ministry but also their own representative bodies. While the regulation of private investigators and security personnel is being strengthened through new legislation governing their respective activities, including registration and Codes of Conduct, the Ministry has elected to not develop a 'class authorisation' to cover this group.
- 68. Through discussions with Police and as a result of closer scrutiny of this group, it is the Ministry's view that there is the potential for a high degree of ethical variability. The Ministry considers that this does not provide confidence that some members of this group would not abuse the privileges afforded by a class authorisation. Therefore applications will continue to be reviewed on a case-by-case basis.
- 69. Authorisations may also be granted for shorter periods than the maximum 5 years allowable, and annual activity audit reports specified as a condition of access. This requirement has been discussed with the sector's governing bodies and the rationale is understood and accepted.
- 70. After 1 May 2011, the Ministry received more applications from private investigators and, given that precedents were well established, a shortened approval process was suggested to the Advising Agencies. For these private investigator applicants the comments from all advising agencies have been that access should not be granted. The Panel had initially agreed.
- 71. However, some of those applicants came back and made a persuasive case as to why they should have access. They explained that they are essentially doing law enforcement work, often for the Police or for government departments, or for commercial clients investigating fraud, and often with a view to preparing evidence to give to the Police. The Panel saw value in this kind of activity, but recognised the potential for private investigators to use the information for other purposes.

72. Balancing these factors, the Panel was willing to grant access for a limited generic purpose and impose conditions that are designed to minimise these concerns.
73. The initial generic purpose was: *Law enforcement including preparing evidence related to criminal offences, and the detection and investigation of suspected fraud.*
74. The generic purposes have evolved further post further discussion with the Office of the Ombudsman and the Privacy Commissioner (see para.83 below).
75. As well as the standard conditions, the conditions of access to address concerns with this group are:
- Private investigators only have access for 1 year (rather than 5) and they are required to report at the end of that year on every instance they accessed the MVR and the purpose for which it was accessed. This gives an opportunity to audit usage before granting further access. It is a key tool for their business and to lose it by misusing it will put them at a disadvantage.
  - A private investigator company is licensed under the Private Security Personnel and Private Investigators Act 2010 and the named investigators who will have access on behalf of the company hold certificates of approval under that Act. For the applications already granted, we have limited access to the principals of the company.
76. The proposal put to the Advising Agencies was that for future applications of the same type, we can rely on their views as previously expressed, rather than having to consult them on each individual application.
77. The Ombudsman had agreed that “reference in the purpose to ‘criminal offences’ and ‘detection and investigation of suspected fraud’ was in line with previously identified public interest considerations. However, use of the word ‘including’ indicates that ‘law enforcement’ may encompass more than ‘preparing evidence related to criminal offences’, and ‘detecting and investigating suspected fraud’. The term ‘law enforcement’ is potentially quite wide and open to (mis)interpretation. For instance, applicants might consider that ‘law enforcement’ includes issuing civil proceedings and identifying potential witnesses in relation to civil claims, which are not considered warranted purposes.”
78. The Ombudsman suggested that the Ministry may wish to consider whether it can be more precise about particular manifestations of law enforcement that warrant authorised access. Possible manifestations could include:
- *Access for the purpose of enforcing court orders and judgments;*

- *Access on behalf of government agencies with law enforcement functions, where it is necessary to enable the agency or the applicant as its lawfully-appointed agent to carry out those functions.*

79. The Panel had previously agreed that an approval would be for one year with monitoring and an audit report will be required in relation to every MVR access point. The Advising Agencies had also suggested a condition that *“personal information obtained under this authorisation shall not be disclosed to any third party unless such disclosure is necessarily incidental to achieving the specified purpose.”*

80. In principle, the Police agree with the proposal on the basis that it is appropriate that a consistent approach is taken to applications from similar organisations for access to information for the same purpose.

81. When the Police are invited to comment on an application, in their capacity as an ‘advising agency’, they do not "vet" the applicant. The Police consider that consultation does not include vetting or checking of criminal records. This would not be appropriate in any case as applicants are not asked to consent to such a check. Private investigators already go through a form of vetting by Police when applying for or renewing their licence. The Police therefore approach each application on the basis of assessing generally the potential for criminal use of the information from the MVR.

82. Examples of applications of this type:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- Thompson & Clark (Application 93)
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

The generic specified purposes are:

- *the detection and investigation of, and preparation of evidence related to, suspected criminal offences and fraud;*
- *enforcing court orders and judgments; and*
- *when acting as a contracted agent on behalf of government agencies with law enforcement functions, to assist in carrying out those functions*

Significant conditions include:

- (a) *The names and addresses are accessed only by [individual] on behalf of [applicant] and solely for its own use*

(c) *To access the Motor Vehicle Register, [applicant] must hold a private investigators licence and [individual] must hold a certificate of approval under the Private Security Personnel and Private Investigators Act 2010*

(g) *Before [31 May 2012] [applicant] must provide the Secretary for Transport with a report providing details of the purpose, the date, and the vehicle registration number, of each enquiry made in relation to the Motor Vehicle Register during the term of the authorisation*

### **Car Park Operators**

83. Applications from car park operators for access under s.241 to the MVR present a number of issues. These issues include the existence (or otherwise) of a contract with parkers, the terms of such contracts, the different kinds of circumstances under which vehicles may be permitted to enter the property, whether the car park operator owns the parking facility or simply manages it, and wheel-clamping. Also requiring consideration were innovative operating models where there may be no history of reliance on access to the MVR.
84. The Ministry has received applications from most of the large car park companies currently operating nationally. These operators access the personal information held on the MVR to contact owners where there is a safety or security concern related to a specific vehicle, or to issue invoices for administration fees. Depending on the particular company's policy, these invoices range from \$45 to \$65 and are issued when customers breach 'contract' through failing to pay the requisite parking fees. Car park operators claim that their right to issue these notices to recover liquidated damages is covered by contract law.
85. MVR transactions for this purpose either directly or indirectly are considerable. For example, [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
86. Another large operator, [REDACTED]  
[REDACTED]  
[REDACTED]. Given the size and importance of this revenue stream across the sector it was clear that access to personal information from the MVR has become an integral part of the process for recovering payment from motorists who fail to pay for using car parks, and hence a major contributor to operator profits.
87. Other options were explored, including clamping, towing and registering non-payment of an 'invoice' as a civil debt, obtaining a judgment and placing the recovery action with a debt agency. The potential also exists for



*specified purpose of identifying 'owners' of vehicles parked illegally on their property. The degree of access would be extremely wide, and although the conditions could be imposed (such as for authorised purposes only), they may be difficult to enforce".*

95. The Panel agreed that "further information is needed from [REDACTED] as to the scale of its operation, including the types and numbers of car parks it monitors, and any concerns it has as to using clamping and towing as its main enforcement method". The Panel considered that this request should also be directed at other car park operators from whom applications had been received e.g. [REDACTED]
96. The Panel considered that, as access to personal information held on the MVR was not time critical, [REDACTED] had the option of applying to the NZTA on a case-by-case basis.
97. The Panel was not persuaded by the [REDACTED] application and was unable to reconcile [REDACTED] claims of running an extensive business operation which were not supported by any existing transactions or history of high usage of the MVR.
98. A draft 'decline' decision was sent to [REDACTED] and the decision was appealed.
99. Ultimately, after further information was provided by the applicant, the panel decided to recommend that an authorisation be granted. The terms of that authorisation consisted of the first and third of the specified purposes mentioned in para.112 below.

[REDACTED]  
[REDACTED] a new company incorporated in April 2011. It is a wholly owned subsidiary of another company, [REDACTED]  
[REDACTED]  
[REDACTED]

101. [REDACTED] claimed to [REDACTED]  
[REDACTED]  
[REDACTED]".

102. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

103. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

104. In summary, [REDACTED] intended to use personal information on the MVR:
- To send reminder notices to vehicle owners who have not paid a breach notice sum within 21 days of issue, and
  - On occasions when the breach notice cannot be left on the vehicle, [REDACTED] will provide the breach notice in the first instance by mail.
105. The Panel found the application to be somewhat contradictory and was surprised that the Advising Agencies had taken at face value the applicant's claims to be operating the same parking monitoring and enforcement model as established companies.
106. Further background investigation into the company and its parent company profile did not provide the Panel with a high degree of assurance that a s.241 approval was warranted, even for the first purpose in the absence of any business history.
107. With respect to the second purpose, the Panel was concerned that [REDACTED] was suggesting that under its proposed business model, personal information held on the MVR would be accessed to send out a breach notice in the first instance by mail, without providing the client with the opportunity to pay. Previously the Panel had required [REDACTED] to change their business practices to specifically allow 'unidentified' drivers to pay on the original hard copy breach notice.
108. The Panel was concerned that [REDACTED] did not appear to have a field force of company staff to operate enforcement activities; instead they seemed to be relying on a version of a "third-party virtual surveillance model" whereby any member of the public could 'dob in' an alleged recalcitrant parker by sending (via cell phone) a text and photo of a vehicle displaying the vehicle's plate number. Based on this information [REDACTED] would access personal information on the MVR and issue a breach notice.
109. The Panel required further information and evidence of [REDACTED] being a properly established business, for example - evidence of actual car park management contracts, client lists, controls and guarantees that their business model would exclude the possibility of vexatious reports and the like.

110. In addition, the Panel recommended that the Ministry should go back to the Advising Agencies, providing them with further information about the proposed business model and seek a reconfirmation or amendment to their advice.
111. An authorisation was eventually granted, for the first and third of the specified purposes set out below.
112. Examples of applications of this type:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

The generic specified purpose is:

*To send a reminder notice to the registered person where a motor vehicle has been parked in a car park in breach of the parking terms and conditions, enforcement of which is managed by the applicant*

[REDACTED] has also been granted authorisation for the following purpose:

*To contact persons registered in respect of parked motor vehicles where staff have a concern about the vehicle (for instance, it has been broken into or damaged or is unlocked; its lights have been left on; it is causing an obstruction or is parked unsafely)*

Another purpose that has been included where appropriate is:

*To trace persons registered in respect of motor vehicles where the occupants, without paying for parking, exit a car park in breach of the parking terms and conditions, enforcement of which is managed by the applicant*

Significant conditions include:

- (f) Access must be restricted solely to a centralised location and to members of staff for whom authorised access is essential to achieving the specified purpose;*
- (h) In the first instance, an unnamed notice of breach must be placed on a vehicle to allow the person in charge of the vehicle a reasonable time to pay a fee or to appeal the imposition of the fee before the register is accessed for name and address details;*
- (i) Records must be kept of the purpose and occasions whenever names and addresses are accessed from the register, and these records must be sufficient to establish that in each case a reasonable period has been*

*allowed for payment before the register has been accessed for name and address details;*

- (j) *The applicant must provide an annual report to the New Zealand Transport Agency (NZTA) on compliance with these conditions by 1 August in each year beginning with 1 August 2012 (this requirement may be incorporated into the company's usual audit practices)*

### ***Towing operators/storage providers acting for the Police***

113. Applications from towing operators commonly claim that access is needed to personal information from the MVR as they provide services to the Police and need to contact the owners of vehicles which have been towed and stored, or pre-disposal. The standard requested purposes are along the lines of:

- As a Police authorised towing and storage provider for impounded vehicles, to fill out application forms for the release of vehicles which are not collected
- Searching for owner details of Police-impounded vehicles to enable them to send letters informing the registered owner where their car is stored
- Confirming that people collecting vehicles are the registered owners.

Note that ascertaining ownership details (under a QV- Query Vehicle Status) is part of a Police function. The Police should (but often do not) provide an authorised towing and storage provider with comprehensive information about the vehicle and the registered person. Section 96(2)(d) LTA provides -

*"The enforcement officer must also cause a copy of the notice to be given to the storage provider who stores the motor vehicle".*

114. The original thinking was that authorisations could be predicated on the existence of a contract with the Police for the provision of the services for which access was being sought. However, it became apparent that the Police do not have a uniform system throughout the country of formally documenting arrangements with tow operators and storage providers in the form of a contract. That is something they are working towards but it is not a reality at present.

115. There is also a distinction to be borne in mind between towing on the one hand, and storage on the other hand. For towing, the Police operate a roster of tow operators who will be contacted to carry out towing. In most districts a police officer who needs a vehicle towed for whatever reason will phone Police communications which arranges the tow. Some companies with particular capability are preferred for some types of towing, while in other cases the next available company listed on the roster is commissioned. This method was designed to avoid tow vehicles turning up at incidents unsolicited. In addition, there is the licensing system under the

Land Transport Rule: Operator Licensing 2007, which requires that vehicle recovery service operators must be licensed.

116. For storage following impoundment, the Police use the services of storage providers whom they approve.
117. These factors were selected as the basis for determining what the specified purposes ought to be and, by extension, which tow operators and storage providers ought to be granted an authorisation.
118. Examples of applications of this type:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

The generic specified purpose is:

*To provide information concerning the location and retrieval of motor vehicles to persons whose vehicles have, at the request of the Police, been –*

- (i) *recovered, where the applicant is on the Police roster of vehicle recovery service operators;*
- (ii) *impounded, where the applicant is an approved vehicle storage provider for the Police*

Significant conditions include:

- (c) *To access the MVR for vehicle recovery purposes the applicant must hold, and continue to hold, a vehicle recovery service licence issued pursuant to the Land Transport Rule: Operator Licensing 2007;*
- (d) *The applicant must ensure that, for vehicle recovery purposes, a tow authority is completed in every case before personal information is accessed from the MVR;*
- (f) *Access must be restricted solely to a centralised location and to members of staff for whom authorised access is essential for the specified purposes;*
- (j) *Records must be kept of the purpose, occasions, and vehicle registration plate numbers whenever personal information is accessed from the MVR*

### ***Other towing operations***

119. Applications have also been received from companies that are either operating under contract to a local Council or other local or central government agency. In these circumstances where there is a function that can clearly be contracted, access can be granted for specific purposes if the applicant's 'bona fides' is proven.
120. An example is [REDACTED] This is a road sealing company, contracted by a local council, needing to arrange for the removal of vehicles obstructing sealing work. The company attempts to contact the registered person by phone or tow the vehicle nearby and leave a notice to that effect at the registered person's address.

The specified purpose is:

*To obtain name and address details of in respect of vehicle situated on a street being sealed.*

### ***Service providers contributing to government regulatory functions and initiatives***

121. [REDACTED] is an unusual case. It undertakes traffic modelling work to inform Council's infrastructure and roading strategies. Vehicle number plates are recorded at various locations (either manually or through video cameras) and these number plates are inputted to the Motochek system in order to obtain the address information associated with those number plates. The address information is then geo-coded and subsequently the catchment for a particular activity (for example, a section of roadway or a particular land-use activity) can be derived and the approximate distribution of trips to and from the activity can be estimated. Traffic models are then built with the distribution data used as a key input to the process. The only information which is of use to the [REDACTED] [REDACTED] is the address associated with a specific number plate. The Panel considered this to be a 'public good'.

The specified purpose is:

*To obtain address information associated with specific registration plate numbers to assist with traffic modelling.*

### ***Boat trailer retailers***

122. [REDACTED] concerned a vendor of boats and trailers. Boat trailers are registered on the MVR, but boats are not. Access to the MVR will therefore not assist a boat trailer retailer to verify that the seller/trader of the *boat* is entitled to sell it. However it will assist in verifying that a seller/trader of the boat *trailer* is registered in respect of that. Boat trailer retailers assume that, if the seller/trader is

registered in respect of the boat trailer, they are also likely to own the boat on that trailer.

123. A boat trailer retailer is not covered by the MVT class authorisation because it is not a "Motor Vehicle Trader" as defined in s.7 of the Motor Vehicle Sales Act 2003 (trailers are explicitly excluded from the definition of 'motor vehicle').
124. Boat trailer retailers' intended use of personal information held on the MVR seems fundamentally the same as the specified purpose for which motor vehicle traders have been granted authorised access. This was considered a sufficient basis to consider granting authorised access.
125. The Panel agreed that they should be treated as a motor vehicle dealer and agreed to an authorisation for the same purposes as for the registered MVT class authorisation.

The specified purposes are:

- *To facilitate safety recalls and service campaigns for boat trailers*
- *To assist in verifying the person(s) registered in respect of a boat trailer when the vehicle is being considered for purchase by the applicant from another person*
- *Any other purpose that is necessary to facilitate the sale or purchase of a boat trailer, other than for marketing purposes.*

### **Liquidators/receivers**

126. Several applications have been received, typically requesting access for *"identification of the current registered owner of vehicles identified during the liquidation or receivership process as current or formerly owned by the entity in liquidation or receivership or related parties"*.
127. The Panel's decision to grant access to liquidators and receivers is supported by comments made by the Ombudsman: *"In order to manage and realise the property of a company in receivership or liquidation, it would seem necessary for [the applicant] to have access to the personal information of individual registrants of the recovered vehicles. It seems to me that the public interest in facilitating [the applicant]'s role in carrying out receiverships and liquidations outweighs the privacy interests of the individual registrants in terms of personal information held on the register."*
128. Company information will still be available through Motochek, but personal information in relating to historical registration details will not be available through a s.241 authorisation, as this is prohibited by s.241(7). Requests for such information would therefore need to be made on a case-by-case basis. Accordingly a s.241 authorisation would only assist to provide access to the personal information of current registrants who are individuals and who have not opted-out.

129. In circumstances where individuals have opted-out, the liquidator/receiver would need to contact the NZTA directly.

130. In light of the public interest considerations, the Panel discussed the possibility of treating liquidators as a group, without the need to apply individually. The Panel agreed that due to the variability of entities providing this service it would be advisable to maintain a tighter degree of control at this stage.

131. Examples of applications of this type:

- [REDACTED]
- [REDACTED]
- [REDACTED]

The generic specified purpose is:

*To obtain name and address details in respect of vehicles owned by individuals being investigated during a liquidation/receivership.*

[REDACTED]’ purposes included:

*To obtain name and address details as an agent conducting forensic accounting reviews for the following government departments –*

- *National Enforcement Unit of the Ministry of Economic Development*
- *Serious Fraud Office*
- *Securities Commission*
- *Official Assignee*
- *Registrar of Companies*

### ***Vehicle repossession/debt enforcement***

132. [REDACTED] is a self-described repossession/debt collection company whose professional services are used by finance companies to locate debtors and vehicles on their behalf.

133. The Panel noted that if a vehicle had been on-sold via a private sale, the privacy risk in allowing access was higher than for a sale executed by a MVT where their legal obligations were explicit with respect to checking security interests in a vehicle offered for sale.

134. The specified purpose is:

*While acting as a repossession agent or debt collector, to assist in locating a motor vehicle, or recovering a debt in relation to a motor vehicle, where the applicant has been engaged as an agent by a person who has a security interest in the vehicle.*

**Rural fire and security services (private forestry blocks)**

135. Several applications have been made by entities that provide security services in forestry blocks. Typically, these applicants monitor vehicle movements and presence within the areas they provide security for, in order to detect illegal hunting and other illicit activities.
136. For example, in the case of [REDACTED], third party access is managed via a formal permit system to allow access subject to a range of conditions. Each permit records the approved vehicle's details to allow physical identification, and reconciliation with the permit. On-site security and permit compliance is conducted by field staff, in addition to formal patrols outside work hours. Particularly with respect to recreational use of the forest (e.g. fishing/hunting) it is common for staff to come across parked vehicles in out of the way places. On those occasions the standard practice is to contact the office by cellphone and ask if the vehicle registration is linked to a current recreational permit. When that doesn't produce a 'hit', Motochek is used to identify whose vehicle it is. Given the range of illegal activities carried out in forest (e.g. trespass, theft/vandalism of machinery, illegal hunting and fishing, cannabis cultivation), unauthorised entry is a regular occurrence.

137. Examples of applications of this type:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

138. The specified purposes for [REDACTED] are:

- *To identify registered persons of abandoned motor vehicles;*
- *To identify persons registered in respect of motor vehicles in order to issue trespass notices*

The specified purposes for [REDACTED] and [REDACTED]  
[REDACTED]

- *To identify registered persons of motor vehicles within the forestry estates you provide security for, where the vehicles are unattended or have not been able to be stopped or, where vehicles are stopped, to confirm that details supplied are accurate;*
- *To enforce speed limits within the forestry estates you provide security for*

### ***Identity verification/anti-money laundering***

139. Banks and other financial institutions are under statutory obligations to verify the identity of prospective customers before establishing accounts or other financial facilities.
140. An example of this kind of scenario is [REDACTED]. Its requested usage was: *“Our support services teams use the register for the purpose of validating the name and address details already provided by prospective customers who are wishing to join [REDACTED] through our public website...”*. The Panel had agreed that [REDACTED] should be referred to the NZTA to discuss their systems. It would be more useful to have consent from the prospective customer; it was noted that if they had customer consent they would not need s.241 access.
141. However, NZTA reported that they are unable to separate out ‘classes’ of access in the MVR. MVR was set up for entirely different reasons, but that NZTA would attempt to accommodate ‘consent related’ applications. In view of that advice, and on the basis of obligations to prevent money laundering, the Panel supported access by and treatment of banks as a special category and accordingly agreed to [REDACTED] being granted access.

### **Decisions to decline access**

#### ***Media – [REDACTED]***

142. Various media organisations, viz. [REDACTED] applied for access for journalistic purposes, supported by correspondence from the [REDACTED], which is strongly opposed to restrictions on media organisations’ access.
143. The Panel considered these applications and sought advice from the Commissioner of Police, the Privacy Commissioner and the Office of the Ombudsman. All three Advising Agencies recommended that a persuasive case had not made for access to the MVR and access should not be allowed.
144. An argument that media organisations might make is that their situation is similar to private investigators. A significant point of difference between the media and private investigators was considered to be that the media sought access for very general purposes. On the other hand, the purposes granted for private investigators were limited and specific. For example, private investigators require access to enforce court judgements, provide court orders, or to investigate fraud. The access to private investigators is also limited to one year and they have to fulfil audit requirements.

145. ██████ commented on its draft decision and the matters raised were reviewed by the Panel before a final decision was issued.
146. Draft decisions were subsequently sent to the other media applicants, the tenor being that applications for information can be made on a case-by-case basis, and that company information remains available on request. All of those applicants contested the decisions to decline authorisation. A particular point made by the media was that immediate access to the information is often required. It was also argued that the freedom of the media dictated that they (rather than a government bureaucrat) should be the arbiters of whether access should be available in any particular case.
147. To assist the Secretary in giving due consideration to the applications, and to help ensure that administrative law principles governing decision-making are adhered to, the Ministry prepared a comprehensive summary of the arguments for and against access being granted. This was provided to the Secretary for reference in a face-to-face discussion with the ██████
148. A meeting took place between the Secretary and ██████, subsequent to which correspondence was exchanged. Since early 2012, the initiative for further consideration of the applications from the media organisations has lain with ██████. In the meantime they are conducting their investigative and reporting activities without s.241 access to the MVR.

***District Health Boards, educational institutions and others***

149. Several applications have been received from institutions that provide parking areas for visitors and enforce parking restrictions in those areas. An example is that of ██████ which sought access for –
- For enforcement of the ██████, as well as the reporting and investigation into breaches of New Zealand criminal law and Transport Act;
  - To identify owners of vehicles through registration checks prior to, or following, clamping or tow-away, and in cases of “drive-away” accidents and incidents of careless driving and where the vehicle is involved in a crime.
150. In the case of ██████ the Panel considered that as the applicant is not an enforcement agency, an authorisation is not necessary for private carpark enforcement. This can be achieved in other ways i.e. towing, clamping, or in respect of suspected illegal activity, contacting the Police.
151. The ██████ application was granted as an exception in consideration of the disruption caused to the ██████ by the Canterbury earthquakes. The authorisation was limited to two years.
152. Examples of applications of this type:

- [REDACTED]

**Personalised Plates**

153. An application was made by [REDACTED] –

- To verify certain vehicle, plate and owner information in order to process certain transactions in fulfilment of their contractual arrangement with the NZ Transport Agency
- For the sale of their branded products.

154. The Panel was unable to identify what contractual arrangements the applicant has with the NZTA that would require the applicant to have access to personal information on the MVR. The Panel considered that a relationship does not exist between the applicant and the intended party to receive marketing material. Wider targeting to a market segment or to all is not acceptable.

155. A draft decision declining the application was sent with an invitation to discuss the matter. [REDACTED] did not provide any comment and so the draft decision was confirmed.

[REDACTED]

156. An application was made by the [REDACTED] for –

- Identifying individuals registered in respect of motor vehicles about which a complaint has been made
- Checking details of a motor vehicle which is undergoing testing for a self-containment certificate.

157. The application was declined for the following reasons –

- As [REDACTED] has its own database, it was considered appropriate that [REDACTED] should collect and maintain registered person/vehicle information directly from its members
- The second requested purpose related to vehicle information, which remains available without restriction on subscription to Motochek.

[REDACTED]

158. This was an application [REDACTED] for finding the ownership history of buses as part of the compilation of a list of all buses used in New Zealand since 1950. The Panel agreed that many buses would be owned by

companies and the information would still be available on the MVR. Also, s.241 access cannot be granted for past ownership information. Given the very low volumes at issue, the case-by-case volumes to be handled by NZTA would be minimal for private individuals, whether current or historical.

159. This involved an unusual scenario. The applicant [REDACTED] claimed to operate as a contractor to insurance companies to locate stolen cars. Members of the public could report sightings of suspected stolen vehicles to the applicant, who would then access the MVR –

- To check if vehicles are stolen or not
- To check vehicle descriptions to ensure they match the registration plate numbers
- Informing the owner that a vehicle has been found, including where Police do not have an “Authority to tow”
- Writing to vehicle owners to advise that [REDACTED] has been instrumental in finding their stolen vehicle and seeking information as to their insurance arrangements.

160. The Panel considered that the application ought to be declined. It was noted that [REDACTED] uses name and address information to write to vehicle owners to advise them that [REDACTED] has been instrumental in locating their stolen vehicles and seeking information about their insurance arrangements. The Panel had concerns about the potential for information to be passed on to insurance companies for direct marketing purposes, targeting those vehicle owners who did not hold vehicle insurance. Although not having access to personal information might impair [REDACTED] ability to approach vehicle owners to seek insurance information, this was not considered a major detriment to the business model based on the information in the application.

161. Once a vehicle is found, it is a Police function to follow up with the owner and arrange storage. The second requested purpose related to vehicle information, which remains available without restriction, and a stolen vehicle query is also available to check whether a vehicle has been reported as stolen.

## Miscellaneous

162. An application was made by [REDACTED] –

- To search for owner details in order to contact and provide them an opportunity to hire out their vehicle for use in TV or movie productions.

163. The application was initially declined. The applicant ( ) emphasised in his response to the draft decision that:
- The role his business played was very much directed towards the public interest, by providing people the opportunity to receive money for the use of their vehicle;
  - It was not in his interest to hound owners, or impose on owners who do not wish to be involved;
  - Information would only be retained for the period of contacting the owner, and then subsequently destroyed.

164. The Panel was persuaded by arguments, and authorisation was granted access for a 1 year term, with access to the MVR being reassessed at the end of the term. This is to allow the authorisation to be monitored and to assess the potential risks/consequences in the event that similar applications for similar business models were submitted.

165. The specified purpose is:

*To contact persons registered in respect of vehicles to provide them an opportunity to hire out their vehicle for use in television or movie productions*

Significant conditions are that the authorisation is for a period of 12 months, and:

*(b) By 30 April 2012 must provide the Secretary for Transport with a report providing details of each enquiry made in relation to the Motor Vehicle Register during the term*

### **Fleet managers**

166. is a professional fleet risk management company. It applied for access –

- To formally contact the person deemed liable or otherwise not liable for the purpose of monetary compensation or recovery as a result of a vehicle accident claim

167. The Panel considered that authorisation should be granted, but only in respect of self-insured customers, because where a customer holds insurance, the insurance company will already have access.

168. The specified purpose is:

*Identification and tracing of the person responsible for a motor vehicle involved in an accident with a self-insuring customer of*

169. applied for access –

- To correctly identify ownership in relation to –
  - Accounts receivable, for charging and collecting monies from the sale of goods or services
  - Central billing, for charging the correct client and accurately track tyre usage for national accounts.

170. The draft decision was to decline authorisation. In its response, [REDACTED] emphasised that:

- It intended to use information from the MVR to correctly identify the registered owner of a vehicle that its technicians have worked on. This would only be on occasions when that information has either not been provided or has been incorrectly provided;
- If the vehicle is a lease vehicle, sometimes the driver may not be aware of which lease company their employer is using, or may not be aware that several lease companies have very similar names;
- As lease companies manage extremely large fleets of vehicles, if the applicant cannot provide the correct details and invoice the correct lease company, then they will not pay the invoice.

171. Subsequently, [REDACTED] advised that:

- It manages the tyre service for some large fleets, for example, [REDACTED]. Access to the MVR was particularly important for providing a quality service to these customers;
- It also has contracts to provide tyre servicing to other organisations, such as the Police, banks, fire services and councils;
- For small fleets [REDACTED] adopts a different approach of having each vehicle specified. However, for large fleets that are changing constantly, it is impractical for their customer to provide an accurate and up to date list. Hence the need to access the MVR.

172. In light of these submissions, authorisation was granted.

173. The specified purpose is:

*To obtain name and address details in respect of vehicles presented for service where the vehicle is part of a fleet for which [REDACTED] [REDACTED] [REDACTED] has a contract to provide tyre servicing.*

174. Other examples of applications of this type:

- [REDACTED]