

# Response to the Privacy Impact Assessment of VicRoads' participation in the National Driver Licence Facial Recognition Solution

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## Background

On 5 October 2017 at the Council of Australian Governments, Victoria entered into an *Intergovernmental Agreement on Identity Matching Services* (the IGA) to facilitate the secure, automated and accountable exchange of identity information, with robust privacy safeguards, in order to prevent identity crime and promote law enforcement, national security, road safety, community safety and service delivery outcomes. The IGA outlines the terms of state and territory participation in new facial biometric matching services (Face Matching Services). This includes the establishment of a National National Driver Licence Facial Recognition Solution (NDLFRS), to be hosted by the Commonwealth on behalf of the states and territories, to help make available driver licence images via the Face Matching Services.

The IGA provides for a Face Matching Services Participation Agreement (Participation Agreement) to provide a legally binding framework within which participating agencies will negotiate details of data sharing arrangements, so that these arrangements meet minimum privacy and security safeguards in order to support information sharing across jurisdictions. To complement the Participation Agreement, a separate NDLFRS Hosting Agreement is being put in place between the Department of Home Affairs (as the NDLFRS Hosting Agency) and each state and territory road agency to outline the terms on which data will be hosted in the NDLFRS.

As part of this project, VicRoads (on behalf of Victoria) is now required to enter a Hosting Agreement and a Participation Agreement (the Agreements), negotiated between the Commonwealth (Home Affairs) and relevant State parties. Following the execution of Agreements, VicRoads will action an upload of licence data to the Commonwealth (Upload).

## Scope of the Privacy Impact Assessment

Information Integrity Solutions Pty Ltd (IIS) was commissioned to conduct an independent Privacy Impact Assessment (PIA) focusing on the role of VicRoads as a Data Holding agency. This PIA was completed in December 2018. The PIA will assist VicRoads in managing its privacy obligations when participating in the National Drivers Licence Facial Recognition Solution (NDLFRS).

VicRoads asked for the PIA to cover the privacy considerations of the project, including the upload, auditing, access to and use of the data.

The PIA found that VicRoads' participation in the NDLFRS has high inherent risks, but these are likely to be reasonably controlled via the complementary set of strong privacy and security controls that were being proposed. This PIA was completed in December 2018.

The PIA makes a total of 13 recommendations for a range of measures to strengthen the governance framework and privacy safeguards in relation to VicRoads participation in the NDLFRS.

## Response to the Privacy Impact Assessment

This response accepts all 13 recommendations in full.

RECOMMENDATION	RESPONSE -draft
<p><b>Recommendation 1 – Monitoring NDLFRS bulk upload and daily updates to identify and manage accuracy issues</b></p> <p>IIS recommends that VicRoads ensure it has in place a well-resourced error management process to identify accuracy issues as the NDLFRS implementation proceeds and until all processes, including the daily updates, are well established.</p> <p>The process should include specific ‘caretaker’ arrangements with HA.</p>	<p><b><u>AGREE / AGREE IN PART</u></b></p> <p>Recommendation implemented.</p>
<p><b>Recommendation 2 – Minimising impact of NDLFRS data accuracy issues</b></p> <p>IIS recommends that VicRoads make sure that where data accuracy issues are identified, it ensures it understands the impact on individuals, or particular groups of individuals, and take steps to minimise the impact.</p> <p>These steps could include system or process changes or providing more information or resources to assist individuals.</p>	<p><b><u>AGREE / AGREE IN PART</u></b></p> <p>Recommendation implemented.</p>
<p><b>Recommendation 3 – Content and management of NDLFRS audit logs</b></p> <p>IIS recommends that VicRoads ensure that its upload metadata and upload metadata audit logs, and Hub audit data provided to it from HA in relation to use of VicRoads data within the NDLFRS, contain only the minimum information needed to achieve their objectives. IIS also recommends that VicRoads implement all additional steps possible to minimise the risk of misuse; for example, if possible personal details and document details in VicRoads’ audit logs should masked unless there is a specific and approved need to view these details.</p> <p>IIS recommends that VicRoads develop a formal policy on the management of audit logs, including who can access the logs, for what purposes. There should then be systems in place to ensure that the policy is adhered to.</p>	<p><b><u>AGREE / AGREE IN PART</u></b></p> <p>Recommendation implemented.</p>
<p><b>Recommendation 4 – Retention of upload metadata and upload metadata audit log</b></p> <p>IIS recommends that VicRoads review its disposal schedules under the Public Records Act 1973 to ensure there is a relevant schedule for the NDLFRS upload metadata and upload metadata audit log. If there is no applicable schedule, VicRoads should take steps to ensure there is one in place.</p>	<p><b><u>AGREE / AGREE IN PART</u></b></p> <p>Recommendation implemented.</p>

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<p><b>Recommendation 5 – Data breach plans ready for bulk upload</b></p> <p>IIS recommends that VicRoads has a data breach response plan in place prior to the bulk upload, with relevant staff trained in it, so that there can be a swift response in the event that anything goes wrong.</p>	<p><b><u>AGREE / AGREE IN PART</u></b></p> <p>Recommendation implemented.</p>
<p><b>Recommendation 6 – NDLFRS BAU governance</b></p> <p>IIS recommends that VicRoads ensure that to the extent possible its NDLFRS BAU governance arrangements are in place before handover to BAU. The arrangements should include:</p> <ul style="list-style-type: none"> <li>• A <b>senior executive</b> with carriage of the ongoing protection of privacy as VicRoads participates in the NDLFRS</li> <li>• Documented policy and procedures for key aspects of VicRoads’ NDLFRS participation, including its: <ul style="list-style-type: none"> <li>○ Service catalogue</li> <li>○ Processes for approving PAAs</li> <li>○ Processes for monitoring VicRoads’ compliance with its privacy and NDLFRS governance requirements for NDLFRS participation</li> <li>○ Processes for monitoring Requesting Agency compliance with the NDLFRS governance requirements and for ensuring VicRoads data is being used only for authorised purposes</li> </ul> </li> <li>• A formal process to consider and make decisions about expansions to VicRoads’ NDLFRS.</li> <li>• Participation</li> <li>• Privacy issues, such as system issues with potential to affect privacy, privacy complaints or data breaches, included in risk management and performance monitoring processes and reports to Audit and Risk Committee.</li> </ul>	<p><b><u>AGREE / AGREE IN PART</u></b></p> <p>Recommendation implemented.</p>
<p><b>Recommendation 7 – Process to approve PAAs</b></p> <p>IIS recommends that VicRoads develop a formal process for approving PAAs from Requesting Agencies that includes:</p> <ul style="list-style-type: none"> <li>• A Senior executive responsible</li> <li>• Involvement of VicRoads experts on privacy, security and auditing</li> <li>• Consideration of: <ul style="list-style-type: none"> <li>○ Any requirements arising from VicRoads’ governing law</li> <li>○ Overall consistency with the PDPA</li> <li>○ The extent of ‘due diligence’ VicRoads would undertake in considering Requesting Agency material</li> <li>○ Risk factors for the Requesting Agency</li> <li>○ Whether and when, as permitted under the Participation Agreement, VicRoads should place additional requirements before granting access</li> </ul> </li> </ul>	<p><b><u>AGREE / AGREE IN PART</u></b></p> <p>Recommendation implemented.</p>

RECOMMENDATION	RESPONSE -draft
<p><b>Recommendation 8 – Processes to manage PAAs, including review of compliance, audit reports</b></p> <p>IIS recommends that VicRoads, particularly in first few years of NDLFRS participation, undertake a regular program to review each of its PAAs. Matters that VicRoads should particularly check for when reviewing annual audits include:</p> <ul style="list-style-type: none"> <li>• The seriousness of any breaches or non-compliance</li> <li>• Any instances of ‘repeat offences’ where a Requesting Agency has breached the PAA or its privacy and security obligations in the same way for a second year running</li> <li>• Evidence of implementation of audit recommendations or a plan for implementation</li> <li>• Any indication that Requesting Agency actions may cause VicRoads to, itself, breach a law</li> <li>• Ongoing liaison with the NDLFRS governing body to ensure VicRoads has a good understanding of any issues arising in the system overall or with respect to particular Requesting Agencies.</li> </ul>	<p><b><u>AGREE / AGREE IN PART</u></b></p> <p>Recommendation implemented.</p>
<p><b>Recommendation 9 – Collection notices</b></p> <p>IIS supports VicRoads intention to amend its privacy statements to advise of use and disclosure of personal information for biometric facial matching.</p> <p>IIS recommends that VicRoads undertake research to test its proposed statements to assess the extent to which they help make individuals aware of use and disclosure of personal information for biometric facial matching and to identify what additional information might be needed. VicRoads should also consider how to make such additional information readily available at the point at which personal information is collected.</p>	<p><b><u>AGREE / AGREE IN PART</u></b></p> <p>Recommendation implemented.</p>
<p><b>Recommendation 10 – image quality and impact on customers</b></p> <p>IIS recommends that VicRoads actively monitor its NDLFRS activities, including error reports, trends in the success or otherwise of the bulk and daily uploads and reports from the governing body and other road agencies, so that it is well informed on any data accuracy or image quality issues that are coming to light. In particular, VicRoads should watch and manage for any undue negative impact on individuals or groups of individuals, for example, matching difficulties involving VicRoads data leading to increased need to attend service centre to resolve issues.</p> <p>IIS also recommends that VicRoads ensure it has in place procedures to that it can respond quickly to requests for access or to correct information. VicRoads should also establish clear communication channels with other road agencies to facilitate the resolution of accuracy issues or access or correction requests involving more than one jurisdiction.</p>	<p><b><u>AGREE / AGREE IN PART</u></b></p> <p>Recommendation implemented.</p>

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<p><b>Recommendation 11 – Staff awareness of VicRoads NDLFRS obligations and procedures</b></p> <p>IIS recommends that VicRoads take steps to ensure its frontline staff are aware of VicRoads’ role in the NDLFRS and know how to support customers who ask questions, seek access or correction or have been referred to a service centre because of a match failure.</p>	<p><b><u>AGREE / AGREE IN PART</u></b></p> <p>Recommendation implemented.</p>
<p><b>Recommendation 12 – Data breach management and notification</b></p> <p>IIS recommends that before VicRoads goes live with NDLFRS participation it should review its current data breach and incident management processes to ensure they:</p> <ul style="list-style-type: none"> <li>• Meet the Hosting Agreement and OVIC requirements</li> <li>• Have been tested with realistic scenarios to ensure they work appropriately for the NDLFRS.</li> <li>• Testing should assess matter such as: <ul style="list-style-type: none"> <li>○ Roles and responsibilities</li> <li>○ Decision making and speed of response</li> <li>○ Notification processes</li> <li>○ Communications.</li> </ul> </li> </ul>	<p><b><u>AGREE / AGREE IN PART</u></b></p> <p>Recommendation implemented.</p>
<p><b>Recommendation 13 – Transparency and public communications about the NDLFRS</b></p> <p>IIS supports VicRoads intention to amend its privacy policy to provide information about its participation in the NDLFRS and about the FMS.</p> <p>IIS recommends that VicRoads make its website privacy information more prominent and more easily discoverable.</p> <p>IIS also recommends that, subject to steps taken by HA, VicRoads assess if additional community awareness activities are needed to ensure transparency</p>	<p><b><u>AGREE / AGREE IN PART</u></b></p> <p>Recommendation implemented.</p>