OC260507

3 July 2026

[redacted]

I refer to your request under the Official Information Act 1982 (the Act), transferred in part to the Ministry of Transport (now the Ministry for Cities, Environment, Regions and Transport) from the NZ Transport Agency Waka Kotahi on 16 June 2026. You requested the following information:

1

Roadside drug testing and scientific validation

5. *Please provide all final, formal, relied-upon, or decision-maker records concerning roadside oral-fluid drug testing, including:*
   - *the relationship between a positive oral-fluid result and actual impairment at the time of driving*

6. *Please also confirm whether [the Ministry] accepts that a positive test result does not automatically prove that a driver was unsafe, impaired, or causally responsible for any road-safety risk*

In my replies to your previous requests (our reference OC260436 and OC260449, both emailed on 15 June 2026) I referred you to the key policy documents for the roadside drug testing regime. These include briefings and Cabinet papers, the Regulatory Impact Statement and the report of the Independent Expert Panel on Drug Driving, available on the Ministry's website at https://www.transport.govt.nz/area-of-interest/safety/drug driving-testing.

As I also advised in these responses, a positive roadside drug testing regime indicates recent drug use. Recent use is a proxy for impairment, and does not "prove that a driver was unsafe, impaired, or causally responsible for any road-safety risk", as you ask. As outlined in my previous replies, many drugs have the potential to negatively impact driving, and these drugs are found in a significant number of drivers involved in fatal crashes on our roads.

Compulsion, proportionality, and procedural fairness

7. *Please provide the legal and policy records showing the Ministry of Transport satisfied themselves that compulsory roadside drug testing is:*
   - *lawful;*
   - *reasonable;*
   - *proportionate;*
   - *scientifically reliable;*
   - *procedurally fair;*
   - *not arbitrary;*
   - *not punitive before proof;*

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- *not financially incentivised;*
- *compatible with rights protections;*
- *subject to proper correction, appeal, and compensation mechanisms where error occurs.*

The relevant policy papers mentioned above (and our previous replies) cover most of these issues, as does the Ministry's departmental report to select committee that considered the Land Transport (Drug Driving) Bill. As advised in my response to your earlier request, the departmental report is available on Parliament's website: https://www3.parliament.nz/resource/en-NZ/54SCTIN_ADV_2b4a9eb9-9673-43f1-6e83 08dcaf7c7d1e_TIN1761/d27e58e843b8d6f2f531bf9dc88dcdcf70f51b35.

The relevant provisions in the Land Transport Act 1998 provide the legal basis for the roadside testing regime. A driver can challenge any infringement notice or conviction in accordance with the relevant provisions in the Summary Proceedings Act 1957 and Criminal Procedure Act 2011.

Financial harm to the public

14. *Please provide the records showing whether [the Ministry] has assessed public financial harm arising from speed enforcement, safety-camera enforcement, roadside drug testing, fines, demerit points, licence suspension, vehicle seizure, court enforcement, debt collection, insurance consequences, employment loss, and family hardship.*

15. *Please confirm whether "harm" in [the Ministry's] road-safety analysis includes only injury and death, or whether it also includes financial harm, enforcement harm, debt harm, licence-loss harm, small-business harm, rural-driver harm, tourism harm, freight harm, and loss of public confidence.*

16. *If financial harm is excluded, please provide the legal, policy, Cabinet, or economic basis for excluding it.*

Actions to improve road safety are directed at reducing deaths and serious injuries on our roads. Initiatives like roadside drug testing, safety cameras and police enforcement, improving the safety of vehicles and infrastructure improvements aim to reduce that harm.

Any road safety initiative that results in new or amended regulations or legislation is, in most cases, accompanied by a Regulatory Impact Statement (RIS). I have previously pointed you the publicly available RIS for the roadside drug testing regime. The RIS template requires agencies to identify costs and benefits of the regulatory change. These can include, at a high level, financial implications for drivers and other agencies (including enforcement agencies and the courts).

Drivers have responsibility to comply with road rules, to minimise the risk they pose to other road users. Failure to do so can result in infringement fees, demerit points, licence suspensions and (in more serious cases) criminal charges. Drivers can avoid these consequences by complying with the rules.

Proof of claim

19. *For clarity, this letter asks [the Ministry] to provide the proof of claim for the enforcement framework being applied to the public.*

The proof of claim includes:

- *the causal analysis separating speed, drugs, medication, medical events, road design, signage, and other factors;*
- *the financial analysis of public harm;*
- *the revenue analysis and Crown financial benefit.*

I refer to my responses to your previous requests (our reference OC260436 and OC260449, both emailed on 15 June 2026) which discuss the complexities around attributing causal relationships between road safety risk factors and crashes.

As there has been no financial analysis of public harm, or revenue analysis and Crown financial benefit associated with enforcement frameworks being applied to the public, I am refusing this part of your request under section 18(e) of the Act, on the basis that no documents exist.

You may, however, be interested in the Ministry's report on the social costs associated with road crashes and injuries in New Zealand, available at: https://www.transport.govt.nz/area-of-interest/safety/social-cost-of-road-crashes-and-injuries. Social costs measure the total cost of road crashes to the nation, including loss of life and life quality, loss of productivity, medical, legal, court and vehicle damage costs.

If you would like to discuss this decision with us, please do not hesitate to contact us at: OIA@mcert.govt.nz.

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

Please note that due to the public interest in our work, the Ministry publishes our Official Information Act responses and the information contained in our reply to you may be published on its website. Before publishing we will remove any personal or identifiable information.

Nāku noa, nā

Joanna Heard

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