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10 June 2014

David Nicholas

Email: fyi-request-1703-f13438f1@requests.fyi.org.nz

Dear Mr Nicholas

REQUEST FOR OFFICIAL INFORMATION

Thank you for your request of 20 May 2014 under the Official Information Act 1982, submitted via fyi.org.nz. You have asked whether items held by Archives New Zealand are embargoed under the Archives Act 1957, and if so, why.

The legislation governing public records is the Public Records Act 2005, which superseded the Archives Act 1957. The Public Records Act provides for certain classes of records transferred to Archives New Zealand to have public access to them restricted for a set duration. Researchers may apply to the transferring government agency for privileged access to restricted records. The term "embargo" is not used.

Records held in the repositories of Archives New Zealand are listed on our online finding aid, Archway. A technical report has been run on Archway's underlying database to determine how many restricted items are held, and the results are appended to this letter as a table in Appendix A.

Sections 43 to 50 of the Public Records Act set out the access requirements for public records. A list of reasons agencies may use to restrict access, and the appropriate durations of restrictions, is attached as Appendix B. This table is extracted from an Archives New Zealand guide for government agencies called "Making Decisions on the Access Status of Public Records."

If you are unsatisfied with the information provided, you may make a complaint to the Office of the Ombudsman under section 28(1) of the Official Information Act 1982.

I hope that the information provided to you is of assistance.

Yours sincerely

A handwritten signature in black ink, consisting of several loops and a final flourish, positioned below the text 'Yours sincerely'.

Marilyn Little

Chief Archivist and General Manager, Archives New Zealand

APPENDIX A: Results of technical report on Archway database

Not all records are listed in Archway yet. This is for two main reasons; firstly, records that were transferred to Archives New Zealand's custody before the days of widespread computer use are still being added to the electronic finding aid; and secondly, records in the process of transfer may not have been fully listed yet. Therefore the information below is only what is entered into the Archway finding aids system as at May 2014.

Items – Access Status¹	Number Held
Total Open Items	4,185,234
Total May be Restricted Items	273,790
Total Restricted Items	1,444,801
Total	5,903,825

Items – Public View 'Yes' and 'No'²	Number Held
Items with 'Public View Yes'	5,360,644
Items with 'Public View No'	543,016
Total	5,903,660³

¹ The proportion of total items held that is restricted fluctuates regularly. This is due to legislation updates, new transfers and restrictions on classes of records expiring.

² This report shows which of our records are shown on Archway's publicly-available search function, and which are hidden from public view. Some records are listed 'Public View No' because the information in the file description, as well as the file itself, is restricted. For example, lists of adoption case files, which feature the names of adoptees in the file titles, are restricted for personal privacy reasons.

³ The discrepancy of 165 between the two totals is most likely due to items that have been edited (e.g. spelling mistakes in file titles amended) that are in a queue to be approved by Archway. This happens daily.

**APPENDIX B: Extract from *Making Decisions on the Access Status of Public Records*
– a guide for government agencies.**

The full document is available at: <http://archives.govt.nz/advice/guidance-and-standards/appraisal-and-disposal-information/making-decisions-access-status-publ>

Reason for Restriction, Restriction Duration and Restriction Justification

Note: The 'Restriction Durations' have been calculated for records that are 25 years or older that are scheduled to be transferred to Archives New Zealand. They are generally applied from date of record closure.

If making operational access decisions these durations will need to be considered to manage access to the information throughout its life cycle.

Reason for Restriction	Typical Restriction Duration (in years)	Restriction Justification	Examples
Commercial – in confidence	10	Required to protect commercial interests of one or more parties	<ul style="list-style-type: none">• Government asset sales records• Business planning for commercial activities records• Due diligence reports• Information containing Mātauranga Māori
Confidential - political or administrative processes	10 - 25	Required to protect the integrity of political or administrative processes	<ul style="list-style-type: none">• Confidential advice by public servants and Ministers e.g. minutes, reports and recommendations• Information containing Mātauranga Māori

Reason for Restriction	Typical Restriction Duration (in years)	Restriction Justification	Examples
Confidential - personal or public safety and maintaining the rule of law	20-70	Required to protect personal or public safety and maintain the rule of law	<ul style="list-style-type: none"> • Information on methods of crime detection • Police or other investigative procedures records • Records documenting security measures
Confidential - Cabinet papers	25	Required to protect Cabinet papers which have not been publicly released	<ul style="list-style-type: none"> • Cabinet papers not publicly released
Confidential – existing confidentiality agreement	30-60	Required to maintain an existing confidentiality agreement	<ul style="list-style-type: none"> • Sensitive information supplied by another government • Information gathered with an explicit or implicit undertaking of confidence e.g. survey forms • Information containing Mātauranga Māori
Privacy - sensitive	70	Required to prevent the disclosure of sensitive personal information	<ul style="list-style-type: none"> • Detailed employment records • Disciplinary case files • Applications for financial assistance • Information containing Mātauranga Māori

Reason for Restriction	Typical Restriction Duration (in years)	Restriction Justification	Examples
National security and international relations	70-100	Required to protect national security and international relations	<ul style="list-style-type: none"> • Military planning records • Security and intelligence files • Negotiations • Background papers on foreign leaders and governments
Privacy – highly sensitive	100	Required to prevent the disclosure of highly sensitive personal information	<ul style="list-style-type: none"> • Child welfare files • Medical records • Probation records • Police incident and offence files • Court criminal records • Information containing Mātauranga Māori
Statutory requirement	Please check relevant legislation	Required where there is a requirement for restriction set out in legislation governing a public office.	<ul style="list-style-type: none"> • <u>Adoption Act 1955</u> (indefinite restriction) • <u>Ombudsman Act 1975</u> • <u>Adult Adoption Information Act 1985</u> • <u>Criminal Records (Clean Slate) Act 2004</u>