



**Te Pā Whakamarumarū**  
New Zealand Security  
Intelligence Service

## **NZSIS Archives Declassification Policy**

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## Introduction

1. This policy outlines the statutory and business requirements and the framework for managing declassification of the archives of the New Zealand Security Intelligence Service (“NZSIS”).

## Scope

2. This Policy applies to all NZSIS employees, including secondees, contractors and persons involved in managing or handling the NZSIS archives.
3. This Policy does not cover other declassification activities such as responses to individual access requests made under the Official Information Act 1982, the Privacy Act 2020, operational declassification or where conditional access is granted to individuals in support of research projects.
4. This Policy will be supported by more detailed ‘how to’ declassification operational processes and procedures.

## Purpose

5. This Policy outlines our commitment to demystifying and enhancing public confidence in the NZSIS by proactively implementing systematic declassification of our archives as a means of demonstrating accountability for our previous activities.
6. To support the NZSIS to meet the Intelligence and Security Act requirement to act in a manner that facilitates democratic oversight<sup>1</sup>.

## Definitions

7. **Archives** for the purpose of this Policy are NZSIS physical records (or records inherited by the NZSIS) which have been identified as of permanent value via a disposal authority issued under the Public Records Act<sup>2</sup> and closed for a minimum of 25 years.
8. **Declassification** is the process for reviewing the protective marking on information with the objective of removing classifications to facilitate the public release of information.
9. **Declassification Process** is a detailed ‘line by line’ assessment of each record proposed for declassification.

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<sup>1</sup> Intelligence and Security Act 2017 s17(d).

<sup>2</sup> The most substantial instrument for determining records of permanent value under the PRA is Disposal Authority DA 692 which covers records from all Intelligence Community agencies.

10. **Restriction period** is a specified period of time during which archives will not be publically released under the Archives Declassification Policy.
11. **Systematic declassification** refers to proactive and prioritised declassification of groups of related records based on such criteria as their age, topic or level of historical interest.

### Intent statement

12. The NZSIS will, with rare exceptions, declassify our archives over time with the intention of making as many records publically accessible as possible while maintaining appropriate protections for specific classes of records. These are outlined in the Declassification criteria below.

### Relevant Legislation and Government Policy

#### Intelligence and Security Act 2017 (“ISA”)

13. The ISA outlines the functions of the NZSIS including the Protective Security function (s 11) and specifies requirements for information security (s 11(3)(a)(ii) and (iii)).

#### Crimes Act 1961

14. The Crimes Act (s 78AA), outlines the New Zealand Government Security Classification System, defines classified information and specifies the wrongful communication, retention or copying of classified information as an offence.

#### Official Information Act 1982 (“OIA”)

15. The OIA aims to increase the public availability of official information (i.e. information held by a government agency) to New Zealanders. The NZSIS has a general obligation under the OIA to make official information available when requested, unless there are good reasons for withholding it (Section 5). The OIA also protects official information to the extent consistent with the public interest and the preservation of personal privacy (Section 4).
16. There are conclusive reasons for withholding information within the OIA (Section 6). Primarily for the NZSIS these include situations where release would be likely to:
  - prejudice security, defence or international relations; or
  - prejudice the entrusting of information by the government of another country; or
  - endanger the safety of any person.

17. There are also other reasons for withholding information under section 9(2) that must be weighed against the public interest in release of information under section 9(1). The most often relied on reasons for withholding information for the NZSIS are:
- to protect the privacy of people including the deceased (Section 9 (2) (a)), and
  - to avoid prejudicing the continued supply of information subject to an obligation of confidence (Section 9(2) (ba)).

### **Privacy Act 2020**

18. The Privacy Act promotes and protects individual privacy by setting out the principles for how public sector agencies should collect, use, hold, disclose and allow access to personal information through the privacy principles within section 6 of the Privacy Act. The principles in section 6 include:
- the entitlement to access information held (Principle 6); and
  - the entitlement to correct personal information (Principle 7); and
  - obligations on the use of unique identifiers (Principle 12).
19. Reasons for refusing access to personal information include circumstances where doing so would be likely to prejudice the security, defence or international relations of New Zealand (section 51(a)), or prejudice the entrusting of information by the government of another country (section 51 (b)).
20. The NZSIS is subject to all privacy principles except three relating to collection of personal information (principles 2, 3 and 4(b)).

### **Public Records Act 2005 ("PRA")**

21. The PRA supports the accountability of Government (and its agencies) by ensuring that full and accurate records are created and maintained to ensure the preservation of, and public access to, records of long-term value.
22. Section 43 of the PRA requires the Director-General to categorise all public records in existence for 25 years as either open access or restricted access. Section 44 of the PRA specifies that decisions about access must be made based on whether there are good reasons to restrict public access or there is other legislation which requires records to be restricted. The criteria for determining and access status of NZSIS records 25 years and older reference the relevant sections of the OIA and Privacy Act.

### **Protective Security Requirements ("PSR")**

23. PSR sets out government expectations for managing personnel, physical and information security. This includes mandatory information security requirements and measures to be aligned with the NZ Government Security Classification System, the NZ Information Security Manual and other information privacy, legal and regulatory

requirements.

24. The PSRs outlines security classifications for national security information and information received from foreign governments. This includes a requirement that NZ government must adhere to any provisions concerning the security of such information referenced in multi-lateral or bi-lateral agreements and arrangement to which NZ or an organisation is party. Release requires written approval from the relevant foreign government.
25. The PSRs do not address declassification apart from advising that agencies should develop an approach to declassifying information.

## Principles

26. The NZSIS will adhere to the following principles for systematic declassification of its archives:

Principle 1: the process for declassifying archives commences with a line by line assessment of whether an existing security classification still applies to information balancing increasing government and community expectations that the NZSIS will be transparent and accountable for its previous activities while maintaining justifiable protections where appropriate (see Declassification Criteria below).

Principle 2: the NZSIS will deal with declassification of information in a neutral way regardless of whether it reflects unfavourably on the NZSIS or shows the NZSIS in a good light.

Principle 3: The NZSIS recognises the importance of applying the principles of te Tiriti o Waitangi during the declassification process for records relating to tangata whenua. The declassification process will align with the principles of protection and partnership relating to tangata whenua. Protection in the context of declassification involves identifying and preserving taonga and partnership involves the sharing of power and decision-making to ensure that interactions between the Treaty partners are on the basis of mutual good faith, cooperation, tolerance, honesty and respect.

Principle 4: The NZSIS recognises that there is a broad public interest in the declassification process and the results of declassifying the Service's archives. This includes the public interest in transparency, the balancing of interests, including the interests of individuals and groups about whom information is being declassified, and the interests of public and historical research including New Zealanders understanding the past and our national stories.

Principle 5: declassification decisions will be consistent with the requirements of the Public Records Act (s43), the Official Information Act 1982, the Privacy Act 2020 (see [Part 2](#) Relevant

Legislation for more information) and with requirements contained in relevant Ministerial Policy Statements and relevant international agreements or arrangements.

Principle 6: priorities for systematic declassification will be approved by the Director-General. Considerations will include the relative age of archives, archives that complement previously declassified records, subject areas where there is an established research interest or it is assessed that the declassified records will be of significant public interest.

Principle 7: where there is doubt about changing a national security classification for records, the issue will be referred to the Archives Declassification Panel for consideration.

Principle 8: wherever possible, declassification decisions will not result in indefinite access restrictions.

Principle 9: some classified material held by the NZSIS originates from other governments and intelligence agencies and there are limits on NZSIS's ability to declassify it, or information derived from it, without their consent.

Principle 10: all processes and procedures relating to declassification of archives will maintain the completeness, integrity and authenticity of the original records.

## Responsibilities

27. The responsibilities for oversight and functional responsibilities for archives declassification are as follows:

**Director-General of Security** is responsible for:

- i. delegating responsibilities for declassifying archives;
- ii. approving declassification recommendations in exceptional circumstances including (1) where there is a substantial disagreement within the Archives Declassification Panel about whether to publically release records or (2) when a major precedent will be set or (3) where there is a significant political dimension resulting from declassification recommendations;
- iii. advising the Minister prior to the release of declassified records.

**NZSIS Archives Declassification Panel** is responsible for:

- i. providing operational and other perspectives relevant to declassification decisions;
- ii. on a regular basis, confirming the declassification recommendations for all records;
- iii. reviewing precedent setting and exceptional declassification recommendations to determine those to be referred to the Director-General for a decision.

**Archives Declassification subject matter expert** is responsible for:

- i. reviewing and endorsing declassification procedures and processes;
- ii. deciding whether a declassification decision is exceptional or precedent setting and should be referred to the Archives Declassification Panel;
- iii. advising staff involved with declassifying records.

**Information Management** is responsible for:

- i. overseeing management of the archives declassification project including supervision of Archives Declassification Officers;
- ii. reporting on declassification progress;
- iii. setting monitoring performance and quality standards;
- iv. approving declassification administrative processes;
- v. identifying records for declassification (in consultation with the subject matter expert).

**Archives Declassification Officers** are responsible for:

Declassifying records to determine whether the original classification should continue to apply;

- i. identifying archives for public release;
- ii. ensuring that NZ's interests, national security, foreign relations and personal privacy are not compromised by the inappropriate release of information;
- iii. seeking approval of declassification recommendations for non-NZSIS sourced records in consultation with relevant governments and agencies;
- iv. documenting declassification analysis and recommendations to standards set by the Manager Information;
- v. Are empowered to liaise with partner agencies on declassification issues.

**Declassification criteria**

28. The following are criteria provide guidance for declassification decision-making and identifying appropriate restriction periods for categories of archives where applicable.

29. Once categories of archives outlined below have reached their specified restriction period, the archives will become publically available.

30. Declassification recommendations and precedents will be recorded in a register.

<b>No</b>	<b>Category</b>	<b>Description</b>	<b>Recommended restriction period</b>
1	Information for public release	All information not subject to access restrictions under at least one of the categories below are open access.  This also includes information already in the public realm such as newspaper reports.	None



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2	Information which reveals previous and current source identities	This includes source names and identifying details such as code names and other information which may lead to the identification of a source	Indefinite restriction
3	Information which identifies individuals as current or previous NZSIS staff members	ISA 2017 Part 7 s227 Restrictions on publication and broadcasting of information regarding employees  Also s13A of NZSIS Act 1969  Restriction applies to staff names and initials however obsolete staff designation codes do not require restriction.	100 years after date of last action <sup>3</sup> apart from circumstances where the Director-General on their own account or at the request of the individual (or their representative) has acknowledged the individual as an NZSIS staff member.
4	Exceptionally sensitive personal information about individuals	Consists of information which is likely to damage an individuals reputation but is likely to be of concern to their immediate descendants. Examples include allegations of incest or rape.	120 years after date of last action
5	Highly sensitive personal information about individuals	Includes information about people suspected of espionage or subversion who were subjected to intrusive intelligence collection and or there is a risk to the safety of a living individual (see ISA 2017 Part 7 s218 (3)(a)(iv)). A 100 years restriction is consistent with similarly sensitive information held by other organisations e.g. Family Court records.	100 years after date of last action

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<sup>3</sup> Date of last action can mean the last document added to a physical file or last retrieved/viewed for paper and electronic information.

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6	Personal information about individuals (with a lower expectation of privacy than highly sensitive information)	Includes information about individuals, such as membership of organisations e.g. communist party membership	50 years after date of last action
7	Information which documents tradecraft and capabilities used by NZSIS	For example surveillance technology, tactics (HUMINT and Tech-ops)	all information which documents tradecraft and capabilities used by the NZSIS is restricted from public access until it becomes obsolete or is acknowledged by the NZSIS
8	Information documenting NZ's international relations or the security or defence of NZ <sup>4</sup>	ISA 2017 Part 7 s218 (3)(a)(i) Excludes information received from overseas governments and agencies	Information is open access 25 years after after date of last action subject to review by the Archives Declassification Panel that concludes that public release does not have significant potential to damage international relationships
9	Information provided to NZSIS on the basis of confidence by overseas governments and international organisations	ISA 2017 Part 7 s218 (3)(a)(ii) and (iii) Consists of intelligence and other information received from overseas governments/overseas agencies. An exception applies where a reciprocal arrangement applies permitting earlier release.	Some classified material held by the NZSIS is sourced from other governments and intelligence agencies and there are limits on NZSIS's ability to declassify it, or information derived from it, without their consent

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<sup>4</sup> This includes information which in conjunction with other information could prejudice NZ's defense e.g. by revealing current or planned operations.

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10	Information documenting co-operation or assistance provided to NZSIS by NZ agencies or businesses	e.g. Telecom, other government agencies This excludes information provided via warrant or other statutory requirements	50 years after after date of last action
11	Information which includes details of criminal offences not already in the public domain	Consistent with restrictions applied to criminal court records.	100 years after date of last action
12	Information subject to legal privilege	This includes legal advice and/or litigation information (legal professional privilege also covers communications or information compiled for the dominant purpose of preparing for a proceeding or apprehended proceeding)	Restriction applies unless waived by the Attorney-General <sup>5</sup>

**Related Policies/Guidance**

31. NZSIS Policy – Information Management

**Effective date:** March 2024

**Review date:** three years from approval date

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<sup>5</sup> See the SOP on Understanding, Identifying and Handling Privileged Material.

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