

List of Protected Records review: Feedback form

This feedback form has three sections:

1. respondent information
2. classes of information and records
3. explanatory notes

Please complete all the sections as appropriate.

Please email the completed form to Rkconsultation@dia.govt.nz by close of business, 30 July 2023.

1. Respondent information

Name:	Michael Hodder	
Local authority organisation:	Rangitikei District Council	
Role (if applicable):	Advisor to the Chief Executive	
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I am submitting this feedback:	as an individual <input type="checkbox"/>	on behalf of my organisation <input type="checkbox"/>

2. Classes of information and records

We welcome your feedback on any of the draft classes of local authority information and records that are proposed and have included a few questions that may assist this:

- Are the classes worthy of preservation for administrative, accountability, heritage and/or research reasons?
- Are the classes relevant to current local authority structures and functions?
- Are there any gaps?
- Are the classes “future facing” enough for on-going changes to the structures and functions of local government?

Class 1 – Cemetery and crematoria management

Feedback

- Add 'Copy of Exclusive right of burial certificates issued by the Council'
- Add 'photographs' to 'maps and plans' as – when made – these are valued by researchers (in showing the state of a particular grave and inscription).
- Add 'LiDAR records made to identify historic burials'. These have been used in the Rangitikei to provide more certainty on undocumented burials in its cemeteries.

Class 2 – Communications management

Feedback

- Expand the first example to read '*Consideration of options for and* Final approved documentation of local authority branding...' Typically this is a controversial topic, both within the elected Council and the community.
Add
Excludes consideration at formal Council meetings – see Class 10.
- Clarify 'significant gifts' to be 'records and photographs of significant gifts.'

Add

Excludes emergency responses – see Class 3.

Class 3 – Community safety

Feedback

- Disagree with the exclusion of ‘civil defence emergency facilities and equipment’. This is vital infrastructure for the performance of emergency management.
- All external messaging (all channels) prior to and following the declaration of a local, regional or national state of emergency.
- Liaison with relevant Government agencies, including Police, Justice and the National Emergency Management Agency.

Excludes

Volunteers assisting with emergency management – see Class 11: Human resources management.

Class 4 – Council controlled organisations (CCOs), trusts and commercial enterprises

Feedback

- **This seems overly thin given that CCOs are subject to LGOIMA**
- Add ‘Agenda papers and minutes of Board meetings of CCOs, CCTOs and organisations to which the local authority has formal representation’.
- Add ‘Draft and final submissions/reports prepared by the local authority for CCOs, trusts and commercial enterprises to which it relates’.
- Disagree with the example given of excluding reporting to the local officers and committees. This feedback loop is important.
- The exclusion should provide specific reference to all relevant classes.

Class 5 – Culture and recreation

Feedback

- Does 'Management of and information about items...., including their acquisition and disposal' mean that there is to be a comprehensive record of **all** items acquired, irrespective of whether they have been retained permanently? That is important, as it will show how the local authority responded to community expectations and the market over time.
- Add 'grandstands' and 'skateparks' to 'Design, construction....'
- Add 'Management of campgrounds'.
- Add 'Negotiations with prospective and actual donors of significant funding or significant items'.
- What is meant by 'Customer relations of facilities'? Surveys of community views about a particular cultural facility (or more than one) are important evidence about what the community valued in such facilities.

Class 6 – Election management

Feedback

- **Clarify** that this class is limited to those elections conducted under the provisions of the Local Electoral Act 2001 for councils, community boards and local boards.

Excludes

Electoral arrangements and voting for committees established by the local authority (see Class 10).¹

- **Disagree** with excluding returns of electoral expenses. Knowing these over time is a valuable insight into the investment needed by prospective candidates.

¹ A local authority may seek public nominations for those committees it establishes and conduct a ballot to determine membership.

Class 7 – Environmental health

Feedback

- Add 'Liaison with relevant government agencies'
- Add 'Investigation of noise complaints from non-residential properties'. Sometimes, such investigations can be prolonged, especially where the noise-generating property is close to a residential area. Cf. the dispute over Farrah's in Upper Hutt:
<https://www.stuff.co.nz/dominion-post/wellington-top-stories/131449048/upper-hutt-council-apologises-over-farrahs-noise-complaints>

Class 8 – Environmental management

Feedback

- **Needs more definition** on what records are relevant for 'Subdivision information, Commercial and industrial schemes..., Noxious weeds and abattoirs, Sewage and drainage, parks and reserves, foreshore'. Are the key records
 - a. the consideration of applications made under the Resource Management Act (or the Natural and Built Environments Bill)?
 - b. expressions of concern/support from the community for such developments?
- **Excludes** issues arising from resource consents issued by other regulatory authorities (including a regional council). See Class 14.
- **Excludes** issues arising for Māori: see class 12.
- **Excludes** discussions and decisions by Council or its committees or the Regional Planning Committees to be established under the Natural and Built Environments Bill.
- **Excludes** District and Regional Plans prepared under the Resource Management Act – see Class 17.

Class 9 – Financial accountability

Feedback

- **Add** 'and Audit Management Reports' to 'Audited financial statements'. These reports flag issues which the local authority needs to address but which generally have not meant a qualification to the audited statements (but which could lead to a qualification in a subsequent year if not addressed). These thus typically inform actions taken in the following year, and success or otherwise with this will be noted in subsequent Audit Management Reports.
- **Add** 'including transactions with the Local Government Funding Agency' to 'Records relating to the raising of major loans and their use'. Most local authorities are members of the LGFA now and raise funds through it rather than private sector banks.
- **Clarify** that 'Significant investment and borrowing management policies' means 'policies approved by the Council or delegated committee (irrespective of whether public consultation was undertaken)'.
- **Disagree** with the wholesale exclusion of 'day-to-day financial transactions' as it means that there would be no evidence of how Council operated its financial system(s), its treatment of creditors etc. One solution to this would be to require archiving, on an annual basis, the general ledger maintained by the local authority, which typically will be in electronic format.
- **Excludes** consultations done in conjunction with the long-term plan or annual plan – see Class 17.
- **Note** non-financial accountability is included in Class 17.

Class 10 – Governance and democracy

Feedback

- **Add** 'All agenda, minutes and papers of meeting of the elected local authority, both of full Council and its appointed committees.
- **Add** 'and Chief Executive' to 'Mayoral/*Regional Council Chair*.... correspondence' Evidence of the issues addressed by the most senior officer within the local authority is a critical component alongside the political head. (Regional councils appoint their own chair from their respective members, unlike territorial authorities, whose mayor is publicly elected.)
- **Add** engagement with and results from assessments by external bodies on the performance of the local authority, for example customer satisfaction surveys and CouncilMARK.
- Add to Recordkeeping and information
 - a. 'including all obsolete systems (whether paper or electronic'
 - b. 'retention and disposal decisions and schedules so that there is a complete listing of all records destroyed and those retained as archives'
 - c. Including correspondence with the Chief Archivist (including responses to surveys and the outcome of any inspections/audits conducted by Archives New Zealand)
 - d. Including responses made under LGOIMA which were appealed to the Ombudsman (and the decision from that office).

Class 11 – Human resource management

Feedback

- **Add** 'including detail on serious misconduct issues and their resolution' to 'Summary information....'. It is important to have a long-term perspective on where the organisation found failings in its staff and how the issues were addressed with individual staff members or teams collectively.
- **Add** 'Personnel records of the local authority's Chief Executive, including appointment, performance reviews, grievances, resignation or dismissal. The management of the incumbents in this role is a critical factor for the organisation and is of long-term interest.
- **Add** 'Internal staff policies such as drug and alcohol policy, unacceptable customer contact policy, protected disclosures policy and procedure' as these give insight into the framework under which local authority staff were expected to operate. They will need to be consolidated on a (say) annual basis to be sure that the historical record is accurate. (**Disagree** with the excluding final internal policies and procedures.)
- **Add** 'Summary information about volunteers documenting name, role and dates of engagement (and desirably gender and date of birth).
- **Add** 'Awards to internal staff and volunteers'.
- **Add** 'Records of exit interviews'. These are typically voluntary but can provide useful insights into how the organisation has functions – from an individual staff member's perspective.
- **Add** 'including the outcome of periodic staff surveys' as these are typically used to drive change within the organisation. Over time they provide insight into how the organisation wished to perceive itself and how staff perceived it.

Class 12 – Iwi/Māori relationships

Feedback

- **Add** 'Including Mana Whakahono a Rohe' and 'formal agreements with individual iwi/hapū' to 'Liaison and relationships with iwi...' These very specific undertakings are typically long-term and important evidence of the relationships between Māori and local authorities.

Excludes agenda, minutes and meeting papers of Council Iwi/Māori advisory committees – see Class 10.
- **Clarify** 'Marae developments' by adding 'where the local authority is a contributor or partner to upgrading, relocating etc the marae.'
- **Add** 'The local authority's policies and initiatives over use of te reo Māori'. This is a significant issue and important to know over the long-term; it will be managed differently, in part because of the differing percentages of Māori within local authorities.
- **Excludes** rates remissions granted over Māori land – see Class 15

Class 13 – Local authority funding and grants

Feedback

- **Add** 'and any monitoring undertaken by the local authority of its funding or sponsorship' to 'Successful applications'

Why are these information and records protected?

Add 'Applications for local authority funding and grants, whether successful or not, show the local authority's reach into the community'. Cf. New Plymouth District Council's Whanaake grant:

<https://www.stuff.co.nz/national/politics/local-democracy-reporting/300897835/paltry-payouts-as-bids-surge-for-new-plymouth-district-council-mori-fund>

- **Disagree** with not retaining unsuccessful applications. They are included in the 'Summary....' requirements (and as noted above their retention is important).

Class 14 – Property and asset management

Feedback

- **Add** Performance monitoring required as a condition of resource consents granted for a particular facility and details of any non-compliance and enforcement by the relevant regulatory authority. Most often this will relate to water takes and waste-water disposal.² (This differs from class 8 ‘Resource management consent applications and monitoring’ which is for consents issued *by* the local authority.)
- **Add** ‘Leases or other arrangements entered into with third parties to enable the local authority to provide a facility or public service’. Councils do not always own the land (or access to it) on which their facilities have been built. A permanent record is important for this.

Class 15 – Rating and valuations

Feedback

- **Amend** ‘Permanent rates remissions’ to ‘Rates remissions approved for five years or longer under the local authority’s rates remission policy and all rates write-offs’. Permanent remission would be unusual – local authorities typically review them at defined intervals.
- **Add** ‘Rateable property declared abandoned and put up for sale’.
- **Add** ‘All transactions under the provisions of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (incorporated into the Local Government (Rating) Act 2002) and all rates remissions by the local authority for Māori land’

² The delivery of three waters will pass from territorial authorities to the new water service entities by 1 July 2026, assuming the present Labour Government continues after the October General Election.

Class 16 – **District/City**/Regional transport, roads and traffic

Feedback

The heading needs to be inclusive of all local authorities and not confined to regional councils. While the latter typically manage public transport, territorial authorities are designated road controlling authorities and manage the roading network in their areas, including speed limits.

- **Add** 'Audits conducted by Waka Kotahi/New Zealand Transport Agency', These provide an independent assessment of the adequacy of the local authority's management of its roading budget (part of which is funded by Waka Kotahi) including its oversight of contracts.
- **Add** Adopted speed limit changes³
- **Add** 'Unformed legal roads' (sometimes referred to as 'paper roads').

Class 17 – Statutory and strategic planning and reporting

Feedback

- **Disagree** with limiting public submissions to plans *or proposals* 'that were controversial/high public interest'. A long-term perspective will find the degree of public interest or controversy an important consideration. It is particularly important to retain permanently all submissions made to local authority long-term plans (and their amendments).
- **Note** Since 2010, 'long term community plans' have been referred to in the Local Government Act as 'long-term plans'. So use 'long term community plans/long-term plans'.
- **Add** 'Summary of service requests and other records which support formal performance reporting (including that required under section 261B of the Local Government Act 2002)'.

³ For relevant consultations and Council resolutions see Class 10.

3. Explanatory notes

We also welcome your feedback on any of the application and interpretation guidance in the redrafted Explanatory Notes and have included a few questions that may assist this:

- Is the guidance in applying and interpreting the classes clear and comprehensive? If not, how could this be improved?
- Are the reasons why these information and records are protected justified and sufficient? If not, what other reasons can you suggest?
- Are the illustrative examples helpful? If not, what other examples could you suggest?

Feedback

I have noted where I think the statements in the classes would be amended.

Observation:

- I assume the functional classification of the new List is to better align with the disposal schedule developed by ALGIM. The 2013 List had a much clearer focus on specific record categories and no cross-referencing between classes was needed.
- It is unclear how GIS datasets are to be captured. Local authorities use a multi-layered approach so that the GIS supports a range of local authority activities, not just providing location maps. Perhaps require an extract every five years, to be housed and managed in accordance with Archives New Zealand standards

Additional class:

Rangitikei District Council thinks it is vital that you continue a provision similar to that included in the 2013 schedule over pre-1946 records. While it may seem a reasonable assumption that most of these records will have been identified by now, there is no evidence for this; it is much less certain that adequate arrangements are in place for their permanent, secure and accessible management. Not all local authorities are as fortunate as the councils in the Horizons region with Archives Central, and a nation-wide network of approved repositories has yet to be established. We think that addressing this should be an early priority.

Further engagement

While we understand that Archives New Zealand has been working with ALGIM in developing this revised List, we think that there should be a direct engagement with expert information managers in local authorities to discuss the feedback received on it. The model for this would be what Archives New Zealand is putting in place for Collections Search. Rangitikei District Council would certainly propose one of its expert information management staff to join such a working group.

4. Additional comments

And finally we also welcome any feedback or comments you have that may or may not fit anywhere else on this form.

Discussion draft

Feedback

Impact of Government's affordable waters reform

- Section 232 of the Water Services Entities Act 2022 amends the Public Records Act 2005 by specifying that a local authority 'includes a water services entity, as defined in section 6 of the Water Services Entities Act 2022. (This is amended by clause 144 of the Water Services Legislation Bill (currently before Parliament) to refer to section 6(1) of the Water Services Entities Act because clause 5 of that Bill adds a new section 6(2) defining 'applicant'.
- The ten new water services entities proposed by the Water Services Entities Amendment Bill (also currently before Parliament) are the successor agencies to local authorities for the function of local authorities.
- Section 23 of the Public Records Act would normally allow discretion to local authorities on whether to retain or to transfer to the new entities some or all their records relating to the provision of water services.
- However, clause 43 of the Water Services Legislation Bill provides that, on the establishment date of the water services entities, 'all rights, liabilities, contracts, information, interests, entitlements, and engagements of the local government organisation that are wholly related to the provision of water services become rights, liabilities, contracts, information, interests, entitlements, and engagements of the water services entity'. 'Information', of course, includes 'records'. This is a default, 'catch-all' provision which comes after clause 42 which specifies that transfer of assets etc is to be based on allocation schedules prepared by the entity chief executive in conjunction with local government organisations – and clause 44 provides for either the local government organisation or the water services entity to refer a claim made under clause 43 to arbitration (because of the lack of prior consultation). This would give an opportunity to challenge a claim by the new water services entity to take custody of records which the local authority has deemed archives and housed them accordingly. Most of these 'protected' records in terms of section 40 of the Public Records Act and have been in existence for over 25 years.
- You are probably aware of the 'System of Record' with the Department of Internal Affairs is implementing, with Infor, to be a collectively owned shared service for all ten water services entities. This may mean that the records (irrespective of format) currently managed by local authorities for the three waters will remain with the local authorities to manage. However, this matter has yet to be clarified.
- I suggest that Archives New Zealand discuss this issue with the National Transition Unit (within the Department of Internal Affairs).

Thank you!

Thank you for taking the time to complete your form. Archives New Zealand values your feedback!

Discussion draft