



Australian Government

National Archives of Australia

Records Authority
2010/00315821

Federal Court of Australia

19 October 2011

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INTRODUCTION

The Federal Court of Australia (the Court) and the National Archives of Australia have developed this Records Authority to set out updated requirements for keeping or destroying records for the core business area of CASE MANAGEMENT. It represents a significant commitment on behalf of the Federal Court of Australia to understand, create and manage the records of its activities.

This Authority is based on the identification and analysis of the business of the Court. It takes into account the agency's legal and organisational records management requirements, and the interests of stakeholders of both the Court and the National Archives of Australia.

This Authority gives the Court endorsement under the Archives Act 1983, for the destruction, retention or transfer to the National Archives of Australia of the records described. The Authority sets out those records that need to be retained as national archives and the minimum length of time that temporary records need to be kept.

Retention periods for these temporary records are based on: an assessment of business needs; broader organisational accountability requirements; and community expectations, and are approved by the National Archives of Australia on the basis of information provided by the Court.

The Court may use the following tools to dispose of their records:

- this Records Authority covering its agency specific records;
- general records authorities, such as the Administrative Functions Disposal Authority (AFDA), covering business processes and records common to Australian Government agencies; and
- normal administrative practice (NAP) which allows for the destruction of records where the records are duplicated, unimportant or for short-term use only.

As changes in circumstances may affect future records management requirements, the periodic review of this Authority is recommended. All amendments must be approved by the National Archives.

Advice on using this Authority and other records management matters is available from the National Archives' website at www.naa.gov.au or by contacting the Agency Service Centre at recordkeeping@naa.gov.au or (02) 6212 3610.

APPLICATION OF THIS AUTHORITY

1. This Authority replaces classes 1-5 in the Federal Court of Australia Records Authority 1124 (1994) and classes 1-4 in the Industrial Relations Court of Australia Records Authority RA 1234 (1996). The classes have been terminated and may no longer be used to sentence records after the date of issue of this Authority.
2. This Authority should be used in conjunction with the Administrative Functions Disposal Authority (AFDA) issued by the National Archives to cover administrative records common to most Australian Government agencies.
3. Where appropriate this Authority should be used in conjunction with general disposal authorities issued by the National Archives that cover other types of records that may be created by the Court, such as encrypted records and source records that have been copied.
4. This Authority is to be used to sentence records. Sentencing involves the examination of records in order to identify the individual disposal class to which they belong. This process enables sentencers to determine how long records need to be kept. Advice on sentencing is available from the National Archives.
5. Where the method of recording information changes (for example from a manual system to an electronic system, or when information is migrated from one system to a new system) this Authority can still be used to sentence the records created, providing the records document the same core business. The information must be accessible for the period of time prescribed in this Authority. The Court will need to ensure that any software, hardware or documentation required to enable continuing access to the data is available for the periods prescribed.
6. In general, retention requirements indicate a minimum period for retention. The Court may extend minimum retention periods if it considers that there is an administrative need to do so, without further reference to the National Archives. Where the Court believes that its accountability will be substantially

compromised because a retention period or periods are not adequate, the Court should contact the National Archives for review of the retention period.

7. The Court may destroy certain records without formal endorsement as a normal administrative practice. This usually occurs where the records are duplicated, facilitative or for short-term use only. NAP does not replace the arrangements agreed to in records authorities. Advice and guidance on destroying records as a normal administrative practice is available from the National Archives' website at www.naa.gov.au.
8. From time to time the National Archives will place a freeze on some groups of records to prevent their destruction. A disposal freeze particularly relevant to this records authority and current at time of issue concerns records affecting the rights and entitlements of Aboriginal and Torres Strait Islander people. This disposal freeze has been the basis for several agency transfers to Archives. Further information about disposal freezes and whether they affect the application of this Authority is available from the National Archives website at www.naa.gov.au.
9. Records in the care of the Court must be appropriately stored and preserved. The Court needs to meet this obligation to ensure that the records remain authentic and accessible over time.
10. The Court is not subject to the records transfer provisions of the Archives Act 1983 at present. However, in the interests of accountable and consistent decision making and preservation of the archival resources of the Commonwealth, records identified as "retain as national archives" in the possession of the Court should be transferred to the custody of the National Archives of Australia, by mutual agreement between the Court and the Archives.
11. A Judge's own papers that are not the Court's papers may be disposed of as and when their owners or controllers deem appropriate. These records may be of great interest and value because they complement the Court's records and have national importance as archival resources of the Commonwealth. Such records may be transferred to the National Archives of Australia for ongoing care and preservation. Judges who wish to discuss the deposit of their papers should contact the Archives, Personal Papers section via the switchboard on (02) 6212 3600 or email archives@naa.gov.au
12. Advice on how to use this Authority is available from the Court records manager. If there are problems with the application of the Authority that cannot be resolved, please contact the National Archives.

CONTACT INFORMATION

For assistance with this authority or for advice on other recordkeeping matters, please contact National Archives' Agency Service Centre.

Queen Victoria Terrace
Parkes ACT 2600
PO Box 7425
Canberra Mail Centre ACT 2610

Tel: (02) 6212 3610
Fax: (02) 6212 3989
Email: recordkeeping@naa.gov.au
Website: www.naa.gov.au

ENDORSEMENT

RECORDS AUTHORITY 2010/00315821

Person to whom notice of endorsement is given:

Warwick Soden
Registrar / Chief Executive Officer
Federal Court of Australia
Law Courts Building
Queens Square
SYDNEY NSW 2000

Purpose:

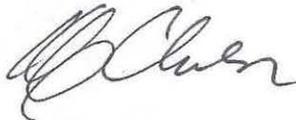
Endorses arrangements for the disposal of records in accordance with Section 24(2)(b) of the *Archives Act 1983*

Application:

All core business records relating to Case Management.

This records authority endorses the destruction, retention or transfer to the National Archives of Australia of the records described. This authority will apply only with the consent of the agency currently responsible for the business documented in the records described.

Endorsing Officer



Margaret Chalker
Assistant Director-General
National Archives of Australia

Date of issue:

19 October 2011

CASE MANAGEMENT

The core business of deciding disputes according to law in the original and appellant jurisdictions and managing cases (the court file) from initiation to disposition including judgment delivery and practice, procedure, and policy relating to the administration of case management. Includes case management in Court jurisdiction both inherent and conferred by statute; including administrative law, admiralty, bankruptcy, corporations law, human rights, industrial law, intellectual property, migration, native title, taxation and trade practices. Includes appeal matters from the Federal Court, the Federal Magistrates Court and tribunals. Also includes the assisted dispute resolution role of the Court including mediation, and the exercise of Judge-delegated functions by registrars and officers of the court.

This core business also includes the following:

- Judges' coram books, papers and all administrative tasks performed in the function of deciding a dispute
- judicial committee matters
- master set of judgments
- exhibit administration
- file inspection arrangements
- legal assistance
- development of policy and procedures
- research, reviewing and reporting
- taxation of costs
- remitted or transferred matters
- Judges' meetings
- development of court rules and practice notes
- consultations with stakeholders.

Class no	Description of records	Disposal action
21740	<ul style="list-style-type: none"> • Significant non-Native title Court files that have been nominated by the judges, or their delegate, according to established criteria. These decisions will be made by a committee of Judges on the guidelines of precedence, high media profile, public interest or case diversity and will represent a cross section of cases within a current year. The number of cases will differ from year to year but will not exceed 10% of cases in any one year. This includes both part A and part B of the case file as defined by the Federal Court; • Judges' bi-annual meetings: national meetings concerning reforms of the Court's practice and procedure and amendments to the rules of the court. Includes: agendas; reports; minutes; and background papers; • Legacy control records for case management such as any physical indexes and registers of court cases; <p><i>[For all other non-Native title court files use class 21742 for Part A and class 21744 for Part B]</i></p>	Retain as national archives
21741	<ul style="list-style-type: none"> • Native title court files consisting of all documents in Native title proceedings including orders and/or directions made, registrar's reports and determinations; • Native title transcripts stored on paper, digital and other media, including sound recording; • Native title exhibits tendered including those documents produced under subpoena or annexed to a document on the Court file including: witness 	Retain as national archives

CASE MANAGEMENT

Class no	Description of records	Disposal action
	<p>statements (including but not limited to affidavits and substances of evidence); maps; expert reports; genealogies; historical documents relating to indigenous peoples' histories including: language, culture, employment, birth, death, marriage, emigration or communities; photographs; audio files;</p> <ul style="list-style-type: none"> • Native title mediation reports from a registrar or external practitioner (excluding those from the National Native Title Tribunal); • Native title hearing memoirs used as a reference by the Judge including: photographs of witnesses; evidence and site visits; digital diaries; video recordings; and schedules of site visits; • Native title Indigenous respondent party documentation which may contain evidence of ownership including: form 5 applications; annexures; form 162 withdrawals and pending party summary sheets; • Native title parties progress reports; <p><i>[For Native title non-Indigenous party documentation that do not form part of the Court file, use class 21749]</i></p> <p><i>[For Native title exhibit administration, mediation administration, subpoena administration, National Native Title Tribunal documentation, and routine correspondence and administrative support, use class 21749]</i></p>	
21742	<ul style="list-style-type: none"> • Part A of all other non-Native title court files as defined by the Federal Court. Includes: <ol style="list-style-type: none"> 1. Court documents that define the issues that were before the Court for decision such as: <ol style="list-style-type: none"> a. cross-claims and replies b. fast track statements and responses c. pleadings: initial statement of claim or statement of defence d. requests for particulars and particulars in response, but only where they define the issues e. If the proceeding is an appeal, the documents that define the issues on the appeal such as: <ol style="list-style-type: none"> i. the notice of appeal ii. any notice of contention iii. notices of cross-appeal etc. f. If the proceeding is commenced by way of petition: <ol style="list-style-type: none"> i. the petition ii. any answering document defining the issues 2. Court documents that identify the parties: <ol style="list-style-type: none"> a. the originating process (applications, writs, petitions etc.) b. notices of appearances and notices of discontinuance 3. Court documents that record the final orders made by the Court and any other orders of the Court creating substantive rights or obligations such as orders for interlocutory injunctions, but not orders relating to merely procedural matters 4. Reasons for judgment (where published) 	Retain in agency custody

CASE MANAGEMENT

Class no	Description of records	Disposal action
	<p>5. Any copies of any orders from the High Court setting aside a Federal Court decision and remitting a matter back to the Federal Court</p> <p>6. The report of listing with any short minutes of orders signed by judge/registrar if no judgment delivered or orders entered;</p> <ul style="list-style-type: none"> • Current control records for case management including the content of case management systems such as 'Casetrack'. • Final versions of administrative notices that are issued by each district registrar at the request, or with the agreement, of the judges in the district registry to which the notice relates and provide guidance on practice and procedure required or followed by the Court in that district registry to supplement what might be contained in statutes or the Court's Rules. • Final versions and major supporting documents of Judicial committee reports and meeting papers relating to case management such as those of the National Practice Committee; • Final versions and major supporting documents of practice notes issued by the Chief Justice on the advice of the judges of the Court that provide guidance on practice and procedure required or followed by the Court nationally to supplement what might be contained in statutes or the Court's Rules; • Final papers and major supporting documents of Court rules made by the Judges under the Federal Court of Australia Act 1976 (Cth) s59; • Judicial powers delegated to registrars under court legislation including instruments of delegation; • Master set of judgments of the Court; <p><i>[For significant non-Native title court files, as defined by the Federal Court, use class 21740; For Part B of all other non-Native title court files, use class 21744]</i></p> <p><i>[For working copies, use class 21748]</i></p> <p><i>[For working papers, use class 21749]</i></p>	
21743	Judges coram books: notes made by the Judge during the hearing of a case	Retain in agency custody at the discretion of the Judge
21744	<p>Part B of all other non-Native title court files as defined by the Federal Court. Includes:</p> <ul style="list-style-type: none"> • application for fee waiver or exemption • application to inspect file under Federal Court Rules • exhibits that have not been returned to the parties • letters to and from parties • list of exhibits (see also documents recording administration of exhibits under Practice) • report of listings • short minutes of order for directions, consent orders, final orders 	Destroy 10, 15 or 25 years after completion of the proceedings, as determined by the judge

CASE MANAGEMENT

Class no	Description of records	Disposal action
	<ul style="list-style-type: none"> • submissions: legal argument or interpretation of evidence • transcripts (with the exception of Native title transcripts). <p><i>[For subpoena administration use class 21749;</i> <i>For significant non-Native title court files, as defined by the Federal Court, use class 21740; For Part A of all non-Native Title Court files use class 21742]</i></p>	
21745	<p>Final versions and major supporting documents of policies and procedures relating to the case management function.</p> <p><i>[For working copies, use class 21748]</i></p>	Destroy 20 years after action completed
21746	<p>Audio recordings of court transcripts (excluding Native title matters)</p> <p><i>[For Native title transcripts, use class 21741]</i></p>	Destroy 10 years after date recorded subject to the orders of the Court
21747	<p>Docket system: the assigning of a case to a particular judge who will see the case through to completion. Includes:</p> <ul style="list-style-type: none"> • single Judge and full court docket • allocation records including electronic and paper • docket and panel allocation sheets and tables. 	Destroy 5 years after action completed
21748	<ul style="list-style-type: none"> • Working copies of policies and procedures relating to the case management function • Working copies of Judicial committee reports and papers relating to case management <p><i>[For final versions and major supporting documents of policies and procedures, use class 21745; For final versions and major supporting documents of Judicial committee reports and papers, use class 21742]</i></p>	Destroy 3 years after action completed
21749	<p>Records documenting the routine operational administrative tasks supporting the core business of the Court and records documenting Case Management activities other than those covered in classes 21740 to 21748. Includes:</p> <ul style="list-style-type: none"> • Appeal administrative records including list of appeal matters and notes and summaries; • Copies of Native title documentation from National Native Title Tribunal including: mediation reports; notification documents; claim information documents; maps; and registration test decisions and reasons; • Exhibits administration (including Native title exhibits administration) including letter returning exhibits, spreadsheets and other information concerning administration kept in manual or digital systems; • Judges' monthly registry business meetings: concerning the business of each registry (organised by each state registry). Includes: agendas; minutes; background papers; • Legal Assistance records. Referrals to legal assistance including: <ul style="list-style-type: none"> • referral certificates and notices to cease 	Destroy 7 years after action completed

CASE MANAGEMENT

Class no	Description of records	Disposal action
	<ul style="list-style-type: none"> • provision of legal assistance • pro bono legal assistance practitioner • lists of participating practitioners; • Mediation operational administration records for both Native title and non-Native title cases. Includes: • records of nomination and appointment of mediator or arbitrator • notifications of occurrence and the selection of mediators and arbitrators • performance indicators • spreadsheets (copies of letter) • letters (correspondence part of file) • newsletters (Judges business meetings report); • Native title non-Indigenous respondent party documentation that do not form part of the Court file including: • Form 5 applications and annexures • Form 162 withdrawals • Pending party summary sheets; • Reporting relating to the case management function <p>Includes:</p> <ul style="list-style-type: none"> • court reporting (administrative function excludes transcripts) • internal reports • reviews of programs and operations supporting case management • reviews of programs and operation • statistics of files remitted, transferred and received • summary reports for monitoring recurring activities to support case management; • Subpoena administration (including Native Title subpoena administration), which could be in manual or digital systems. Includes: • receipt of material produced in response to subpoena • requests for preparation of a subpoena • issued receipts for subpoenaed material by registries • requests for inspection of subpoenaed material • documents produced under subpoenas; • Working papers of Court rules including correspondence. <p><i>[For final versions and major supporting documents of Court rules, use class 21742]</i></p>	