



Australian Government



**NATIONAL
ARCHIVES
OF AUSTRALIA**

Records Authority

2017/00413096

Aboriginal Land Commissioner

Aboriginal Land Claims and Advice

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2017



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CONTENTS

INTRODUCTION	3
APPLICATION OF THIS AUTHORITY	3
CONTACT INFORMATION	4
AUTHORISATION	5
ABORIGINAL LAND CLAIMS AND ADVICE	6

INTRODUCTION

The Aboriginal Land Commissioner (Commissioner) and the National Archives of Australia have developed this records authority to set out the requirements for keeping or destroying records for the core business area of Aboriginal Land Claims & Advice. It represents a significant commitment on behalf of the Commissioner to understand, create and manage the records of its activities.

The Commissioner is a statutory office holder appointed under the *Aboriginal Land Rights (Northern Territory) Act 1976*.

This authority is based on the identification and analysis of the business of the Commissioner. It takes into account the agency's legal and organisational information management requirements, and the interests of stakeholders, the agency and the National Archives.

The authority sets out those records that need to be retained as national archives and specifies the minimum length of time that temporary records need to be kept. This authority gives the Commissioner permission under the *Archives Act 1983*, for the destruction of the temporary records described after the minimum retention period has expired. 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 on the basis of information provided by the agency.

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

APPLICATION OF THIS AUTHORITY

1. This authority is to be used to determine how long records must be kept. Records are matched to the relevant core business and records class in the authority.
 - Where the minimum retention period has expired and the records are not needed for the Commissioner's business they should be destroyed as authorised in this authority;
 - Records that have not reached the minimum retention period must be kept until they do; and
 - Records that are identified as 'retain as national archives' are to be transferred to the National Archives for preservation.
2. This authority should be used in conjunction with general records authorities such as:
 - Administrative Functions Disposal Authority (AFDA) and/or AFDA Express issued by the National Archives to cover business processes and records common to Australian Government agencies; and
 - General Records Authority (31) - Destruction of source or original records after digitisation, conversion or migration (2015).
3. The normal administrative practice (NAP) provision of the *Archives Act 1983* gives agencies permission to destroy certain records without formal authorisation. This usually occurs where records are duplicated, facilitative or for short-term use only. NAP does not replace arrangements agreed to in this authority but can be used as a tool to assist in identifying records for destruction together with an agency's records authority or authorities, and with AFDA and AFDA Express. The National Archives recommends that agencies develop and implement a NAP policy. Advice and guidance on destroying records as a normal administrative practice and on how to develop a NAP policy is available from the National Archives' website at www.naa.gov.au.
4. Records that are reasonably likely to be needed as evidence in a current or future judicial proceeding or are subject to a request for access under the *Archives Act 1983*, the *Freedom*

- of Information Act 1982* or any other relevant act must not be destroyed until the action has been completed.
5. Records subject to a disposal freeze must not be destroyed until the freeze has been lifted. 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.
 6. Where the method of recording information changes (for example from an analogue system to a digital system, or when information is migrated from one system to a new system) this authority can still be applied, providing the records document the same core business. The information must be accessible for the period of time prescribed in this authority. The Commissioner will need to maintain continuing access to the information, including digital information, for the periods prescribed in this records authority or until the information is transferred into the custody of the National Archives.
 7. In general, retention requirements indicate a minimum period for retention. The Commissioner 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 Commissioner believes that its accountability will be substantially compromised because a retention period or periods are not adequate, s/he should contact the National Archives for review of the retention period.
 8. Records coming within 'retain as national archives' classes in this authority have been determined to be part of the archival resources of the Commonwealth under section 3C of the *Archives Act 1983*. The determination of Commonwealth records as archival resources of the Commonwealth obliges agencies to transfer the records to the National Archives when they cease to be current and, in any event, within 15 years of the records coming into existence, under section 27 of the *Archives Act 1983*.
 9. Records in the care of agencies should be appropriately stored, managed and preserved. Agencies need to meet this obligation to ensure that the records remain authentic and accessible over time. Under Section 31 of the *Archives Act 1983*, access arrangements are required for records that become available for public access including those records that remain in agency custody.
 10. Appropriate arrangements should be made with the National Archives when records are to be transferred into custody. The National Archives accepts for transfer only those records designated as national archives. Records created digitally after 1 January 2016 must be transferred in digital formats only.
 11. Advice on how to use this authority is available from the Office information 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 information management matters, please contact National Archives' [Agency Service Centre](#).

AUTHORISATION

RECORDS AUTHORITY 2017/00413096

Person to whom notice of authorisation is given:

The Hon John Mansfield AM QC
Aboriginal Land Commissioner
Level 5 Jacana House
39-41 Woods St
Darwin NT 0800

Purpose:

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

Determines records classed as 'retain as national archives' in this records authority to be part of the archival resources of the Commonwealth under section 3C of the *Archives Act 1983*.

Application:

All core business records relating to Aboriginal Land Claims & Advice.

This authority gives permission for 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.

Authorising Officer

Teressa Ward
Assistant Director- General
National Archives of Australia

Date of issue:

24 November 2017

ABORIGINAL LAND CLAIMS AND ADVICE

The core business of the Aboriginal Land Commissioner (Commissioner) is inquiring into traditional Aboriginal land claims in the Northern Territory and reporting on the findings of those inquiries to the Commonwealth Minister (Minister) with portfolio responsibility for the *Aboriginal Land Rights (Northern Territory) Act 1976* (the Land Rights Act). The Commissioner may also provide advice on any other matters relating to the operation of the Land Rights Act, and matters relating to land in the Northern Territory, that are referred by the Minister.

The core activities include the following activities in relation to:

Managing land claims

- receiving applications for, and inquiring into, traditional Aboriginal land claims;
- requesting and receiving submissions and evidence from parties in relation to land claims in the Commissioner's jurisdiction, including submissions and evidence on traditional ownership and issues of detriment;
- notifying parties and the general public of the commencement of inquiries;
- conducting site and country visits;
- conducting hearings in relation to traditional ownership;
- reporting findings of each inquiry to the Minister and the Administrator of the Northern Territory;
- making recommendations to the Minister for the grant of land to Aboriginal traditional owners;
- reviewing land claim applications within the Commissioner's jurisdiction which are not subject to inquiry;
- requesting information and making determinations which result in the final disposal of land claims;
- developing plans, strategies and procedures for managing land claims;
- establishing and managing a register of traditional land claims; and
- making directions in relation to the performance of the Commissioner's functions including in relation to land claims and inquiries, access to information, advertising, inquiries, site visits, travel and restrictions on publication.

Advising the Minister and the Administrator of the Northern Territory

- on referral by the Minister, providing reports and advice to the Minister in connection with any matter relevant to the operation of the Land Rights Act; and
- on referral by the Minister and with the agreement of the Administrator of the Northern Territory, providing reports and advice to the Minister and the Administrator of the Northern Territory in connection with matters relating to land in the Northern Territory.

The performance of the core business is supported by general activities such as:

- managing internal and external meetings;
- organising site and country visits and aerial viewings;
- arranging travel and accommodation;
- attending public and private events such as conferences and land handover ceremonies
- delivering addresses and presentations;
- identifying, assessing and managing risks;
- monitoring, reviewing and reporting on operation of the Office of the Aboriginal Land Commissioner;
- responding to enquiries and complaints from stakeholders and the public;
- preparing the Commissioner's Annual Report.

Cross references to AFDA Express Records Authority

For managing the relationship between the Commission and the portfolio Department, use GOVERNMENT RELATIONS.

For the procurement of services and the engagement of consultants, use PROCUREMENT.

For production and publication of the reports on land claims, use PUBLICATION.

For requests to access information and for the creation of the agency's records authority, use INFORMATION MANAGEMENT.

For policies, procedures, strategies and meetings relating to the management and operation of the office of the Aboriginal Land Commissioner, use STRATEGIC MANAGEMENT.

For managing and reporting on the finances of the Office, use FINANCIAL MANAGEMENT.

For the management of personnel employed under the Public Service Act 1999, use PERSONNEL.

For social media engagement, use COMMUNITY RELATIONS.

Cross references to other records authorities

For the appointment, establishing, managing and winding up of the Office of the Aboriginal Land Commissioner, use GRA 34 ESTABLISHING AND WINDING UP ENTITIES AND COMPANIES.

Class no	Description of records	Disposal action
62406	<p>Significant records documenting:</p> <ul style="list-style-type: none"> • land claim applications under the Land Rights Act; • documents required to commence a land claim inquiry including anthropology reports, genealogies, site/dreaming maps and site registers, lists of claimants and their personal particulars; • public notices in relation to land claim inquiries; • written and oral evidence and submissions produced for land claim inquiries, for example transcripts, maps, reports, witness statements and audio recordings, including records relating to traditional ownership and detriment issues. Also includes records relating to site and country visits, aerial viewings and on-country hearings of land claim inquiries; • correspondence between the Commissioner and the Commissioner's staff and parties relating to land claims and inquiries; • determinations made by the Commissioner under the Land Rights Act, including in relation to the final disposal of land; • directions made by the Commissioner relating to the performance of the Commissioner's functions under the Land Rights Act; • correspondence between the Commissioner and the Minister in relation to the Commissioner's functions under the Land Rights Act; • advice and reports prepared for the Minister on matters relating to the operation of the Land Rights Act. Includes referral from the Minister, final versions, major drafts, results of stakeholder consultation and supporting research; • advice prepared for the Minister and the Administrator for the Northern Territory on matters relating to land in the Northern Territory, including referral from the Minister, final versions, major drafts, results of stakeholder consultation and supporting research; • formal reports on the Commissioner's core functions and supporting working papers; 	Retain as national archives

Class no	Description of records	Disposal action
	<ul style="list-style-type: none"> • plans and strategies relating to land claim management; • advice received by the Commissioner relevant to the operation of the Act, including legal and anthropological advice; • liaison with other persons and entities, including past Commissioners, incoming governments, Land Councils, other Commonwealth and Territory Ministers; • final versions of speeches and presentations by the Aboriginal Land Commissioner at public forums, conferences or seminars; • registers and lists of land claims and other summary records supporting the core business; • briefs prepared for Federal or High Courts relating to findings of the Commissioner which have been subject to judicial review; and • referrals made by the Commissioner to the Federal Court of Australia on questions of law relating to land claim applications. 	
62407	<p>Records documenting:</p> <ul style="list-style-type: none"> • complaints from stakeholders and the public; • monitoring and reviewing the operations of the office; • reporting on the operation of the office other than that covered in class 62406; and • identifying, assessing and managing risks. 	Destroy 7 years after action completed
62408	<p>Records documenting:</p> <ul style="list-style-type: none"> • routine operational administrative tasks supporting the core business; and • land claims and advice activities, other than those covered in classes 62406 and 62407. 	Destroy 3 years after action completed