



**Australian Government**

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**National Archives of Australia**

**Records Authority**

2019/00447636

**Australian Building and  
Construction Commission (ABCC)**

*BUILDING INDUSTRY COMPLIANCE,  
ENFORCEMENT AND EDUCATION*

2019



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## INTRODUCTION

The Australian Building and Construction Commission (ABCC) 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 BUILDING INDUSTRY COMPLIANCE, ENFORCEMENT AND EDUCATION. It represents a significant commitment on behalf of ABCC to understand, create and manage the records of its activities.

This authority is based on the identification and analysis of the business of ABCC. 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 ABCC 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

This authority supersedes Records Authority (RA) 2010/00494770. The superseded records authority cannot be used by ABCC to sentence records after the date of issue of this authority.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 ABCC 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.
  - 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:
  - AFDA Express Version 2 issued by the National Archives to cover business processes and records common to Australian Government agencies; and
  - General Records Authority 31 (2015) - Destruction of source or original records after digitisation, conversion or migration.
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 Express Version 2. 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](http://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](http://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 ABCC 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 ABCC 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 ABCC believes that its accountability will be substantially compromised because a retention period or periods are not adequate, it should contact the National Archives for review of the retention period.
8. Records coming within 'retain as national archives' class 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 its custody. The National Archives accepts for transfer only those records designated as national archives. Records created digitally after 1 January 2016 can be transferred in digital formats only.
11. Advice on how to use this authority is available from the ABCC 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 2019/00447636

**Person to whom notice of  
authorisation is given:**

Mr Stephen McBurney  
Australian Building and Construction  
Commissioner  
Australian Building and Construction Commission  
509 St. Kilda Road  
Melbourne VIC 3004

**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 Building Industry  
Compliance, Enforcement and Education

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**

Linda Macfarlane  
a/g Assistant Director- General  
National Archives of Australia

**Date of issue:**

13 November 2019

## BUILDING INDUSTRY COMPLIANCE, ENFORCEMENT AND EDUCATION

The core business of ensuring appropriate standards of conduct for building and construction industry activities. This is achieved through educating and advising building industry participants and stakeholders, monitoring compliance with legislation and codes, undertaking investigations into potential or suspected contraventions, and taking legal action where required.

The **core activities** include:

- receiving and responding to complaints and enquiries;
- educating and providing advice and assistance to building industry participants and stakeholders, including through the delivery of presentations, advisory visits, education campaigns and the dissemination of information resources;
- monitoring compliance with workplace laws, codes or other requirements, including via audits and inspections, assessments of enterprise agreements and workplace relations management plans;
- conducting investigations into potential or suspected contraventions of workplace laws, including exercising the agency's examination powers (where necessary);
- taking necessary actions to address non-compliance, including through caution or compliance notices, voluntary rectification, enforceable undertakings, or the commencement of legal proceedings;
- referring matters to external parties;
- responding to requests for reviews of investigations; and
- intervening and/or making submissions in court or tribunal proceedings.

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

- receiving or preparing and providing advice, briefings and reports;
- negotiating, establishing and reviewing agreements;
- making routine arrangements for committees, meetings and working groups, site visits or educational activities;
- establishing, managing and/or participating in committees, meetings or working groups;
- authorising delegations of power;
- liaising with stakeholders; and
- developing, implementing and reviewing operational policies and procedures.

### Cross references to AFDA Express Version 2

*For deeds or contracts under seal, use CONTRACTS UNDER SEAL/DEEDS.*

*For managing relationships with professional and community bodies, industry and the media, including issuing media releases, and preparing and presenting speeches, use EXTERNAL RELATIONS.*

*For the payment of expenses incurred in attending a compulsory examination, use FINANCIAL MANAGEMENT.*

*For requests for and the provision of specialist legal advice by internal or external legal advisers, use LEGAL SERVICES.*

*For the acquisition of goods and services including contracting-out and tendering processes, use PROCUREMENT.*

*For the design and production of publications, use PUBLICATION.*

*For developing, implementing and reviewing high-level policies, strategies, plans, frameworks, standards and programs, use STRATEGIC MANAGEMENT.*

*Cross references to other records authorities*

*For managing the deliberations and activities of groups or bodies established to provide independent advice to the Minister, government or the agency, use GRA26 ADVISORY BODIES.*

Class no	Description of records	Disposal action
62696	<p>Records documenting:</p> <ul style="list-style-type: none"> <li>• referrals to the Minister or other formal decision-making body recommending sanctions on an industry participant following serious or repeated non-compliance with code requirements. Includes: <ul style="list-style-type: none"> <li>○ internal decisions and/or approvals to refer matters;</li> <li>○ notifications to and responses from the relevant building industry participant regarding the agency's intended action (ie. show-cause notices and responses);</li> <li>○ submissions outlining the agency's findings and recommendations; and</li> <li>○ responses received, including formal warnings issued to the building industry participant, or sanctions imposed.</li> </ul> </li> </ul> <p><i>[For all other code compliance monitoring activities, including those activities that led to the agency's decision to refer a matter, use class 62698]</i></p> <p><i>[For referrals to external parties as a result of the agency's compliance monitoring or investigation activities, where identified potential or suspected contraventions are outside the agency's jurisdiction, use class 62698]</i></p> <ul style="list-style-type: none"> <li>• investigation cases that result in the institution of legal proceedings. Records are limited to those primary records that provide evidence of the key issues, arguments, decisions, and outcomes in a case, such as: <ul style="list-style-type: none"> <li>○ witness statements;</li> <li>○ key decisions made by investigators during the case;</li> <li>○ briefs of evidence, including supporting legal assessments;</li> <li>○ litigation summaries;</li> <li>○ recommendations and internal approvals to commence litigation;</li> <li>○ applications and supporting documents filed with the court (eg. statements of claim, agreed facts, defences, affidavits etc.); and</li> <li>○ internal reviews of investigations in response to specific internal or external requests, including reports from debriefing meetings and file reviews.</li> </ul> </li> </ul> <p><i>[For all other investigation case records, use class 62698]</i></p> <ul style="list-style-type: none"> <li>• compulsory examinations carried out by the agency into potential or suspected contraventions. Includes applications and supporting documents seeking approval to conduct examinations, approvals received, notices issued, examination reports, and transcripts of recordings (audio or audio-visual). Also includes applications for judicial review (ie. appeals) concerning the use of the agency's examination powers;</li> </ul>	Retain as national archives



Class no	Description of records	Disposal action
	<p><i>[Excludes audio or audio-visual recordings of examinations, covered in class 62698]</i></p> <ul style="list-style-type: none"> <li>• agency public interest interventions or submissions in civil proceedings that involve building work or a building industry participant;</li> <li>• high-level advice, briefings or reports prepared for external stakeholders which provide a detailed summary of regulatory activities, decisions or outcomes, or which relate to matters considered to be significant for the regulation of the building and construction industry;</li> </ul> <p><i>[For formal reports prepared and submitted to the Minister or government on the performance of the agency's functions and exercise of the agency's powers, use AFDA Express Version 2 - EXTERNAL RELATIONS]</i></p> <ul style="list-style-type: none"> <li>• high-level agreements or memorandums of understanding (MoUs) with stakeholders which establish significant assistance, partnerships or other cooperative arrangements. Includes signed versions and records of negotiations;</li> <li>• high-level committees or working groups set up to discuss or manage significant matters impacting the building industry or building industry participants where the agency provides the chair, secretariat or is the Commonwealth's main representative. Includes documents establishing or winding up the group, and agenda, minutes and papers of meetings; and</li> <li>• registers or reports that provide a summary of key interactions with building industry participants over time, including summary information identifying: <ul style="list-style-type: none"> <li>○ name and details of the participant;</li> <li>○ complaints received;</li> <li>○ compliance monitoring activities or investigations completed;</li> <li>○ investigation reviews sought; and</li> <li>○ enforcement actions taken.</li> </ul> </li> </ul>	
62697	<p>Records documenting:</p> <ul style="list-style-type: none"> <li>• development of operational policies and procedures, training or education materials, or similar information products and resources. Includes substantive drafts and feedback that provide evidence of decisions made within final versions;</li> </ul> <p><i>[For final versions of policies and procedures, training or educational materials, or similar information products, use class 62698]</i></p> <ul style="list-style-type: none"> <li>• receipt and response to general enquiries or requests for routine advice and assistance, including referring matters outside of the agency's jurisdiction (as necessary);</li> </ul> <p><i>[For referrals to the Minister (or other formal decision-making body) recommending sanctions on an industry participant, use class 62696]</i></p> <p><i>[For referrals to external parties in response to findings from the agency's compliance monitoring or investigation activities, where identified potential or</i></p>	Destroy 3 years after action completed

Class no	Description of records	Disposal action
	<p><i>suspected contraventions are outside the agency’s jurisdiction, use class 62698]</i></p> <ul style="list-style-type: none"> <li>• educational/advisory site visits to building industry participants or other stakeholders, including final versions of tailored presentations or materials used, notes taken during visits etc; and</li> <li>• routine administrative arrangements for committees and working groups or onsite visits to building industry participants (eg. scheduling, venue or facility bookings, catering arrangements etc.).</li> </ul>	
62698	<p>Records documenting:</p> <ul style="list-style-type: none"> <li>• the routine operational administrative tasks supporting the core business; and</li> <li>• all other core business activities not covered in classes 62696 and 62697, including: <ul style="list-style-type: none"> <li>▪ code compliance monitoring activities (audits, inspections, assessments etc). Includes: <ul style="list-style-type: none"> <li>○ notifications of intent to carry out compliance monitoring activities;</li> <li>○ requests for and copies of documentation received;</li> <li>○ records of interviews or observations (including photographs taken as evidence);</li> <li>○ reports outlining findings of compliance monitoring activities;</li> <li>○ compliance or caution notices issued, or letters advising of compliant practice (as applicable); and</li> <li>○ correspondence with parties, including communications to discuss and agree on the approach to addressing contraventions or areas of non-compliance.</li> </ul> </li> </ul> </li> </ul> <p><i>[For correspondence to and from building industry participants regarding the agency’s intent to recommend exclusion sanctions where recommendations are subsequently made to the Minister (or other decision-making body), use class 62696]</i></p> <ul style="list-style-type: none"> <li>▪ investigation cases that do not result in the institution of legal proceedings. Includes: <ul style="list-style-type: none"> <li>○ initial complaints received;</li> <li>○ information requested and provided to support the investigation (eg. wage and time records, contracts, phone records, correspondence between parties etc.);</li> <li>○ records of site interviews or visits;</li> <li>○ witness statements;</li> <li>○ photographs;</li> <li>○ notices issued (eg. notices to produce documents);</li> <li>○ key decisions made by investigators during the case;</li> <li>○ ongoing routine correspondence between agency investigators, building industry participants or other stakeholders as necessary throughout the case;</li> <li>○ records of actions taken to address non-compliance, such as compliance notices, letters of caution, or enforceable undertakings entered into and associated applications to and</li> </ul> </li> </ul>	Destroy 7 years after action completed

Class no	Description of records	Disposal action
	<p>orders from courts in relation to the undertaking;</p> <ul style="list-style-type: none"> <li>○ internal reviews of investigation cases that have not resulted in the institution of legal proceedings, including reports from debriefing meetings and file reviews; and</li> <li>○ internal decisions to finalise and close cases.</li> </ul> <p><i>[For records relating to the use of the agency’s compulsory examination powers, use class 62696]</i></p> <ul style="list-style-type: none"> <li>▪ investigation cases that result in the institution of legal proceedings, other than those records covered within 62696. Includes: <ul style="list-style-type: none"> <li>○ initial complaints received;</li> <li>○ information requested and provided to support the investigation (eg. wage and time records, contracts, phone records, correspondence between parties etc.);</li> <li>○ records of site interviews or visits;</li> <li>○ photographs;</li> <li>○ notices issued (eg. notices to produce documents);</li> <li>○ ongoing routine correspondence between agency investigators, building industry participants or other stakeholders as necessary throughout the case.</li> </ul> </li> </ul> <p><i>[For records relating to the use of the agency’s compulsory examination powers, use class 62696]</i></p> <ul style="list-style-type: none"> <li>▪ audio or audio-visual recordings of examinations;</li> </ul> <p><i>[For transcripts of examination recordings, use class 62696]</i></p> <ul style="list-style-type: none"> <li>▪ gathering intelligence, analysing information and reporting on building industry participants and/or building sites in order to determine whether laws or codes apply, identify trends, issues and areas of risk, formulate compliance plans, target compliance monitoring activities etc. Includes routine statistical reports on operations and activities, and internal industry status reports (or similar);</li> <li>▪ referrals to external parties as a result of the agency’s compliance monitoring or investigation activities, where identified potential or suspected contraventions are outside of the agency’s own jurisdiction (eg. referrals to tax or health and safety authorities);</li> </ul> <p><i>[For referrals to the Minister (or other decision-making body) which make formal recommendations for the imposition of exclusion sanctions due to serious or repeated compliance failures, use class 62696]</i></p> <ul style="list-style-type: none"> <li>▪ approvals for and final versions of training or education materials, awareness campaigns, factsheets, flyers, newsletters, industry alerts, updates or similar informational products and resources developed to educate, promote compliance and/or provide advice and assistance to building industry participants;</li> </ul> <p><i>[For final versions of tailored presentations used for specific educational/advisory visits requested by industry participants, use class</i></p>	

Class no	Description of records	Disposal action
	<p data-bbox="360 271 448 300">62697]</p> <ul style="list-style-type: none"> <li data-bbox="459 333 1118 362">▪ final version of operational policies and procedures;</li> <li data-bbox="459 396 1283 483">▪ meetings or liaison with individuals, agencies or groups for the routine exchange of information or correspondence on matters of mutual interest;</li> <li data-bbox="459 517 1283 582">▪ agreements or MoUs with stakeholders, other than those covered under class 62696;</li> <li data-bbox="459 616 1283 763">▪ committees, working groups, and/or consultative groups set up to discuss or manage routine or general operational matters, or otherwise (for high-level groups) where the agency does not provide the chair, secretariat or is the Commonwealth's main representative; and</li> <li data-bbox="459 797 1134 826">▪ delegations of authority relating to the core business.</li> </ul>	