

State Records NSW

Functional Retention and Disposal Authority: FA436

NSW Aboriginal Land Council & Local Aboriginal Land
Councils

This retention and disposal authority is approved under section 21(2)c of the *State Records Act 1998* following prior approval by the Board of the State Records Authority of New South Wales in accordance with section 21(3) of the Act.

State Records NSW

Functional Retention and Disposal Authority

Authority no FA436

SR file no SR2023/439

Scope This retention and disposal authority covers records documenting the function of Aboriginal land councils.

Public office NSW Aboriginal Land Council & Local Aboriginal Land Councils

Approval date 14/08/2023

About the Functional Retention and Disposal Authority

Purpose of the authority

The purpose of this retention and disposal authority is to identify those records created and maintained by NSW public offices which are required as State archives and to provide approval for the destruction of certain other records created and maintained by NSW public offices, after minimum retention periods have been met.

The approval for disposal given by this authority is given under the provisions of the *State Records Act 1998* only and does not override any other obligations of an organisation to retain records.

The retention and disposal of State records

The records retention and disposal practices outlined in this authority are approved under section 21(2)(c) of the *State Records Act 1998 (NSW)*. Part 3 (Protection of State Records) of the Act provides that records are not to be disposed of without the consent of the State Records NSW with certain defined exceptions. These exceptions include an action of disposal which is positively required by law, or which takes place in accordance with a normal administrative practice (NAP) of which State Records NSW does not disapprove. Advice on the State Records Act can be obtained from State Records NSW.

The authority sets out how long the different classes of records generated by an organisation must be kept to meet its legal, operational and other requirements, and whether the records are to be kept as State archives. State Records NSW reviews and approves organisations' retention and disposal authorities under the *State Records Act*. It is the duty of a public office, in submitting a draft retention and disposal authority for approval, to disclose to State Records NSW any information which affects the retention of the records covered by the authority.

State Records NSW's decisions take into account both the administrative requirements of public offices in discharging their functional responsibilities and the potential research use of the records by the NSW Government and the public. One of State Records NSW's functions is to identify and preserve records as State archives. These are records which document the authority and functions of Government, its decision-making processes and the implementation and outcomes of those decisions, including the nature of their influence and effect on communities and individual lives. Criteria for the identification of State archives are listed in *Building the Archives: Policy on records appraisal and the identification of State archives*. The Policy also explains the roles and responsibilities of State Records NSW and of public offices in undertaking appraisal processes and disposal activities.

Implementing the authority

This retention and disposal authority covers records controlled by the public office and applies only to the records or classes of records described in the authority. The authority should be implemented as part of the records management program of the organisation. Two primary objectives of this program are to ensure that records are kept for as long as they are of value to the organisation and its stakeholders and to enable the destruction or other disposal of records once they are no longer required for business or operational purposes.

The implementation process entails use of the authority to sentence records. Sentencing is the examination of records in order to identify the disposal class in the authority to which they belong. This process enables the organisation to determine the appropriate

retention period and disposal action for the records. For further advice see *Implementing a retention and disposal authority*.

Where the format of records has changed (for example, from paper-based to electronic) this does not prevent the disposal decisions in the authority from being applied to records which perform the same function. The information contained in non paper-based or technology dependant records must be accessible for the periods prescribed in the classes. Where a record is copied, either onto microform or digitally imaged, the original should not be disposed of without authorisation (see the *General Retention and Disposal Authority – Original or source records that have been copied*). Public offices will need to ensure that any software, hardware or documentation required to gain continuing access to technology dependent records is available for the periods prescribed.

Disposal action

Records required as State archives

Records which are to be retained as State archives are identified with the disposal action 'Required as State archives'. Records that are identified as being required as State archives should be stored in controlled environmental conditions and control of these records should be transferred to Museums of History NSW when they are no longer in use for official purposes.

The transfer of control of records as State archives may, or may not, involve a change in custodial arrangements. Records can continue to be managed by the public office under a distributed management agreement. Public offices are encouraged to make arrangements with Museums of History NSW regarding the management of State archives.

Transferring records identified as State archives and no longer in use for official purposes to Museums of History NSW should be a routine and systematic part of a public office's records management program. If the records are more than 20 years old and are still in use for official purposes, then a 'still in use determination' should be made.

Records approved for destruction

Records that have been identified as being approved for destruction may only be destroyed once a public office has ensured that all other requirements for retaining the records are met. Retention periods set down in this authority are *minimum* periods only and a public office should keep records for a longer period if necessary. Reasons for longer retention can include legal requirements, administrative need, government directives and changing social or community expectations. A public office **must not** dispose of any records where the public office is aware of possible legal action (including legal discovery, court cases, formal applications for access) where the records may be required as evidence.

Once all requirements for retention have been met, destruction of records should be carried out in a secure and environmentally sound way. Relevant details of the destruction should be recorded. See *Destruction of records: a practical guide*.

Organisations should review functional retention and disposal authorities regularly to ensure that they remain relevant as the organisation's functions and activities, operating environment and requirements for records change. Retention requirements may change over time. This can occur when:

- business needs or practices change

- new laws, regulations or standards are introduced
- new technology is implemented
- government administration is restructured and functions are moved between entities, or
- unforeseen or new community expectations become apparent.

State Records NSW recommends that organisations check any functional retention and disposal authorities more than 5 years old to ensure that the retention periods and disposal actions remain relevant.

Regardless of whether a record has been approved for destruction or is required as a State archive, a public office or an officer of a public office **must not** permanently transfer possession or ownership of a State record to any person or organisation without the explicit approval of State Records NSW.

Administrative change

This retention and disposal authority has been designed to link records to the functions they document rather than to organisational structure. This provides for a stable retention and disposal authority that is less affected by administrative change. The movement of specified functions between branches or units within the public office does not require the authority to be resubmitted to State Records NSW for approval. However, when functions move from one public office to another the public office that inherits the new function should contact State Records NSW to discuss use of any existing retention and disposal authority approved for use by a predecessor organisation.

Amendment and review of this authority

State Records NSW must approve any amendment to this authority. Public offices that use the authority should advise State Records NSW of any proposed changes or amendments to the authority.

State Records NSW recommends a review of this authority after five years to establish whether its provisions are still appropriate. Either the public office or State Records NSW may propose a review of the authority at any other time, particularly in the case of change of administrative arrangements, procedures or to operating environments which are likely to affect the value of the records covered by this authority.

In all cases the process of review will involve consultation between State Records NSW and the public office. If the process of review reveals that this authority requires amendment, the necessary amendments should be made and approved.

Contact Information

State Records NSW
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Kingswood NSW 2747
E-mail: govrec@staterecords.nsw.gov.au

Functional Retention and Disposal Authority Aboriginal Land Councils

Authority number: FA436

Dates of coverage: Open

No.	Description of records	Disposal action
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1.0 ABORIGINAL CULTURE, IDENTITY AND HERITAGE

The function of maintaining and enhancing Aboriginal culture, identity and heritage. Includes managing traditional sites and cultural materials within NSW.

See General Retention and Disposal Authority *Administrative records* **COMMUNITY RELATIONS - Celebrations, ceremonies, functions** for records relating to arranging and managing celebrations, formal ceremonies and social functions to honour a particular event, occasion or individual.

See General Retention and Disposal Authority *Administrative records* **COMMUNITY RELATIONS - Exhibitions** for records relating to the organisation's participation in or mounting of exhibitions, displays and shows.

See General Retention and Disposal Authority *Administrative records* **FINANCIAL MANAGEMENT - Accounting** for records relating to financial transactions supporting the acquisition of items or the set up of exhibitions, forums and community consultations.

See General Retention and Disposal Authority *Administrative records* **GOVERNMENT RELATIONS - Advice** for records relating to advice to the Minister or other government organisations on issues affecting Aboriginal people in NSW, including the preservation of culture and heritage.

See General Retention and Disposal Authority *Administrative records* **GOVERNMENT RELATIONS - Submissions** for records relating to submissions to Cabinet, the Minister or other government organisations regarding issues affecting Aboriginal people in NSW, e.g. submissions on policies developed by other organisations regarding Aboriginal culture and heritage.

See General Retention and Disposal Authority *Administrative records* **STRATEGIC MANAGEMENT - Planning** for records relating to the development and review of the organisation's strategic, corporate and business plans, including its community, land and business plan.

1.1	<p>Records relating to the acquisition, management and documentation of items, places and customs of significance to Aboriginal people in NSW. Records include:</p> <ul style="list-style-type: none"> • documentation regarding the bequeathing or donation of items to the organisation • registers of items owned by the organisation or forming part of recognised collections and of places of significance to Aboriginal culture, identity and heritage 	Required as State archives
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Aboriginal Land Councils

Authority number: FA436

Dates of coverage: Open

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ABORIGINAL CULTURE, IDENTITY AND HERITAGE

	<ul style="list-style-type: none"> • photographs, oral and pictorial histories, and other historical information • records documenting language, traditions, family lineage and ritual and spiritual activities • the development and implementation of strategies to determine the likely impact of mining, tourism and forestry projects upon recognised Aboriginal lands, e.g. agreements and records of meetings with government and private sector agencies, planning documents, records of assessments. 	
1.2	Records relating to research into issues supporting the maintenance, enhancement and protection of Aboriginal culture, identity and heritage. Includes final versions of fact sheets or information resources developed by the organisation.	Required as State archives
1.3	Records relating to the development and review of information resources regarding the maintenance and protection of Aboriginal culture, identity and heritage.	Retain minimum of 7 years after advice superseded or withdrawn, then destroy

Aboriginal Land Councils

Authority number: FA436

Dates of coverage: Open

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ADVICE

2.0 ADVICE

The activities associated with offering opinions by or to the organisation as to an action or judgement.

See **LAND MANAGEMENT** for records relating to advice provided to Local Aboriginal Land Councils in making land claims.

2.1	Records relating to: <ul style="list-style-type: none">• responding to requests for information from the public about Aboriginal culture, identity and heritage, and land management.• the provision of general support and advice to Local Aboriginal Land Councils to assist them in fulfilling their responsibilities and functions, e.g. advice and assistance with general administration or operational matters, housing management, the coordination of workshops, etc.	Retain minimum of 7 years after action completed, then destroy
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COMMUNITY BENEFIT SCHEMES

3.0 COMMUNITY BENEFIT SCHEMES

The function of establishing and administering schemes for the provision of benefits or services to Aboriginal people in NSW, including funeral funds, education and training, scholarships and other assistance for education and training, and cultural activities.

See General Retention and Disposal Authority *Administrative records* **FINANCIAL MANAGEMENT - Accounting** for records relating to financial transactions supporting the distribution of funding.

See General Retention and Disposal Authority *Administrative records* **STRATEGIC MANAGEMENT - Joint ventures** for records relating to establishing strategic alliances with other organisations for the purpose of providing benefits or services to Aboriginal people.

See General Retention and Disposal Authority *Administrative records* **STRATEGIC MANAGEMENT - Planning** for records relating to the development and review of the organisation's strategic, corporate and business plans, including its community, land and business plan.

3.1	<p>Records relating to establishing and reviewing schemes to support the delivery or provision of services or benefits to aboriginal communities. Records include:</p> <ul style="list-style-type: none"> • agreements with partners and stakeholders • reports on outcomes of schemes and periodic reports on scheme performance • policies and procedures supporting the operation of schemes. 	Required as State archives
3.2	<p>Records relating to the receipt and assessment of successful applications for and distribution of funding for the provision of benefits or services to Aboriginal people. Records include:</p> <ul style="list-style-type: none"> • applications and supporting documentation • correspondence with applicants • records of grants. 	Required as State archives
3.3	<p>Records relating to unsuccessful applications for funding for the provision of benefits or services to Aboriginal people.</p>	Retain minimum of 7 years after action completed, then destroy

Aboriginal Land Councils

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LAND MANAGEMENT

4.0 LAND MANAGEMENT

The function of acquiring, disposing of and managing land. Includes the acquisition (including by land claim), disposal and management of land by the organisation and provision of assistance to Local Aboriginal Land Councils with land claims.

See General Retention and Disposal Authority *Administrative records* **FINANCIAL MANAGEMENT** for records of financial transactions relating to the operational management of rural holdings

See General Retention and Disposal Authority *Administrative records* **GOVERNMENT RELATIONS - Advice** for records relating to advice to the Minister or other government organisations regarding land management.

See General Retention and Disposal Authority *Administrative records* **LEGAL SERVICES** for records relating to legal advice regarding and the conduct of appeals against unsuccessful land claims or challenging compulsory acquisition notices.

See General Retention and Disposal Authority *Administrative records* **PROPERTY MANAGEMENT** for records relating to the acquisition, leasing and disposal of property required for the conduct of business (e.g. offices) and for records relating to the management and maintenance of rural properties or holdings.

See General Retention and Disposal Authority *Administrative records* **PROPERTY MANAGEMENT - Acquisition** for summary records created to facilitate the management of all property owned by the organisation, e.g. deed registers, property registers, land registers etc.

See General Retention and Disposal Authority *Administrative records* **PROPERTY MANAGEMENT - Leasing-out** for records relating to leasing-out or agisting property to another organisation or person.

See General Retention and Disposal Authority *Administrative records* **STRATEGIC MANAGEMENT - Planning** for records relating to the development and review of the organisation's strategic, corporate and business plans, including its community, land and business plan.

4.1	<p>Records relating to the acquisition, disposal and management of land with cultural significance by the organisation and Local Aboriginal Land Councils. Includes:</p> <ul style="list-style-type: none"> • records documenting the disposal, purchase or transfer of land, e.g. investigations, reports, correspondence with vendors or owners, valuations and contracts of purchase/sale • records documenting successful, discontinued or unsuccessful land claims, e.g. advice, research, correspondence with Local Aboriginal Land 	Required as State archives
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LAND MANAGEMENT

	<p>Councils, supporting documentation, outcomes of claims</p> <ul style="list-style-type: none">• maps supporting the land claims process, e.g. maps indicating the boundaries of tribal lands and land claims upon Crown land, maps showing public works, proposed boundary changes and locations of leased and owned assets, maps of Local Aboriginal Land Council divisions, National Parks, Nature Reserves and State Forests• register of all lands held by Aboriginal Land councils.• development of policies regarding the acquisition and disposal of land and the supporting of land claims.	
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LAND MANAGEMENT

5.0 LOCAL ABORIGINAL LAND COUNCILS

The function of regulating the activities of Local Aboriginal Land Councils and providing Land Councils with assistance and support.

See **LAND MANAGEMENT** for records relating to assisting Local Aboriginal Land Councils to lodge land claims.

See General Retention and Disposal Authority *Administrative records* **COMMUNITY RELATIONS - Conferences** for records relating to arranging Local Aboriginal Land Council State Conferences and Regional Forums, including proceedings, reports and addresses from conferences.

See General Retention and Disposal Authority *Administrative records* **COMMUNITY RELATIONS - Marketing** for records relating to the production of videos to assist Local Aboriginal Land Councils.

See General Retention and Disposal Authority *Administrative records* **CONTRACTING-OUT** for records relating to arranging, procuring and managing the performance of work or the provision of services by an external contractor or consultant, e.g. training service providers.

See General Retention and Disposal Authority *Administrative records* **FINANCIAL MANAGEMENT - Accounting** for records relating to financial transactions supporting the distribution of funding.

See General Retention and Disposal Authority *Administrative records* **GOVERNMENT RELATIONS** for records relating to advising and reporting to the Minister regarding Local Aboriginal Land Councils, e.g. advice regarding the dissolution of a Land Council and reports to the Minister regarding the funds granted to Local Aboriginal Land Councils and Land Councils' compliance with financial obligations.

See General Retention and Disposal Authority *Administrative records* **LEGAL SERVICES - Litigation** for records relating to appeals against Council decisions, e.g. appeals against land dealings decisions.

See General Retention and Disposal Authority *Administrative records* **STRATEGIC MANAGEMENT - Grant funding** for records relating to applying for and receiving grants from other organisations.

See General Retention and Disposal Authority *Administrative records* **STRATEGIC MANAGEMENT - Legislation** for records relating to the review of legislation and regulations relating to Aboriginal people in NSW, including workshops with Local Aboriginal Land Councils to discuss proposed amendments.

See General Retention and Disposal Authority *Administrative records* **STRATEGIC MANAGEMENT - Planning, Policy or Procedures** the development and review of internal plans, policies and procedures governing the organisation's relationship with and provision of support and services to Local Aboriginal Land Councils

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LOCAL ABORIGINAL LAND COUNCILS

See General Retention and Disposal Authority *Administrative records TENDERING* for records relating to tendering, e.g. for auditors appointed to each Local Aboriginal Land Council.

5.1	<p>Records relating to assessing land dealings applications and community, land and business plans submitted by Local Aboriginal Land Councils. Records include:</p> <ul style="list-style-type: none"> • advice provided to Land Councils on making applications and developing plans • applications, plans and supporting documentation submitted by Land Councils • reports of expert advisory panels on proposed land dealings • records of assessment and evaluations by staff, and negotiations with Land Councils. 	Required as State archives
5.2	<p>Key records relating to the allocation of funding and monitoring the financial position, performance and compliance of Local Aboriginal Land Councils. Records include:</p> <ul style="list-style-type: none"> • funding or assistance agreements with Councils • budgets, financial and annual reports and other compliance documentation or reports required to be submitted by Councils • records of risk assessments, management support plans and associated dealings or correspondence with Councils to implement or address identified areas of deficiencies • records relating to managing and monitoring the appointment, the progress of investigations and administrations and any recommendations arising from them • records relating to evaluations and reporting or advising • mediating disputes between Local Aboriginal Land Council board members and staff, or handling complaints about Local Aboriginal Land Councils, that have the potential to result in the appointment of an administrator or dissolution of an ALC, e.g. advice to complainants, records documenting attempts to mediate, conciliate or 	Required as State archives

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LOCAL ABORIGINAL LAND COUNCILS

	<p>arbitrate between the complainant and the relevant Land Council.</p> <p>Note: see entry 5.4 for the management of minor complaints</p>	
5.3	<p>Records relating to the development and review of policies, guidelines and fact sheets to assist Local Aboriginal Land Councils in meeting their statutory obligations. Includes:</p> <ul style="list-style-type: none"> • making land dealings applications and entering into biobanking agreements • developing and implementing community, land and business plans or housing schemes • making land claims • funding and financial obligations <p>Includes final versions of training material, summary records of consultation with Land Councils, background research, e.g. into the capacity of biobanking within the Land Council network, and information packages developed to assist consultation processes.</p>	Required as State archives
5.4	<p>Records relating to:</p> <ul style="list-style-type: none"> • complaints about Local Aboriginal Land Councils that result in referral to another organisation or body for response, or deal with minor matters, i.e. that do not have the potential to result in the appointment of an administrator or dissolution of an ALC. • the development and delivery of training to Local Aboriginal Land Councils, e.g. development of training programs, assessment or examination results of Land Council members. 	Retain minimum of 7 years after action completed, then destroy
5.5	<p>Records relating to assistance with the management of LALC elections. Includes copies of membership rolls, ballot papers etc.</p>	Retain until administrative or reference use ceases, then destroy
5.6	<p>Records relating to applications for confirmation or certification of Aboriginality by a Local Aboriginal Land Council. Includes statements from Elders (where required) and copies of certification or confirmation. Includes successful and refused applications.</p>	Required as State archives

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LOCAL ABORIGINAL LAND COUNCILS

	Note: personal records submitted to support the claim such as birth certificates can be returned to the applicant.	
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