

State Records Authority of New South Wales

Functional Retention and Disposal Authority: FA438

This authority covers records documenting the function of
Crown lands management

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.

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Functional Retention and Disposal Authority

Authority no FA438

SR file no 22/0265

Scope This retention and disposal authority covers records documenting the function of Crown lands management.

Public office Department of Planning and Environment

Approval date 5 November 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 Authority of New South Wales (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 the Museums of History NSW (MHNSW) 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 MHNSW regarding the management of State archives.

Transferring records identified as State archives and no longer in use for official purposes to MHNSW should be a routine and systematic part of a public office's records management program.

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
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Functional Retention and Disposal Authority

Crown lands management

Authority number: FA438

Dates of coverage: Open

No.	Description of records	Disposal action
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1.0 CROWN LANDS MANAGEMENT

The processes associated with the acquisition, disposal and management of Crown land including Public (Crown roads).

Note: This records retention and disposal authority covers the records created and managed by the NSW Government department responsible for the management of NSW's Crown lands. It does not cover the statutory land managers constituted under the *Crown Lands Management Act 2016* and other non-Council Crown land managers as they are, by definition, not 'NSW Government Agencies', and therefore not subject to the *State Records Act 1998*. Where the NSW Government holds records created about these parties, the NSW Government is required to comply with this Authority.

Records created by local government crown land managers are covered by the **General retention and disposal authority: local government records** (GA39).

See General Retention and Disposal Authority *Administrative records* **FINANCIAL MANAGEMENT - Accounting** for records relating to the process of collecting, recording, classifying, summarising and analysing information on financial transactions.

See General Retention and Disposal Authority *Administrative records* **FINANCIAL MANAGEMENT - Policy** for records relating to the determination of rents payable.

See General Retention and Disposal Authority *Administrative records* **GOVERNING AND CORPORATE BODIES** for records relating to managing the membership and of overseeing the administration and conduct of activities of bodies such as land boards, trust bodies and commons trusts established for the purposes of managing specific areas comprising the Crown Estate or Crown lands set aside for other public purposes.

See General Retention and Disposal Authority *Administrative records* **GOVERNING AND CORPORATE BODIES** for records relating to establishment and management of corporate entities, such as companies and corporations and of governing bodies, such as boards, trusts, councils, commissions, etc.

See General Retention and Disposal Authority *Administrative records* **GOVERNMENT RELATIONS - Advice** for records relating to the provision of advice to the portfolio Minister or other government organisations concerning substantive aspects of the organisation's policies and procedures, functions, obligations, legislation or liabilities.

See General Retention and Disposal Authority *Administrative records* **GOVERNMENT RELATIONS - Advice** for records relating to the assessment of development applications affecting Crown lands.

See General Retention and Disposal Authority *Administrative records* **GOVERNMENT RELATIONS - Agreements** for records relating to agreements with the Minister or other Government departments relating to core functions.

See General Retention and Disposal Authority *Administrative records* **INFORMATION MANAGEMENT - Cases** Records relating to enquiries or requests from the general public or other organisations, including other government organisations, for the provision of

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data or information regarding the status, physical characteristics, assessment etc of Crown lands.

See General Retention and Disposal Authority *Administrative records* **LEGAL SERVICES - Advice** for records relating to legal advice from internal or external legal service providers, including the Crown Solicitor's Office.

See General Retention and Disposal Authority *Administrative records* **LEGAL SERVICES - Litigation** for records relating to matters concerning Crown lands which are referred to a higher authority.

See General Retention and Disposal Authority *Administrative records* **PROPERTY MANAGEMENT - Construction** for records relating to the design and construction of assets.

See General Retention and Disposal Authority *Administrative records* **STRATEGIC MANAGEMENT - Joint ventures** for records relating to the establishment and monitoring of significant strategic alliances with other organisations (government or non-government) regarding the core functional activities of the organisation.

See General Retention and Disposal Authority *Administrative records* **STRATEGIC MANAGEMENT - Planning** for records relating to fire hazard reduction planning.

See General Retention and Disposal Authority *Administrative records* **STRATEGIC MANAGEMENT - Policy** for records relating to the development and review of strategic or high-level policies for core functions.

See General Retention and Disposal Authority *Administrative records* **STRATEGIC MANAGEMENT - Procedures** for records relating to the development and review of procedures that relate to core statutory responsibilities where there is a high level of risk or potential impact to the community, or that are developed for whole-of-government use.

1.1	<p>Records relating to:</p> <ul style="list-style-type: none"> • the identification, assessment & management of Aboriginal places, sites & relics on Crown lands • the gazettal of Aboriginal places of significance • requests to disturb land or objects of Aboriginal significance and decisions made • the management and assessment of Aboriginal land rights claims under State legislation • investigations into native title claims and existence of native title by Aboriginal and non-Aboriginal applicants. 	Required as State archives
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	<p>Note: to the extent that any record is covered by this Item 1.1, it is not covered by any later Item in this Authority.</p>	
1.2	<p>Records of continuing value documenting the Crown land management function. Includes:</p> <ul style="list-style-type: none"> • the acquisition, gazettal, alienation and disposal of Crown land (including acquisitions and disposal that do not proceed) • the purchase, establishment, closure and transfer of control of Crown roads • the reservation, dedication or revocation of land for a specific purpose • the declaration, amendment and abolition of districts for the purposes of administering Crown land and land for cities, towns and villages • vesting of Crown land in the care, control and management of local government authorities or other bodies • the assessment of uses for Crown lands • applications for boundary determinations for mean high water mark and non-tidal rivers where Crown reservations have a boundary with freehold land, including supporting documentation and final determination • applications for permission to clear native vegetation on State protected land • the provision of detailed advice on Crown land administration and management, including permitted uses and activities, authorisation requirements etc. • the monitoring of natural resources on Crown land • reporting on programs and projects which result in recommendations for legislative change, changes to organisational policy, set precedents, or represent initiatives with respect to the physical management of Crown land assets or the provision of community services 	Required as State archives

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	<ul style="list-style-type: none"> • emergency incidents (e.g. fires, floods etc.) involving loss of life or extensive damage to multiple properties, that lead to changes to strategic policies or procedures for dealing with emergencies or that result in coronial enquiries • investigations into potential breaches of statutory requirements or conditions which set a precedent or result in significant changes to policy or procedures • the conversion of cemeteries to other purposes, including objections, including successful and unsuccessful proposals • inventory of Crown land • reports submitted to senior executive concerning the outcomes of land management programs, projects or initiatives • reports submitted to senior executive concerning policy and strategic direction for, or issues impacting, the physical management of Crown land • plans of management • ongoing maintenance of Crown land • inspection and compliance documents, including photographs of Crown land. 	
1.3	<p>Operational records documenting the management of Crown land. Includes:</p> <ul style="list-style-type: none"> • provision or receipt of routine advice concerning the administration or handling of Crown lands • the management of emergencies and fires incidents that do not involve loss of life or extensive damage to properties • measures to reduce and remove fire fuel • investigations into routine breaches of statutory requirements or conditions • the issue of notices for offences involving Crown lands • applications for registration as land agents 	Retain minimum of 10 years after action completed, then destroy

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	<ul style="list-style-type: none"> • the operational management of projects, programs and grants. <p>Note: Records relating to exhibits seized or obtained during the course of investigations should be returned to the owner on finalisation of the matter. Where they cannot be returned dispose of under this class.</p> <p>Note: State Records does not compel destruction after the minimum retention period.</p>	
1.4	<p>Records of continuing value documenting the granting of tenures and funding applications etc. Includes:</p> <ul style="list-style-type: none"> • summary records documenting the use of Crown land including tenure documents, rights of way or entitlements of use • maps and plans supporting the management and administration of Crown land tenures, e.g. maps and plans which detail place names, boundaries, roads, land portions, tenure, status or lease information and associated references, schedules etc. • the management of tenure or permitted uses which document long term environmental impact and conservation values associated with patterns of permissible use of the land, or where public positive covenants have been established • removal of restrictions on subdivision on a former perpetual lease • consents to transfer land comprised in a Crown holding by way of sale, lease, etc. • tenures in the Western Lands Division which document investigations and monitoring of land use under the tenure • applications to clear and cultivate leasehold land within the Western Division • applications for permission to clear native vegetation on leasehold land • tenures that are converted to a purchase • granting of licences etc. for the conduct of activities on Crown land such as mining, trig stations, extractive industries, pipelines and 	Required as State archives

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	<p>powerlines, and power stations, where the land has been irretrievably affected or where remediation action has been undertaken and has been unsuccessful</p> <ul style="list-style-type: none"> successful applications for funding assistance to be expended on Crown land and/or non-Crown land, e.g. application and supporting documentation, recommendations, decision, agreements, progress reports etc. 	
1.5	<p>Operational records of easements, leases and licensing. Includes records relating to:</p> <ul style="list-style-type: none"> easements and licences for the conduct of activities on Crown land such as mining, trig stations, extractive industries, pipelines and powerlines, and power stations, where there has been a minor or nil effect on the land or where successful remediation has been undertaken approval for the construction and maintenance of structures by third parties on Crown land the creation of easements to provide for right of way to land-locked properties the approval of encroachments on Crown Lands issuing of enclosure permits on Crown lands exemptions from the requirement to maintain access to Crown land approvals for cultivation or economic use of land inconsistent with access the issue of directions to the holder of an enclosure permit to erect or remove structures (such as gates on the road) tenures and leases which do not document the long term environmental impact and conservation values associated with patterns of permissible use of the land tenures or permitted uses issued prior to the Crown Lands Act 1989 which do not proceed to purchase leases under the Crown Lands Act 1989 where there is no option for conversion. 	<p>Retain minimum of 7 years after expiry, termination, cessation etc or minimum of 7 years after action completed, whichever is longer, then destroy</p>

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	<p>Note: action completed for records that may be relevant to native title claims and Aboriginal land claims is until the records are no longer required to assist with a native title claim or Aboriginal land claim.</p> <p>Note: State Records does not compel destruction after the minimum retention period.</p>	
1.6	<p>Records of continuing value documenting the appointment of Crown land managers and their management of Crown land. Includes:</p> <ul style="list-style-type: none"> • annual reports provided by non-Council Crown land managers • claims which are precedent setting in nature or result in significant changes to policies and/or procedures • issues and disputes resulting in referral to or intervention by the Minister • successful and unsuccessful applications for funding assistance, e.g. application and supporting documentation, recommendations, decision, agreements, progress reports etc. • allocation, reallocations and adjustments of parcels of land to Crown land managers • Commoners rolls maintained for the purpose of electing members to a board. <p>Note: includes legacy records of Land Boards & reserve trusts.</p>	Required as State archives
1.7	<p>Operational records of Crown land managers. Includes:</p> <ul style="list-style-type: none"> • issues and disputes between Crown land managers or between a Crown land manager and the Department which do not result in changes to the authority of a Crown land manager or intervention by the Minister. • claims which are not precedent setting in nature and do not result in significant changes to the department's policies and/or procedures • transcripts and recordings of proceedings • Chairpersons' notebooks. 	Retain minimum of 10 years after action completed, then destroy

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	<p>Note: action completed for records that may be relevant to native title claims or Aboriginal land claims is until the records are no longer required to assist with a native title claim or Aboriginal land claim.</p> <p>Note: claims heard should be returned to the agency responsible for administering these acts once action is completed.</p> <p>Note: includes legacy records of Land Boards and reserve trusts.</p> <p>Note: State Records does not compel destruction after the minimum retention period.</p>	
1.8	<p>Records relating to:</p> <ul style="list-style-type: none"> • unsuccessful applications to purchase a Crown road • unsuccessful applications for consent to transfer land comprised in a Crown holding • unsuccessful applications for the removal of restrictions on subdivision on a former perpetual lease • unsuccessful applications for the enclosure of Crown roads or watercourses • unsuccessful applications for leases and licences for use of Crown land • unsuccessful applications for funding assistance to be expended on Crown land and/or non-Crown land, e.g. application and supporting documentation, recommendations, decision, agreements, progress reports etc. <p>Note: State Records does not compel destruction after the minimum retention period.</p>	Retain minimum of 7 years after action completed, then destroy