

# **State Archives and Records Authority of New South Wales**

## **General Retention and Disposal Authority: GA31**

This authority covers records of Commissions of Inquiry

This general 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 Archives and Records Authority of New South Wales in accordance with section 21(3) of the Act.



# State Archives and Records Authority of New South Wales

## General Retention and Disposal Authority

**Authority no** GA31

**SR file no** 21/0208

**Scope** This general retention and disposal authority covers records documenting the function of Commissions of Inquiry.

**Public office** This authority applies to records created and maintained by Royal Commissions, Special Commissions of Inquiry, Commissions of Inquiry, Inquiries established by Letters Patent or Ministerial Directive, and Inquiries established under discrete legislation such as the Casino Control Act.

**Approved** 1/7/2008  
**Amended** 10/09/2021

## **About the General Retention and Disposal Authority**

### **Purpose of the authority**

The purpose of this general retention and disposal authority is to identify those records created and maintained by formal inquiry bodies which are required as State archives and to provide approval for the destruction of certain other records 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 to retain records.

### **What records does this authority cover?**

This authority covers records in any format created and maintained by:

- Royal Commissions appointed under the terms of the *Royal Commissions Act 1923*,
- Special Commissions of Inquiry appointed under the terms of the *Special Commissions of Inquiry Act 1983*,
- Commissions of Inquiry established under legislation by Ministerial Directive or by Letters Patent, and
- Inquiries established by Letters Patent or Ministerial directive
- Inquiries established under discrete legislation such as the *Casino Control Act, 1992*.

It does not apply to the records of public offices established for the purpose of conducting investigations on an ongoing basis, such as the Independent Commission Against Corruption, the Law Enforcement Conduct Commission, the NSW Crime Commission, the NSW Ombudsman etc. The records of these public offices have disposal coverage under their own functional disposal authority.

This authority is to be used in conjunction with the relevant general retention and disposal authorities for other administrative records associated with the management of formal Inquiries not covered by this authority. For example:

- the *General Retention and Disposal Authority – Administrative records (GA28)* for records relating to media items about the Inquiry and the management of staff
- the *General retention and disposal authority: original or source records that have been copied* for the disposal of originals of records that have been digitised.

Most documents received by a Commission of Inquiry will be digital. There have been a small number of cases where members of the public have submitted original hard copy records to an Inquiry and have subsequently requested their return. The general authority gives permission for the return of original items that are required as State archives provided that copies are made for eventual transfer as State archives. The general authority also gives permission for the return of original documents if requested that are not required as State archives.

### **Amendments to this general authority**

The following amendments to GA31 were issued on 1 September 2021:

- consolidation of the State archives classes - entries 1.1.1, 1.1.2, 1.1.6, 1.1.7, 1.1.8, 1.2.1, 1.3.1, 1.3.2 and 1.4.1 from the previous version of GA31 are now **entry 1**
- consolidation of the temporary records classes - entries 1.1.3, 1.1.4, 1.1.5, 1.1.9 and 1.3.3 from the previous version of GA31 are now **entry 2**
- reduction of the retention period for records and information gathered but deemed not to be relevant (previously entry 1.1.4) from 7 years after publication of the final report to 12 months after action completed (see **entry 2**)
- change in the disposal action for temporary records from retain until administrative or reference use ceases to 12 months after action completed (**entry 2**).
- additional entry to cover records documenting the return, or attempted return, of evidence or exhibits to their owners (**entry 3**)
- addition of notes to provide guidance around the return of original items (**entries 1 and 2**).

## **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 Archives and Records Authority of New South Wales (NSW State Archives and Records) 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 NSW State Archives and Records does not disapprove. Advice on the State Records Act can be obtained from NSW State Archives and Records.

The authority sets out how long the different classes of records generated by an Inquiry must be kept to meet legal, operational and other requirements, and whether the records are to be kept as State archives. NSW State Archives and Records reviews and approves retention and disposal authorities under the *State Records Act*.

NSW State Archives and Records' decisions take into account both the administrative requirements of Inquiries in discharging their responsibilities and the potential research use of the records by the NSW Government and the public. One of NSW State Archives and Records' 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 NSW State Archives and Records and of public offices in undertaking appraisal processes and disposal activities.

## **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'. Control of these records should be transferred to NSW State Archives and Records when the Inquiry has ceased and the records are no longer required for ongoing legal, reference or other official purposes.

### ***Records approved for destruction***

When the authorised minimum retention period for records not required as State archives has been reached, appropriate arrangements for the destruction of records may be

undertaken without further reference to NSW State Archives and Records, unless otherwise advised. Persons using the Authority should apply it with caution, bearing in mind that the authorisations for disposal are given in terms of the State Records Act only. It is the responsibility of every public office to ensure that all legal and other requirements for retention of records have been met before disposing of any of its records.

#### Contact Information

NSW State Archives and Records  
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Kingswood NSW 2747  
Telephone: (02) 9673 1788  
E-mail: [govrec@records.nsw.gov.au](mailto:govrec@records.nsw.gov.au)

## General Retention and Disposal Authority Commissions of Inquiry

Authority number: GA31

Dates of coverage: Open

No.	Description of records	Disposal action
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### 1.0.0 FORMAL COMMISSIONS OF INQUIRY

The management of temporary, independent inquiries established to inquire into and report on certain matters. Includes:

- Royal Commissions
- Special Commissions of Inquiries and Commissions of Inquiry
- Inquiries established by Letters Patent or Ministerial directive
- Inquiries established under discrete legislation such as the Casino Control Act.

**Note:** This disposal authority does not apply to the records of public offices established for the purpose of conducting investigations on an ongoing basis, such as the Independent Commission Against Corruption, the Law Enforcement Conduct Commission, the NSW Ombudsman etc.

See General Retention and Disposal Authority *Original or source records that have been copied* for authorisation to destroy the originals of records that have been copied.

1	<p>Key records of the inquiry. Includes:</p> <ul style="list-style-type: none"> <li>• records documenting the constitution and operation, such as letters patent, terms of reference, Ministerial directives, legal advice</li> <li>• the issue of summons or orders to attend and produce documents or give evidence, requests for information, and invitations to make submissions</li> <li>• documents received, including formal submissions and exhibits</li> <li>• transcripts of hearings, including video or audio tape recordings where no transcription exists</li> <li>• original handwritten documents of the Commissioner or Inquiry Head, and Associates, such as bench notes</li> <li>• research or briefing papers produced by staff of the Commission or Inquiry</li> <li>• records of interviews of persons and/or meetings conducted as part of the Commission or Inquiry. Includes notes taken of the interview and/or</li> </ul>	<p>Required as State archives</p> <p><b>Note:</b> original exhibits and other material received by the inquiry can be returned to the source or owner if requested, provided that copies are made and retained by the Commission for transfer as State archives. NSW State Archives will advise on copying standards and processes for exhibits as required.</p>
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## Commissions of Inquiry

**Authority number: GA31**

**Dates of coverage: Open**

No.	Description of records	Disposal action
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*FORMAL COMMISSIONS OF INQUIRY*

	<p>meeting by the Commission or Inquiry, and/or transcripts.</p> <ul style="list-style-type: none"> <li>• interim, final and substantive drafts of reports of the Commission or Inquiry. This includes correspondence relating to the submission of the reports</li> <li>• the appointment and advice of expert reference groups or expert consultants</li> <li>• other key correspondence sent externally by the Commission or other person conducting the inquiry (e.g. to interested parties, stakeholders or members of the community).</li> </ul>	
2	<p>Operational records of the inquiry. Includes:</p> <ul style="list-style-type: none"> <li>• copies of documents received, exhibits tendered, transcripts and submissions</li> <li>• material received by the Inquiry or Commission that is not required for the purposes of the inquiry</li> <li>• video or audio tape recordings of Commission or Inquiry hearings and interviews of persons used to facilitate the compilation of transcripts</li> <li>• arrangements for hearings, interviews and meetings</li> <li>• scheduling of submissions and hearings, and notices of hearings and public submission dates (including media advertisements).</li> </ul> <p>Note: Before original material is destroyed under this class, a reasonable attempt should be made to return the records to the owner or source. Reasonable efforts will be determined by the agency responsible for the records of the completed inquiry.</p>	<p>Retain a minimum of 12 months after action completed, then destroy</p> <p><b>Note:</b> original exhibits and other material that are not required for the inquiry can be returned to the source or owner.</p>
3	<p>Records documenting the return, or attempted return, of evidence or exhibits to their owners.</p>	<p>Retain minimum of 10 years after action completed, then destroy</p>