



Australian Government

National Archives of Australia

Records Authority

2022/00665122

Australian Competition and Consumer

Commission

Australian Energy Regulator

Law Reform and Research

2023



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INTRODUCTION

The Australian Competition and Consumer Commission (ACCC) and the Australian Energy Regulator (AER) have jointly developed this records authority with the National Archives of Australia to set out the requirements for keeping or destroying records for the core business area of Law Reform and Research. It represents a significant commitment on behalf of the ACCC and the AER to understand, create and manage the records of their activities.

This records authority is based on the identification and analysis of the business of the ACCC and the AER. It takes into account the agencies' legal and organisational information management requirements, and the interests of stakeholders, the agencies 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 ACCC and the AER 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 supersedes the core business functions of Education and Information Services, and Investigation and Legal Enforcement in records authority 2003/00349230. The superseded core business functions cannot be used to sentence records after the date of issue of this authority.
2. The Commission Administration and International Relations core business functions in RA 2003/00349230 are now superseded respectively by General Records Authority 27 – Governing Bodies and AFDA Express Version 2 – External Relations.
3. 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 agency 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.
4. This authority should be used in conjunction with general records authorities such as:
 - *Administrative Functions Disposal Authority (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 - Destruction of source or original records after digitisation, conversion or migration* (2015).
5. 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.

6. 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.
7. 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.
8. 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 ACCC and AER 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.
9. In general, retention requirements indicate a minimum period for retention. The ACCC and AER may extend minimum retention periods if there is an administrative need to do so, without further reference to the National Archives. Where it is believed that agency accountability will be substantially compromised because a retention period or periods are not adequate, contact the National Archives for a review of the retention period.
10. Records identified as '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*.
11. 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.
12. 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 can be transferred in digital formats only.
13. Advice on how to use this authority is available from the agency information manager(s). 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 Authorities 2022/00665122

Notice of authorisation

Persons to whom notice of authorisation is given:

Gina Cass-Gottlieb
Chair
Australian Competition and Consumer Commission
23 Marcus Clarke Street
Canberra ACT 2601

Clare Savage
Chair
Australian Energy Regulator
23 Marcus Clarke Street
Canberra ACT 2601

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 records relating to Law Reform and Research.

Authority

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.

This document has been authorised through a digital workflow (R89352023).

Authorising Officer	Date of issue
Yaso Arumugam Assistant Director-General, Data and Digital National Archives of Australia	7 th of March 2023

LAW REFORM AND RESEARCH

The core business of critically examining and investigating the laws in force relating to competition, consumer protection, access regulation, and other matters referred from the Minister, other authorities, the agency's governing body, or initiated by the agency. Includes research, analysis, and consultation to determine the need for reform, reporting outcomes, and making recommendations.

The **core activities** include:

- undertaking market studies and inquiries (e.g. competition in markets for the supply of digital platform services, market for tradeable water rights);
- examining and investigating competition, consumer protection, access regulation, and other industry codes, legislation and subordinate legislation (e.g. regulations);
- identifying areas for law reform and developing recommendations for reforms of competition, consumer protection, access regulation, and other laws (e.g. intellectual property arrangements, energy market regulations);
- developing proposals for new inquiries; and
- conducting research into the area of law under review.

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

- advising;
- establishing, managing, and participating in internal and external committees, working groups, and meetings;
- consultation and liaison;
- planning and reporting;
- referrals handling;
- developing and implementing policies, procedures, strategies, and frameworks in relation to the core business;
- arranging and attending conferences and forums; and
- managing programs and projects.

Cross references to AFDA Express Version 2 Records Authority

For advice, briefs and submissions to Ministers, and cabinet submissions, use EXTERNAL RELATIONS.

For speeches, presentations and addresses made by the portfolio Minister, agency head or senior agency staff, use EXTERNAL RELATIONS.

For formal reports prepared and submitted to the Minister or government on the performance of the agency's functions, use EXTERNAL RELATIONS.

For master set of media releases, use EXTERNAL RELATIONS.

For legal advice, use LEGAL SERVICES.

For the acquisition of goods and services, such as contractors or consultants, use PROCUREMENT.

For the publication of proceedings held by the agency, use PUBLICATION.

For the agency's business planning and performance management, risk management and reporting processes, related to the core business use STRATEGIC MANAGEMENT.

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Cross references to other records authorities

For governing bodies that support the law reform and research function, use General Records Authority 27 - GOVERNING BODIES.

Class no	Description of records	Disposal action
63081	<p>Records documenting:</p> <ul style="list-style-type: none"> • provision and receipt of advice on matters that are controversial or attract considerable official or public interest; will potentially have substantial social, economic, political, environmental, national, or international implications relating to the law reform and research function; or result in major changes to agency programs or procedures, or changes to legislation or subordinate legislation (e.g. regulations and standards). Includes briefing notes, minutes, position papers, and opinions, and supporting records such as reports, supporting research, and stakeholder consultations; • high-level internal or external, inter-governmental (both domestic and overseas) or inter-agency committees, meetings, working groups, and other bodies, where matters are considered that are controversial or attract considerable official or public interest; will potentially have substantial social, economic, political, environmental, national, or international implications relating to the access regulation function; or, result in major changes to agency programs or procedures, or changes to legislation or subordinate legislation (e.g. regulations and standards), or where the agency provides the secretariat, is the Australian Government's main representative, or plays a prominent, central, or significant role. Includes establishment documents, agenda, minutes, reports, recommendations, and supporting records such as tabled, briefing, and discussion papers; • agency's contribution to and involvement in external inquiries relating to the law reform and research function. Includes agency statements and submissions, responses to final or draft reports, transcripts of oral evidence given by agency officers, and supporting records; • market studies and price inquiries (e.g. electricity pricing, gas markets). Includes research and supporting datasets, reports and recommendations, 	Retain as national archives

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	<p>promotion and distribution of proposals for comment, and responses to submissions received, results of consultations, such as reports and recommendations from stakeholder consultations, information provided from industry or other parties, stakeholder submissions, including oral input from public forums, significant external responses to recommendations, national policy statements, and supporting records and data;</p> <ul style="list-style-type: none"> • investigative reviews that lead to law reform. Includes requests for review, planning documents, and records documenting collection of information, supporting datasets and oral input from public forums, significant external responses to recommendations (e.g. from other government agencies, peak industry bodies, major companies or law firms), or responses that are controversial or attract major public interest, conduct of investigation, findings and recommendations, and supporting records; and • research projects or reports undertaken or commissioned by the agency which result in major changes to agency or industry policy or procedures, or relate to matters that are controversial or of major public interest. Includes significant external and internal comments on research findings or outcomes, research and analysis, literature searches, supporting research datasets, and supporting records and associated information and data. 	
63082	<p>Records documenting:</p> <ul style="list-style-type: none"> • investigative reviews that do not lead to law reform. Includes requests for review, planning documents, collection of information, including supporting datasets and oral input from public forums, conduct of investigation, findings, recommendations and working papers. 	Destroy 15 years after action completed
63083	<p>Records documenting:</p> <ul style="list-style-type: none"> • receipt and provision of advice relating to law reform and research other than in instances covered in class 63081. Includes advice provided in the form of briefing notes, minutes, position papers and opinions, and supporting records such as reports, supporting research, and stakeholder consultations; 	Destroy 10 years after action completed

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	<ul style="list-style-type: none">• external responses to market studies and price inquiries recommendations other than those covered in class 63081; and• external inter-governmental and inter-agency committees, working groups, and other bodies relating to the law reform and research function other than those covered by class 63081. Includes establishment documents, agenda, minutes, reports, recommendations, and supporting records such as tabled, briefing, and discussion papers.	
63084	Records documenting: <ul style="list-style-type: none">• law reform and research activities, other than those covered in classes 63081 to 63083;• routine operational administrative tasks supporting the core activities.	Destroy 7 years after action completed