

# General Disposal Schedule 16

## Records of relevance in relation to Native Title

Effective from 25 June 2024 to 31 December 2049  
Version 2

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# Approval for the commencement of this schedule

*State Records Act 1997*

Government of South Australia

General Disposal Schedule No. 16, Version 2

for

Records of relevance in relation to Native Title

Effective 25 June 2024 until 31 December 2049

Endorsed by

**Chair, State Records Council**

*24 June 2024*

**Director, State Records of South Australia**

*25 June 2024*

## Acknowledgement of Country

The Attorney-General's Department acknowledges the traditional custodians of the land that is now South Australia and respects Aboriginal cultural identities, practices and beliefs.

We respect that Aboriginal people have strong and continuing connections to their traditional lands, cultures, heritage and history.

## Background

GDS 16 was developed in 1998 and has been effective since 9 February 1999 and places a disposal freeze on any records which are or could be relevant to a native title claim in South Australia.

The State Government has a legal obligation to disclose all documents which are relevant (or which could be relevant) to native title claims in South Australia. The disclosure of documents is undertaken by staff within the Crown Solicitor's Office (CSO). Whilst a significant area of the State has had native title determined, work continues in this area to which records may be relevant, including post determination advising and in litigation and pre-action processes in respect of native title claims, including compensation claims.

This work could well be compromised by existing disposal authorities for official records. At the same time, ceasing destruction of all records is not a practical way to ensure that every record of potential relevance survives.

Initially, staff within the CSO developed a guideline called *Identifying documents which may be relevant to native title claims* to assist State Government agencies in identifying such documents. This Guideline assists with a comprehensive and consistent disclosure process. The Guideline drew extensively on material published in 1997 by the Queensland State Archives.

Since 9 February 1999, the Guideline has applied as a records disposal determination as General Disposal Schedule 16 (**GDS 16**). GDS 16 applies to records that are potentially relevant to native title that have been sentenced as a temporary record.

Until the Crown Solicitor (or authorised CSO officer) have determined actual relevance, any other disposal authority enabling destruction does not apply. Once a record has been determined to have actual relevance by the Crown Solicitor (or authorised CSO officer), it may not be destroyed before the date specified in GDS 16, irrespective of any other disposal authority.

If a record is determined to have no relevance to native title by the Crown Solicitor (or authorised CSO officer) GDS 16 ceases to apply to that record and it may be dealt with in accordance with other disposal authorities. Where an agency is satisfied that a record (or class of record) is not within the scope of the GDS 16, other disposal authorities will continue to apply.

Version 1 of GDS 16 was approved by State Records Council 9 February 1999 and is due to expire on 31 December 2024.

This version of GDS 16 replaces Version 1 which was due to expire on 31 December 2024. GDS 16 Version 2 now expires on 31 December 2049.

## Scope

GDS 16 places an immediate disposal freeze on any records which are or could be relevant to a native title claim in South Australia.

GDS 16 applies to official records in any format of South Australian Government agencies, Local Government and Universities and any other entities captured by the definition of 'agency' under the *State Records Act 1997*.

Agencies need to apply GDS 16 in addition to other relevant general and operational records disposal schedules.

GDS 16 does not affect records that have been sentenced as permanent under another disposal schedule.

Penalties for the unauthorised destruction of records are specified in various legislation, including the *State Records Act 1997* and the *Royal Commission Act 1902*.

## Objectives

The purpose of GDS 16 is to ensure that records which are or could be relevant to native title claims in South Australia are protected from destruction and available where required.

In order to achieve its aim, GDS 16 suspends authorisation to destroy any relevant records that could otherwise be legally destroyed under current disposal schedules determined by State Records and approved by the State Records Council.

Records identified as relevant must be retained until 31 December 2049 (and for any additional period that may be determined by a review).

GDS 16 provides a process for agencies to seek that the Crown Solicitor (or a staff member) determine actual relevance in respect of records that are considered as possibly relevant to native title.

# Categories of relevance to Native Title Claims

This list of records should be used as a guide for identifying records which may be relevant to native title claims. It is by no means an exhaustive list but is illustrative of classes and types of documents which may be relevant.

Records may be in hard copy or digital format. The format of the record is irrelevant.

Actual relevance is a matter to be determined by the Crown Solicitor (or CSO staff member).

## 1. Records relating to land tenure

These are records which deal with ownership or control of land by various types of land holders. They may also record changes in ownership of pieces of land.

Actual records may include:

- » certificates of title
- » leases
- » licences
- » survey plans

Land tenure records may relate to any of the following:

- » acquisition
- » alienation
- » easements and rights of way
- » freehold title or land grants
- » leases and surrender of leases
- » licences
- » national parks
- » reserves
- » resumption
- » transfers

## 2. Records relating to land usage

Records which deal with how and by whom the land is used and for what purposes.

Relevant records are those which contain information about the use of the land including the identification of:

- » administrative actions
- » agreements
- » applications and rights to use the land for a particular purpose
- » authorities
- » consents
- » environmental reports
- » general correspondence
- » leases
- » licences
- » permissions
- » permits

- » survey plans
- » the land
- » tourism.

Land use records may relate to any of the following:

- » agriculture
- » aquaculture
- » car parks
- » cemeteries and / or memorials
- » dams, bores, reservoirs
- » fishing
- » forestry
- » harvesting and use of indigenous flora and fauna
- » hospitals
- » housing
- » industry
- » irrigation
- » land for other special purposes which may include reserves for Aboriginal people
- » mining
- » national parks
- » pastoral
- » public works / maintenance
- » railways
- » recreation
- » roads and highways
- » schools
- » telecommunications facilities.

Examples:

- » a field note book from a surveyor who held a conversation with an Aboriginal person and recorded it in their notebook
- » a mining report detailing where minerals were located
- » documents detailing any ventures that may have been set up on the land by farmers, for example camel farming or the establishment of a hotel
- » records detailing the exploration and location of water in the desert

### **3. Records relating to land management**

Relevant records are those which contain information about the use of the land including the identification of:

- » administrative decisions and actions
- » general correspondence
- » plans
- » proposals
- » studies about the potential alienation and use of the land for various purposes

Land Management records may include the following:

- » building approvals
- » development plans
- » environmental impact statements
- » irrigation
- » licence and lease applications
- » pastoral land management
- » pipelines
- » records dealing with the management of indigenous flora and fauna
- » regional development applications
- » roads and bridges
- » town planning schemes
- » valuation records

Examples:

- » Primary Industries SA - brucellosis and tuberculosis eradication campaign
- » assessments of the land degradation or soil depletion
- » natural disasters eg floods
- » the construction of fences

#### **4. Records relating to Aboriginal occupation or use of the land**

Relevant records are those which contain information about the use of the land including the identification of:

- » Aboriginal language group/s, identified body corporate and land use
- » anthropological evidence
- » historical evidence
- » archaeological evidence
- » continuing and contemporary occupation or use or connection with the land from first records to the present
- » family/kinship relationships with a claimant group
- » sacred or secret sites of traditional significance
- » traditional/customary practices

Types of records may include:

- » administrative files including Births, Deaths and Marriages
- » court records
- » demographic reports
- » departmental policy documents
- » employment agreements
- » employment records including details of wages or training
- » files detailing the establishment and maintenance of reserves for Aboriginal people
- » files detailing the removal of Aboriginal people from particular areas of land
- » government ration station / mission records
- » housing records
- » personal files
- » school records
- » police records



- » records dealing with indigenous flora and fauna
- » registers or documents recording exemptions
- » social history files
- » welfare files

Examples:

- » Births, Deaths and Marriages Registration Office - certificates, notifications, records of no record
- » Correctional Services - files, registers
- » Department for Education - school journals, registers of students, principal diaries
- » Department for Child Protection or other relevant agencies - personal/client files, welfare files/social history files
- » Aboriginal Affairs and Reconciliation records
- » Aboriginal Protector records
- » Police Department - station journals
- » documents recording Government policies which may have impacted on Aboriginal people

## 5. Indexes and registers

These are an aid to locating materials.

Examples:

- » card indexes
- » file register

## 6. Maps, charts and plans

These records may include details of the following:

- » boundaries
- » geographical names
- » topography

Examples:

- » diagrams
- » graphs
- » sketches

# Implementation

GDS 16 is issued under the *State Records Act 1997*.

The *State Records Act 1997* was proclaimed in October 1997 to provide for the preservation and management of official records. GDS 16 is issued as a determination under Section 23 of the *State Records Act 1997*.

Section 23 of the *State Records Act 1997* states that no official records may be disposed of without a determination made by the Director [Manager], State Records and approved by the State Records Council.

Any modification of the Schedule by end users is not permitted. Changes can only be made with the approval of State Records and the State Records Council.

## **Updates/Amendments**

GDS 16 Version 2 is effective from 25 June 2024, retention is subject to a review at that date.

GDS 16 may be reviewed earlier by State Records or the State Records Council. Amendments approved by the State Records Council may be issued during this period.

## **Previous Disposal Schedules Revoked**

GDS 16 Version 1 approved by the State Records Council on 9 February 1999 expired 25 June 2024.

## **Complementary Disposal Schedules**

A South Australian Government agency needs to use GDS 16 in association with other General Disposal Schedules and the agency's operational records disposal schedule/s.

## **Record Formats**

GDS 16 applies to records in any format.

## **Access Responsibilities**

A South Australian Government agency needs to ensure that official records, irrespective of format, will remain accessible for the duration of the designated retention period. By "accessible" it is meant that the information contained within a record remains readable for the life of the record.

## Actions Required of Agencies

South Australian Government agencies, Local Government and Universities and any other entities captured by the definition of 'agency' under the *State Records Act 1997* need to:

- ensure that staff responsible for records management are informed of GDS 16 and the disposal freeze that it imposes;
- sentence records against GDS 16 in addition to other relevant disposal schedules, e.g. GDS 30, GDS 40, GDS 50 and any RDS relevant to the agency;
- check if they or their approved service provider for records storage have any records due or overdue for destruction that come within the scope of GDS 16;
- withhold from destruction any temporary value records identified as relevant; and
- retain the records for the duration of the disposal freeze, i.e. at least until 31 December 2049, set by GDS 16, or until further notice.

The sentencing of records affected by the disposal freeze can continue. However, the records must be set aside and retained for the period of the disposal freeze. The records need to be retained by the agency – they will not be accepted for transfer to State Records.

The processing and storage costs arising from the implementation of GDS 16 will need to be borne by the South Australian Government agencies affected.

## Disposal Determination

Item No.	Description (Disposal Class)	Disposal Action
1.	Where an agency decides an official record may have relevance	Retain record until the Crown Solicitor (or a delegate) has determined actual relevance
2.	Where the Crown Solicitor (or a delegate) determines actual relevance	Retain until 31 December 2049, or later if required by another disposal schedule

## Further Information

For changes or updates to GDS 16, please contact Information Governance, State Records on (08) 7322 7081 or email [staterecords@sa.gov.au](mailto:staterecords@sa.gov.au).

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