

Notice of Records Disposal Freeze for Records Relating to the Royal Commission into National Natural Disaster Arrangements

The purpose of this document is to notify public sector organisations which may be in possession of records relevant to the scope of the Royal Commission into National Natural Disaster Arrangements (Royal Commission) that a disposal freeze has been placed on records which may be required for the inquiries of the Royal Commission or related legal actions or investigations.

Background

On 20 February 2020 the Prime Minister, the Hon Scott Morrison MP, announced the establishment of the Royal Commission into National Natural Disaster Arrangements (sometimes known as the 'Bushfire Royal Commission').

The Letters Patent and Terms of Reference establishing the Royal Commission were issued on 20 February 2020 by the Governor-General, His Excellency General the Honourable David Hurley AC DSC (Ret'd). Air Chief Marshal Mark Binskin AC (Retd) has been appointed as the Chair of the Royal Commission.

The Royal Commission will examine how Australia is prepared and coordinated across the Commonwealth, States and Territories to respond to bushfires and other natural disasters as well as mitigation and recovery.

The Royal Commission will examine coordination, preparedness for, response to and recovery from disasters as well as improving resilience and adapting to changing climatic conditions and mitigating the impact of natural disasters. The inquiry will also consider the legal framework for Commonwealth involvement in responding to national emergencies.

The aim of the disposal freeze is to avoid the risk of losing crucial evidence for the Royal Commission or related legal actions.

Authority

Archives Service and the Records Service issue this disposal freeze in accordance with Section 136B of the *Information Act*. Destruction of records covered by a disposal freeze is considered illegal disposal under Section 145 of the *Information Act*.

Agencies Affected

The disposal freeze **applies to all public sector organisations** which may hold (as defined in s 6 of the *Information Act*) records relevant to the scope of the Royal Commission, in particular:

- Department of Environment and Natural Resources
- Department of the Attorney-General and Justice;
- Department of Treasury and Finance
- Department of Infrastructure Planning and Logistics
- Department of the Chief Minister
- Department of Local Government, Housing and Community Development
- Department of Tourism, Sport and Culture

- Northern Territory Police, Fire and Emergency Services
- Territory Families;
- Power and Water Corporation

Records Affected

In broad terms, this freeze covers records which may be required by the Royal Commission such as:

- Records relating to the coordination between the Commonwealth and States and Territories relating to the preparedness for, response to, resilience to, and recovery from, natural disasters.
- Records relating to resilience and adapting to changing climatic conditions
- Records relating to accountability frameworks for natural disaster risk management, preparedness, resilience and recovery, including standards.
- Records relating to Australia's legal framework and State or Territory requests for Commonwealth assistance in relation to national emergencies.
- Records relating to the declaration of a state of national emergency
- Records relating to the interaction between state of emergency and emergency management frameworks;
- Findings and recommendations (including any assessment of the adequacy and extent of their implementation) of investigations and inquiries into natural disasters.
- Records relating to standards, rule-making, reporting and data sharing – with respect to key preparedness and resilience responsibilities, including for the following:
 - Land management, including hazard reduction measures;
 - Wildlife management and species conservation, including biodiversity, habitat protection and restoration;
 - Land-use planning, zoning and development approval (including building standards), urban safety, construction of public infrastructure, and the incorporation of natural disaster considerations;
- Records relating to ways in which the traditional land and fire management practices of Indigenous Australians could improve Australia's resilience to natural disasters.

The disposal freeze applies to records that could otherwise be destroyed under Northern Territory Government Records Disposal Schedules.

The disposal of records not covered by a disposal schedule is an offence under Section 145 of the *Information Act*.

The disposal freeze also covers control records which may identify relevant records such as registers of files, card and electronic indexes of files and records, metadata identifying specific records in databases and other digital business systems.

The disposal freeze covers records in all formats, including paper files and documents, microfilm and magnetic tapes, audio and visual recordings, photographs and records created and stored digitally (including information in relevant current and legacy databases and digital business systems).

All records in digital formats, including information in databases and other digital business systems, must be maintained with all the metadata necessary to support retrieval and access to authentic and reliable information.

In practice, the freeze should only affect those records due to be destroyed within the period of the freeze, not the total quantity of records that fit the description of records. However, it is incumbent on public sector organisations to evaluate all records due for destruction and assess their likely relevance to the Royal Commission investigations.

Schedule B details the categories of records subject to the records disposal freeze

Duration

This disposal freeze is in force immediately. A review of the requirement for the continuation of the disposal freeze will be undertaken by the Archives Service and Records Service prior to 31 August 2020.

Action Required

Public sector organisations must:

- Notify all staff and other relevant parties (including third party service providers) responsible for the disposal of public records that a disposal freeze has been issued.
- Withhold from destruction any records within the scope of the records disposal freeze.
- Retain the records identified in the disposal freeze until further notice.

The preparation for 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 should be retained by the organisation; they will not be accepted for transfer to the Library & Archives NT. Organisations have the option either to identify and set aside the particular records covered by the freeze, or to implement a broader freeze on all records likely to contain relevant material.

This disposal freeze does not apply to records sentenced as permanent against an authorised records disposal schedule.

Impact

The costs relating to the management and storage of an agency's temporary records covered by a records disposal freeze is the responsibility of the public sector organisation.

Further Information

For further information please refer to:

[Records Disposal Freeze Policy for NT Public Sector Organisations](#)

[Records Disposal Freeze Implementation Advice for NT Public Sector Organisations](#)

[Letters Patent and Terms of Reference](#)

Enquiries

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[signed]

Patrick Gregory

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30 March 2020

[signed]

Doug Cooke

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30 March 2020

Schedule A: National Natural Disaster Royal Commission Terms of Reference

The terms of reference (listed below) for the Royal Commission are included in the Letters Patent, which the Governor-General of the Government of the Commonwealth of Australia, signed 20 February 2020;

- (a) The responsibilities of, and coordination between, the Commonwealth and State, Territory and local Governments relating to preparedness for, response to, resilience to, and recovery from, natural disasters and what should be done to improve these arrangements, including with respect to resource sharing;
- (b) Australia's arrangements for improving resilience and adapting to changing climatic conditions, what actions should be taken to mitigate the impacts of natural disasters, and whether accountability for natural disaster risk management, preparedness, resilience and recovery should be enhanced, including through a nationally consistent accountability framework and national standards.
- (c) Whether changes are needed to Australia's legal framework for the involvement of the Commonwealth in responding to national emergencies, including in relation to the following:
 - (i) Thresholds for, and any obstacles to, State or Territory requests for Commonwealth assistance;
 - (ii) Whether the Commonwealth Government should have the power to declare a state of national emergency
 - (iii) How any such declaration would interact with State and Territory emergency management frameworks;
 - (iv) Whether, in the circumstances of such a national declaration, the Commonwealth Government should have clearer authority to take action (including, but without limitation, through the deployment of the Australian Defence Force) in the national interest
- (d) Any relevant matter reasonably incidental to a matter referred to in paragraphs (a) to (c).
- (e) The findings and recommendations (including any assessment of the adequacy and extent of their implementation) of other reports and inquiries that you consider relevant, including any available State or Territory inquiries relating to the 2019-2020 bushfire season, to avoid duplication wherever possible;
- (f) Ways in which Australia could achieve greater national coordination and accountability – through common national standards, rule-making, reporting and data sharing – with respect to key preparedness and resilience responsibilities, including for the following:
 - (i) Land management, including hazard reduction measures;
 - (ii) Wildlife management and species conservation, including biodiversity, habitat protection and restoration;
 - (iii) Land-use planning, zoning and development approval (including building standards), urban safety, construction of public infrastructure, and the incorporation of natural disaster consideration;
- (g) Any ways in which the traditional land and fire management practices of Indigenous Australians could improve Australia's resilience to natural disasters.

Schedule B: Categories of records subject to the records disposal freeze

The following categories of records have been identified by the Archives Service and Records Service as those most likely to contain relevant records subject to this disposal freeze. The examples provided are for guidance only and other categories of records not listed below may contain information relevant to the inquiry:

1. Records relating to the coordination between the Commonwealth and States and Territories relating to the preparedness for, response to, resilience to, and recovery from, natural disasters, such as:

- Agreements between the Commonwealth and the Northern Territory relating to disaster management;
- Committee and meeting records relating to disaster management;
- Policies and procedures relating to the intergovernmental liaison relating to natural disasters.
- Documents detailing the protection of critical infrastructure in the context of natural disasters.

2. Records relating to resilience and adapting to changing climatic conditions, such as:

- Project and Program records for climate change mitigation;
- Records relating to reviews of the relationship between weather and climate conditions and bushfire trends.

3. Records relating to accountability frameworks for natural disaster risk management, preparedness, resilience and recovery, including standards, such as:

- Reporting requirements for natural disaster management;
- Standards relating to disaster preparedness, response and recovery;
- Business continuity plans in relation to natural disasters, including disaster plans such as cyclone plans;
- Risk management records relating to natural disasters;
- Crime and infringement management relating to bushfires.

4. Records relating to Australia's legal framework and State or Territory requests for Commonwealth assistance in relation to national emergencies, such as:

- Records relating to laws, regulations and agreements between the Commonwealth Government and the Northern Territory in relation to requests for assistance in the case of national emergencies, such as natural disasters;
- Records relating to requests by the Northern Territory for assistance from the Commonwealth in relation to national emergencies.

5. Records relating to the declaration of a state of national emergency, such as:

- Records relating to the procedures relating to declaration of a state of emergency;
- Records relating to the powers/authority to declare a state of emergency.

6. Records relating to the interaction between state of emergency and emergency management frameworks, such as:

- Records relating to procedures and communication between agencies responsible for declaration of state of emergency and emergency management frameworks;
- Records relating to liaison between local government authorities and the NT Government relating to agreements, plans, and meetings relating to the delivery of emergency management services.

7. Findings and recommendations (including any assessment of the adequacy and extent of their implementation) of investigations and inquiries into natural disasters, such as:

- Records relating to investigation or assessment of assistance provided by the Northern Territory during the 2019-2020 bushfire season;
- Analyses of occurrence of bushfires;
- Reports regarding the implementation of recommendations from previous Royal Commissions or other inquiries relevant to prevention of bushfires.

8. Records relating to standards, rule-making, reporting and data sharing – with respect to key preparedness and resilience responsibilities, including for the following:

- Land management;
 - Records relating to agreements, such as burning and fire management agreements relating to bushfire management;
 - Records relating to property fire management plans;
- Hazard reduction measures;
 - records relating to plans in relation to bushfire management, such as regional bushfire plans for fire management zones, fire management plans, strategic plans and the Aboriginal Carbon Industry Strategy;
 - Reviews of the cost of bushfire hazard reduction activities;
 - Annual data on bushfire fuel conditions and occurrence of bushfires;
 - Records relating to bushfire hazard reduction activities; local government records relating to regional hazard reduction plans;
- Wildlife management and species conservation, including biodiversity, habitat protection and restoration;
 - Records relating to advice on the impact of bushfire management on the environment;
 - Records relating to conservation and ranger programs;
- Land-use planning, zoning and development approval (including building standards), urban safety, construction of public infrastructure, and the incorporation of natural disaster consideration;
 - Reviews assessing relationship between planning laws/building regulations and mitigation of risks posed by bushfires and other natural disasters.

9. Records relating to ways in which the traditional land and fire management practices of Indigenous Australians could improve Australia's resilience to natural disasters:

- Records relating to fire management and hazard reduction procedures of Indigenous Australians;
- Records relating to programs for the involvement of Indigenous Australian persons in bushfire mitigation activities.