

GENERAL DISPOSAL SCHEDULE 16

Impact of Native Title Claims on Disposal of Official Records

The State Government has a legal obligation to discover all documents which are relevant (*or which could be relevant*) to native title claims in South Australia. The discovery of documents is being undertaken by the Native Title Section, part of the Crown Solicitor's Office.

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

The Native Title Section has developed a guideline *Identifying documents which may be relevant to native title claims* to assist State Government agencies in identifying such documents. This will help ensure a comprehensive and consistent discovery process. The guideline draws extensively on material published in 1997 by the Queensland State Archives. A pilot project in the Department for Environment, Heritage and Aboriginal Affairs (being conducted in 1999) will allow direct evaluation of the guideline, and a more detailed one may be issued as a result.

The guideline needs to be reinforced as a records disposal determination. This is because some records identified as potentially relevant may have been sentenced as a temporary record with a short retention period. Until staff of the Crown Solicitor's Office have had an opportunity to determine actual relevance, any other disposal authority enabling destruction must be set aside. By a decision made by the State Records Council on 10 November 1998, once any record has been deemed to have actual relevance, it may not be destroyed before 31 December 2024, irrespective of any other disposal authority. Where an agency is satisfied that a record (or class of record) is not within the scope of the guideline, other disposal authorities will continue to apply.

The following disposal determination was approved by the State Records Council on 9 February 1999: It has immediate effect.

Before destroying any official record, and irrespective of other disposal authorities, State Government agencies must take cognisance of and apply the guidelines entitled *Identifying documents which may be relevant to native title claims* before any final sentencing and destruction is carried out. The effect of the schedule is confined to records already sentenced as having temporary value.

RESULT OF APPLYING GUIDELINE

DISPOSAL ACTION

Where an agency decides an official record may have relevance

Retain record until Crown Solicitor's Office has determined actual relevance

Where the Crown Solicitor's Office determines actual relevance

Retain until 31 December 2024, or later if required by another disposal authority

Michael Hodder
MANAGER OF STATE RECORDS
9 February 1999

Identifying Documents which may be relevant to Native Title Claims

This document is to 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.

Actual relevance is a matter to be determined by officers of the Crown Solicitor's Office.

1. Records relating to land tenure

These are records which deal with ownership or control of land by various types of land holder. 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;
- 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 a local Aboriginal person and recorded it in his/her notebook;
- ◇ a mining report detailing minerals located;
- ◇ documents detailing any ventures that may have been set up on the land by farmers eg 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

The are records containing information about:

- * administrative 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

These are records containing information about:

- * Aboriginal language groupings and usage;
- * Anthropological evidence;
- * Archaeological evidence;
- * Continuing and contemporary occupation or use or connection with the land from 1836 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;
- 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;
- 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;
- ◇ Education, Training and Employment - school journals, registers of students, principal diaries;
- ◇ Family and Community Services - personal/client files, welfare files, 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 searching material

6. Maps, charts and plans

These records may include details of the following:

- * boundaries;
- * geographical names;
- * topography.

7. Other mediums of recording material

These may include the following:

- audio tapes;
- computer disks;
- diagrams;
- graphs;
- microfiche;
- microfilm;
- photographs;
- sketches;
- slides;
- sound recordings;
- video tapes.