

Submission
No 44

**INQUIRY INTO STATE RECORDS ACT 1998 AND THE
POLICY PAPER ON ITS REVIEW**

Organisation: Australian Society of Archivists Inc

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Australian
Society of
Archivists

Inquiry into the State Records Act 1998 and the Policy Paper on its review

Submission to the Standing Committee on Social Issues, Parliament of NSW

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The Australian Society of Archivists Inc. (ASA) is the peak professional body for archivists in Australia. We advocate on behalf of the archival and recordkeeping profession and seek to promote the value of archives and records as well as support best practice standards and services. The Society has over 1000 individual and corporate members and is administered on a national basis by an elected Council. Branches and Special Interest Groups are active in all States and Territories.

The ASA is grateful for this opportunity to contribute to the review of the *State Records Act 1998* (NSW).

1. Overview

The ASA welcomes the NSW Government's commitment to increase public knowledge and enjoyment of the stories that shape our social, historical and cultural identity. It also welcomes the Government's support for access to sources that illuminate our shared history and the contemporary issues that will shape our shared future.

In responding to the Terms of Reference, the ASA is focused primarily on the role, purpose and future of the State Records and Archives Authority ('the Authority') rather than Sydney Living Museums (SLM). The ToR includes reference to the proposed reforms set out in *Review of the State Records Act Policy Paper* (Policy Paper) prepared by the Authority. The ASA notes there is no similar policy statement regarding the *Historic Houses Act 1980* and the Policy Paper does not provide any detailed assessment as to the advantages or otherwise of reform for Sydney Living Museums.

1.1 Position statement

The ASA's position is:

1. **The State Records and Archives Authority is the State's key evidence and accountability body and this role must not be diluted.** Archives enable good recordkeeping in support of organisational efficiency, corporate memory and good governance. In relation to the latter, in democratic societies, government archives are vitally important enablers of a healthy democracy.
2. **The State Records Act needs to support digital transformation and support the State's world-leading digital first capabilities and digital customer service innovations.** The Act must give the Authority a mandate to prepare for and coordinate the management of the archives of tomorrow.
3. **The State Records Act needs to empower the Authority to deal with the challenges of genuine digital transformation and the maintenance of digital evidence.** It is not enough for an archival agency to collect records. These sources of evidence must be protected so that they remain authentic, accessible and useable for as long as needed.
4. **There is strength in diversity:** It is the ASA's strongly held position that a strong and vibrant ecosystem of collaborating cultural institutions is critically important for the continued success of our democracy and our State. The ASA believes that the merging cultural institutions based on a perceived shared model of digital delivery is not appropriate for archival institutions.

1.2 Summary of Key Issues

The ASA's submission makes the following key points:

1. The ASA does not support the proposal set out at 3.1 in the Policy Paper to create a single institution replacing the existing Authority and SLM. The ASA does not believe that this will help the NSW Government to achieve its objectives of meeting community needs and protecting the State's key cultural assets.
2. The current Policy Paper is proposing combining legislation for two very different entities: the Authority is responsible for good governance and evidence creation and Sydney Living Museums is responsible for contextualising the past. It is the view of the ASA that this has the potential to create strategic, operational and conceptual risks for both entities. The ASA does not support combining legislation for two very different entities.
3. There are however aspects of the Policy Paper that the ASA does support, such as increasing citizens' timely access to records and a focus on compliance to ensure the government archives in all formats (physical and digital) are created, maintained and preserved appropriately.
4. It is critical that the Authority has the resources and the authority to enact its formal role in Government recordkeeping. The *State Records Act 1998* regulatory framework needs to maintain as its core focus the support for efficient, effective and accountable recordkeeping. Ongoing evidential records are critical to accountability and to the ability of the Government and the community to have ongoing access to information and insights. They are also critical to the effectiveness of the long term operations and service delivery in all NSW public office environments. Without strong support from the Authority and without a strong and focused legislative framework, each part of the NSW public sector will be negatively impacted.
5. The ASA does not believe that the proposed reforms support digital government. As they will not adequately resource and sustain ongoing evidence of Government activity, the ASA does not believe that the proposed reforms will increase public knowledge and enjoyment of the stories of NSW. The ASA also does not believe that the reforms will enhance the protection of the key cultural assets of NSW. As the reforms will not achieve any of these objectives, effects on NSW public offices, including NSW Government agencies, local councils, public health organisations, universities and State-owned corporations as well as the community of NSW are likely to be negative.
6. It should be a priority for the NSW government to always have the evidence it needs to make sound decisions and to hold people accountable but the reforms proposed to the State Records Act will not enable this to be achieved.
7. The ASA supports revising the State Records Act to increase its public access provisions and appeal rights, and to reduce the open access period. The ASA also recommends that the review of the State Records Act addresses issues impacting the effective creation and management of the current records of government that will become the archives of the future.
8. The ASA notes a similar integration in 2003 between an archive and a cultural business organisation (the National Film and Sound Archive and the Australian Film Commission) was ultimately unsuccessful. The different objectives of the organisations proved incompatible and unworkable. The organisations were de-merged after 5 years.¹

¹ Ray Edmonson, *National Film and Sound Archive : the quest for identity : factors shaping the uneven development of a cultural institution*, Thesis - PhD thesis, 2011. Available from: <http://www.canberra.edu.au/researchrepository/items/b433f19b-0f56-351a-c914-5aa319fb1300/1/>

2. The ASA's Response to the Terms of Reference:

2. 1 The role and purposes of the State Records Authority of NSW and Sydney Living Museums

It is the role of Sydney Living Museums to bring history to life through a diverse program of exhibitions, research and events. SLM works to allow visitors to experience Sydney's past as if they had lived it themselves. The SLM manages and preserves private properties on behalf of the state.

In contrast the role of the Authority is to ensure that the essential records of Government activity are created, secured and maintained. It performs this role so that the people of NSW have both evidence and memory. These records provide administrative accountability and transparency. They support better decision making, they uphold the rights and entitlements of individuals. They provide all members of the community with access to their history and identity. By enforcing good recordkeeping in current government and by then maintaining the core records of each government, archives are critical to democracy.

Unlike SLM, the Authority is not only a collecting and cultural institution. Its role is also to regulate standards for records and information management across NSW government.

The Authority therefore plays important twin roles as both a state cultural institution and as a key agency that supports integrity and accountability in public administration. These twin roles need to be celebrated. Resourcing for the Authority as an independent institution needs to be adequate to support both these objectives.

It is the ASA's position that while the Policy Paper seeks to safeguard the Authority's key accountability role by replacing each existing governing Council with a Committee, this is a dilution of the Authority's important independence.

The NSW Government's legislative responsibilities under the *NSW Privacy and Personal Information Protection Act*, the *NSW Health Records Privacy and Information Protection Act* and the *Government Information (Public Access) Act* are significant. The NSW Information and Privacy Commissioner has stated that these responsibilities are underpinned by the record creation and management responsibilities outlined in the State Records Act.

The independence of the Authority in outlining the standards, policies and legal retention requirements that apply to all NSW public offices is therefore foundational to all other information and accountability legislation in NSW. It is also critical to enabling public trust. The ASA therefore does not support a proposal that would weaken these critical, cross-government legislative and governance foundations.

The Authority must be allowed to perform its role as an enabler of integrity in public administration independently from political or executive interference, potentially as an Executive Agency, and must retain ownership and control of key areas including:

- standards setting for recordkeeping
- the identification and protection of State archives
- the provision of access to State archives
- reporting and enforcement.

The Authority must also have strong enforcement capabilities and needs the responsibility of reporting to Parliament on the state of public sector recordkeeping. The Authority should also have the option of referring potential breaches to the ICAC.

Storytelling is important but the key focus of the revision of the State Records Act needs to remain on the creation and maintenance of evidence. It should not address the creation of a single storytelling institution as this significantly dilutes any impact the organisation can have as a guardian of evidence. Any dilution

of its role will likely mean that the organisation will fail to fulfill the basic need of a community in a democratic society of access to accountable information.

The ASA does not support the creation of a single institution under the proposed organisational structure and governance model.

The ASA does not support the NSW Government's proposal to replace the State Archives and Records Authority of NSW (Authority) and Sydney Living Museums (SLM) with a single institution responsible for their activities.

It is the ASA's strongly held position that a strong and vibrant collection of cultural institutions is critically important for the continued success of our democracy and our State.

The Authority and SLM each currently have their own long standing core focus, mission, collection and brand. Each of these is very distinct and there is no natural alignment between them. The one point of commonality is that each hold and manage materials generated in the eighteenth and nineteenth century - one, evidence of government decision making, actions and community impact and the other physical artifacts from individuals in this time period. From a collections and also a storytelling perspective, there is very little natural alignment between these two institutions.

However the ASA is very supportive of these institutions developing and articulating a shared narrative that directly connects their operations with the broader and collective story of NSW. This shared narrative can help to drive their individual and collaborative work.

However it is the position of the ASA that there is great strength in the diversity represented by the individual cultural institutions and their brands, and in exploiting opportunities as they arise to come together for specific program and operational initiatives, in the community interest.

There is significant benefit in maintaining the ongoing collaboration between SLM and the Authority and building on the impressive outcomes that have already been achieved. However the ASA advocates that Authority and SLM should remain separate entities and continue their current successful collaborations.

While collaboration can benefit all sectors in the galleries, libraries, museums and archives (GLAM) community, the ASA believes that a clear understanding between the sectors of each distinct value proposition is critical to ensuring that all sectors continue to meet their respective missions.

It is the position of the ASA that a single combined entity would not be more effective in telling the community's stories and making NSW history more widely known and enjoyed. This is because the Authority needs to play twin complementary roles as both a cultural memory institution and as an enabler of integrity in public administration. These are both equally important roles and should be recognised as such.

A single entity that combines the Authority and SLM with a principle focus on telling community stories and promoting NSW history would constrain the organisation's ability to enable integrity in public administration. This then constrains the ability of any cultural institution to promote histories and stories into the future, because the essential role of ensuring good ongoing records and documentation of the state would be impacted.

2.2 The adequacy of the Act in meeting citizens' needs

The ASA states that the proposed reform is not adequate to meet citizen needs. It is inadequate to support the creation and management of key records and archives across the State's digital business environments.

The citizens of NSW need to be able to access information about their rights and entitlements. They need to have confidence that these rights and entitlements will be recognised and protected. They need all NSW public offices to be accountable and open to public scrutiny. People need open, easy and transparent access to government information and they need that information to be accurate and authentic. They need their privacy protected and their security respected. They need to be able to access their cultural heritage. Citizens therefore need a strong State Records Act that helps to protect these outcomes.

The community also expects an archive that grows and evolves to continually reflect and provide evidence of government and society. While keeping account of the present and the past, an archive must always continue to look forward. Citizens of NSW will need access to records of pandemic, climate change, the economy, educational and employment transformation in the face of digital economies, migration and community evolution. The review of the State Records Act must therefore seriously consider what is needed to enable the creation and maintenance of these archives of the present and future.

In the review, archives must not be seen as institutions focused on the past. As Dr Anthea Seles has said, it is critical for archives and archivists to be seen less as custodians of historical records and more as data scientists responsible for the care of evidence.²

In the twenty-first century, archives must be forward-looking. The review of the Act needs to be more comprehensively focused on enabling the Authority to govern the records that citizens of today expect to be maintained. The Authority also must be better resourced to achieve this. Currently it is not, and currently the Act is not sufficiently powerful to achieve this. In this way the Act is not adequate to meet citizen needs.

While increased knowledge and enjoyment of the rich, multi-layered stories that speak to who we are is definitely a community need, it is the position of the ASA that the critical loss of evidence and archives across the State's digital business environments is the key area where the Act is currently not meeting citizens' needs.

To serve citizen needs, the role of the Authority needs to be empowered by a revised Act to secure key government records and to make sure these are available for community access, now and into the future. It is also the role of the Authority to support NSW public offices to deal with the digital information deluge they face, to help them provide accountability and good governance and prioritise the ongoing management of the records the NSW community needs.

Whether the Act is currently meeting citizens' needs can potentially be answered by asking whether a teenager today would be able to access information about themselves and the government decisions that impacted them in twenty years' time. The Act will be meeting citizen needs if key records about the youth of today are guaranteed to be maintained, accessible and usable twenty years into the future.

² Cited in Laura Millar (2017) On the crest of a wave: transforming the archival future, *Archives and Manuscripts*, 45:2, 59-76, DOI: [10.1080/01576895.2017.1328696](https://doi.org/10.1080/01576895.2017.1328696)

Unfortunately however, to the teenagers of today, the most likely answer currently in NSW Government is no, there are no guarantees that this evidence and information will be available. And unless the State Records Act is reformed to re-energise its focus on evidence and unless the Authority's ability to genuinely engage public offices and maintain evidence is adequately resourced, the answer will remain no for generations into the future.

Another key point to note in relation to citizen needs is that the evidence in the archives is frequently used by people in the community for matters of critical importance. For example, evidence from the archives has recently been used during the Royal Commission into Institutional Responses to Child Sexual Abuse, in police investigations, to reinstate the rights and entitlements of Indigenous communities, for climate change research and analysis etc. The importance of the availability and access to records to the community and especially the most vulnerable members of the community was set out most recently during the Royal Commission into Institutional Responses to Child Sexual Abuse *Volume 8: Recordkeeping and information sharing* (2017). Citizens need ongoing access to evidence to protect their rights and to allow this type of scrutiny and accountability.

Because archives are evidence, the users of archives are a very broad community. They also include students, educators, lawyers, scientists, economists, historians, journalists, senior citizens, geographers, genealogists and political activists.

In terms of citizen needs it is important to note that some groups of users require access to archives to access rights and entitlements, or to access cultural identity and rebuild connection, or to enable positive mental health outcomes. These users include remote and regional Australians, Indigenous users, people with disabilities or women over 65.

While collective storytelling will always be important, a very strong citizen need is for archives to help people to tell 'stories of me'. People come to archives not to not coordinate broader storytelling but to help them to trace, tell, challenge and even re-write their own personal and family stories.

Extensive international research is also showing that citizens need trust in government. The results from the 2020 Edelman Trust Barometer³ are very sobering in this regard. The 2020 findings show that 76% of the Barometer's more than 34,000 respondents worry about the quality and trustworthiness of the information available to them. The findings show that government is seen by respondents as less ethical and less competent than NGOs, business and the media. The 2020 survey report notes that this result was particularly strong in Australia. Government is also seen as the least fair of each of these institutions. The report also notes that ethics are identified as being hugely important to respondents. The very credible Edelman research shows that government needs to build its trust with its citizens. Creating a robust and accountable State Records Act is a key way to achieve this outcome.

2.3 Factors constraining public access to and use of the documentary and material heritage of NSW

The ASA is supportive of the aspects of the Policy Paper that identify improvements to the State Records Act's public accessibility provisions and recommends the review consider a greater focus on the long-term accessibility and integrity of born-digital records.

The ASA believes that the proposals to make records in the open access period open by default, unless the public office that is responsible for the records makes a 'closed to public access' (CPA) direction will greatly facilitate public access to records.

³ Available from <https://www.edelman.com/trustbarometer>

The ASA also believes that reducing the open access period to 20 years is in line with other jurisdictions and community expectations.

The ASA would also like the public's right to appeal against access directions to be included in the legislation, similar to the provisions under section 56 of the GIPA Act that enable the review of GIPA decisions.

To provide access to some material in advance of the proposed twenty year access period, the ASA supports maintaining the current early access and special access provisions of the Act.

2.3.1 Other issues impacting public accessibility that need to be addressed in the legislative review

a) The review needs to consider the challenges of online accessibility for large, primarily paper based archives

The community is increasingly expecting new levels of access to collections online and is building an extensive array of skills in sourcing information. There are significantly growing expectations that accessible and high quality digital content will be made freely available online. This expectation is growing across all audiences.

However the ASA cautions against the digitisation of the Authority's very extensive paper record collections as a solution to public accessibility challenges. While the right to public access is a key tenet of Australia's cultural institutions, it is unrealistic to digitise all of the millions of items in the Authority's extensive collection for online distribution. The ASA contends that such an aim would not be an appropriate use of resources. Balancing the rights to digital and face to face access and the appropriate resourcing of each is a key issue for the review to consider.

b) The review needs to urgently address public accessibility challenges caused by 'the digital dark age'

Alexander Stille, Professor of Journalism at Columbia University has said that, "One of the great ironies of the information age is that, while the late twentieth century will undoubtedly have recorded more data than any other period in history, it will also almost certainly have lost more information than any previous era."⁴

Paper records created in the 19th century are still stable and accessible today. However many records created just last year in NSW Government have already completely disappeared due to inaccessible cloud environments, black box vendor environments, obsolete software and servers, deletion or general lack of management. The Government has an extraordinary public accessibility vacuum that needs to be urgently addressed in the review of the Act.

Public accessibility into the future is completely reliant on the evidence of today being protected so that it remains authentic, accessible and useable for as long as it is needed. The review needs to acknowledge that this is incredibly hard. NSW government records and archives do not manage themselves. They are distributed across multiple networks and clouds and email boxes. They are held in public/private management arrangements. They are in tens of thousands of systems in tens of thousands of software formats. The core records of government that the public wants to access, and that the public has a democratic right to access, will not continue to exist for posterity, evidence, research and storytelling if they are not managed well from their point of creation. And this takes a large amount of coordinated work.

⁴ Cited in Richard J. Cox, *Closing an Era: Historical Perspectives on Modern Archives and Records Management*, Greenwood Press, 2000, p114.

The Authority has an incredibly broad remit that is not adequately addressed in the Policy Paper. It serves all NSW public offices, be they agencies, departments, state owned corporations, health sector organisations, universities or local government. The records it is responsible for can be information, data or metadata. They can be digital, physical, digitised, databases, film or audio. They can be in the physical possession of public offices, held by third party service providers or Government contractors or dispersed externally in an international cloud. Of course the Authority also holds kilometres of nineteenth and twentieth century paper records, much of which it has never been resourced to organise and make accessible.

c) The review of the Act needs to support NSW’s position as the digital transformation leader across Australian government

Intermedium, an Australian ICT analysis organisation, has developed a Digital Government Readiness Indicator Report (DGRI) each year since 2017. The NSW government has topped this list every year and this year, in February 2020, the report stated:

‘New South Wales remains in the national lead, as has been the case in every DGRI published to date. Its score of 9.7 reflects the significant level of change activity that has occurred following the March 2019 election, which gave the returned Coalition government the ability to further consolidate its customer service and digital transformation vision.’⁵

The NSW State government is leading the nation in digital transformation. A key underpinning for sustainable digital transformation is enabling the long-term accessibility and integrity of born-digital records. To support the ongoing digital transformation of government, the review of the Act needs to consider how to support this ongoing government and citizen need.

2.4 The operation and effect of the proposed reforms in the attached Policy Paper

In this section the ASA addresses the following elements from the terms of reference:

- the effect of the proposed reforms on NSW public offices
- whether the proposed reforms support digital government
- whether the proposed reforms will increase public knowledge and enjoyment of the stories that shape our social, historical and cultural identity
- whether the proposed reforms will enhance the protection of the key cultural assets of NSW.

2.4.1 The effect of the proposed reforms on NSW public offices

The ASA does not believe that the proposed reforms assist NSW public offices with the governance, accountability and resourcing challenges they face.

Government business, and therefore Government recordkeeping, has never before taken place in more complex or more extensive environments. The ASA believes that the proposal to replace the Authority and SLM with a single institution responsible for their activities will have negative effects on NSW public offices. This is will be driven by:

⁵ Intermedium, *Digital Government Readiness Indicator Report 2020* (pg. 7) Available from <https://www.intermedium.com.au/content/DGRI-2020>

- the dilution of the Authority's independence
- the weakening of critical, cross-government legislative and governance foundations that will occur through a weakening and split focus of the State Records Act
- an emphasis more on culture and storytelling, which will not assist public offices with the critical accountability, information governance and resourcing issues they face.

Across government, more records and information are being created today than ever before in recorded history. The challenge of maintaining the core information needed as an ongoing record by government and the community is gargantuan in size.

The Policy Paper does not encompass any strategies for dealing with this extraordinary challenge, other than require public offices to identify what twenty year old records they will transfer to the Archives. This strategy does not resolve any of these critical accountability issues and therefore does not support NSW public offices.

To support NSW public offices, the review needs to define and resource the Authority's key role in:

- analysing government functions
- identifying community and government information priorities
- developing strategies, policies and procedures in collaboration with NSW public offices to maintain ongoing evidence of government business.

The scale of this challenge should not be underestimated in the review. The NSW Government is faced with an enormous and urgent digital preservation challenge in relation to born-digital records, a challenge that requires a sustained and comprehensive response from the Authority.

Currently, due to the very minimal amounts of digital records that have been transferred to the Authority, it is clear that the majority of born-digital archives exist outside the custody of the Authority. This is a significant government inefficiency and risk. It means that currently each individual public office is resourcing the maintenance of this information individually. This is a significant and repeated cost that should be consolidated. The lack of genuine records transfer to the Digital State Archive also means that much core government information is just not being maintained. As has been discussed, this is a very significant risk to citizen rights and government accountability.

To meet the needs of NSW public offices, the State Records Authority must be empowered under its legislation to successfully function as an independent organisation that serves accountability, protects citizen rights and makes evidence available for all memory and identity needs across Government and the community.

2.4.2 Whether the proposed reforms support digital government

It is the ASA's opinion that the proposed reforms do not support digital government, do not support NSW government's digital transformation initiatives and do not enable NSW to be a smart, data-driven state.

The Policy Paper and the proposed reforms do not acknowledge that we now live, and the NSW Government operates, in a world driven by data.

On 11 March 2020 in a speech to the Institute of Public Administration Australian, the Australian Statistician David Gruen made the point that:

In 1996, the four largest publicly listed companies in the world were General Electric, Royal Dutch Shell, Coca-Cola, and the Japanese telecommunications company Nippon Telegraph and Telephone. Last year, the four largest were Microsoft, Apple, Amazon, and Alphabet (previously Google). This wholesale changing of the guard among the world's largest companies is just one manifestation of the data and digital revolution that has transformed many aspects of our lives over the past quarter-century or so. And it is a stark reminder of the power of data.⁶

As a government focused on improving the efficiency of services and enhancing outcomes for the community, data is a very significant asset for the NSW Government. The following are just a few examples of how NSW is transforming its customer services based on data records and the insights generated from them:

- The work of the world leading Data Analytics Centre in combining and analysing dataset from across the State to help address wicked policy problems.
- The significant work being coordinated by the Department of Communities and Justice to innovate services for the State's most vulnerable communities through the development and analysis of a longitudinal dataset.
- The efforts by the Department of Premier and Cabinet to develop a state disability dataset in order to improve service delivery and care arrangements for thousands of members of the NSW community.

Unlike most other assets, the value of high value data assets such as these increases over time. We see this in the current value our society places in one hundred year old meteorological data. This data is referenced daily for current weather assessments and for community reference, and is also heavily utilised by government, business and research communities in order to understand and respond to current environmental challenges.

The economic and social value of long term datasets is profound. As emphasised by the National Statistician, the organisations that drive the world's economy today are those that have learned to leverage the power of data. As a leader in Australian government digital transformation, the NSW government can also enable this data driven transformation, through a more digital focus in its review of the State Records Act.

It is the ASA's position that in its review of the State Records Act, NSW Government needs to look forward and not back. At this point in the information revolution the NSW government cannot allow its primary recordkeeping and documentary memory organisation to become principally focused on public programs and exhibitions. The ASA fully acknowledges that programs and exhibitions are significant for storytelling and for building strong communities and cultures in challenging times. However we are living in unparalleled times for data and information. Maintaining accountable, useable and insightful information assets that are available for the government, the community and business to leverage now and into the future is of critical importance. Coordinating the collaborative frameworks necessary for the governing of these assets will also have profound economic, customer and service delivery impacts, as the bottom line of companies like Alphabet and Amazon demonstrate.

Currently the Authority has a mandate under the current State Records Act to help all NSW public offices to coordinate and govern State data assets, but it does not have the resourcing, staffing and infrastructure to help NSW to manage and leverage these records over the long term. The ASA believes that this is a key risk and a key potential opportunity lost if the review of the Act and the subsequent resourcing frameworks for the Authority to not address this State-wide recordkeeping risk. Currently no organisation across the State government sector is considering, identifying and coordinating the long term

⁶ David Gruen, 'The Promise of Data in Government', *The Mandarin*, 12 March 2020. Available from <https://www.themandarin.com.au/127079-the-promise-of-data-in-government-david-gruen/>

management of the State's data asset. This is a critical business and community risk, as well as an incredibly economic opportunity lost. As the key agency responsible for accountability management, the Act must give the Authority a mandate to prepare for and coordinate the management of the archives of tomorrow.

In terms of the Act supporting digital government, it is important to acknowledge that the way state government operates is changing. This will also have profound impacts on Government and community service delivery and this form of digital government needs a strong accountability framework and recordkeeping strategy. The key change underway is the NSW government transition to data driven and Artificial Intelligence (AI) driven operations.

Accountable recordkeeping around NSW Government AI initiatives is critical to the appropriateness and defensibility of government service delivery. There needs to be significant archival involvement in strategies for AI recordkeeping. There is value in trusted repositories that can store evidential and ethical longitudinal data for the training of AI. There is also the necessity for rigorous recordkeeping around AI to ensure defensible and accountable decisions and to enable actions that can be traced, audited and appealed where relevant. Allocation of these responsibilities is critical to the establishment of ethical and accountable AI strategies in NSW Government and these types of future state developments must be considered and enabled in any review of the State Records Act. The European Commission's *White Paper On Artificial Intelligence - A European Approach to Excellence and Trust* (February 2020)⁷ emphasises the importance of recordkeeping to building trust and accountability.

2.4.3 Whether the proposed reforms will increase public knowledge and enjoyment of the stories that shape our social, historical and cultural identity and whether the proposed reforms will enhance the protection of the key cultural assets of NSW.

The proposed reforms do not give adequate consideration or protection to the state's cultural assets of today and tomorrow, and therefore the ASA believes that they will not increase public knowledge and enjoyment of stories.

The Policy Paper does not acknowledge that in NSW, many institutions play a leading role in telling our stories and preserving our collective memory, including the State Library of NSW, the Museum of Applied Arts and Science, the Australian Museum and the Art Gallery of NSW.

While there is significant benefit in maintaining the ongoing collaboration between Sydney Living Museums and the State Records Authority and building on the impressive outcomes that have already been achieved, the ASA advocates that Authority and SLM should remain separate entities and continue their current successful collaborations. Combining the two entities risks making the legacy records of Government the focus of the new entity's operations, rather than the continuity of current and future evidence. Such a focus would create very substantial risks for the State and the community.

The ASA deeply knows and understands the importance of understanding and contextualising the past. The ASA calls on NSW government to actively resource the important storytelling and community building that this contextualisation enables.

The ASA has a critical role in advocating for evidence. As archivists we know that the critical archives of tomorrow are being created today. We know that we are living in unprecedented times. We know that the need for authoritative, trusted, evidential government information has never been greater. We know that the challenges and complexities of sustaining trusted, usable, accessible evidence over time have never

⁷ Available from https://ec.europa.eu/info/sites/info/files/commission-white-paper-artificial-intelligence-feb2020_en.pdf

been more challenging. But we also know that the rewards for those who invest in strong records and data management have never been higher.

The ASA calls on the NSW Government to create a State Records Act that rises to these challenges and that creates these long term opportunities for the State. We also call on the Government to adequately resource the Authority to fully implement this Act so that it can collaborate effectively with all NSW State public offices to enable this potential for the community and Government of NSW.

3. Summary

In summary, the ASA does:

- support reforms that seek to increase the community's rights to access government information
- not support creating a single institution replacing the existing Authority and SLM
- not support combining legislation for two very different entities
- not support a reform approach that gives priority to storytelling over accountability and evidence
- not support a reform approach that looks to the past and not the state's digital future.

In addition, the ASA calls on the NSW Government to:

- Actively resource the important storytelling and community building that contextualisation of information resources enables. As a society of archivists, we deeply know and understand the importance of understanding and contextualising the past.
- Create a State Records Act that rises to the digital and data challenges of the twenty first century and that creates these long term data-driven opportunities for the State. We also call on the Government to adequately resource the Authority to fully implement this Act so that it can collaborate effectively with all NSW State public offices to enable this potential for the community and Government of NSW.
- Look forward and not back. At this point in the information revolution the NSW government cannot allow its primary recordkeeping and documentary memory organisation to become principally focused on public programs and exhibitions.
- Give the Authority a mandate to prepare for and coordinate the management of the archives of tomorrow.