

**Submission
No 61**

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

Organisation: National Archives of Australia

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NATIONAL ARCHIVES OF AUSTRALIA

FROM THE OFFICE OF THE DIRECTOR-GENERAL

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NATIONAL ARCHIVES OF AUSTRALIA – SUBMISSION TO THE PARLIAMENT OF NSW REVIEW OF THE STATE RECORDS ACT 1998

Introduction

In my capacity as Director-General of the National Archives of Australia I am pleased to provide the following submission to the Standing Committee on Social Issues in support of its Inquiry into the State Records Act 1998.

The National Archives was pleased to support the review of the Act, through my membership of the Advisory Group to the NSW Government interagency steering committee. The role, function and responsibilities of the National Archives in the Commonwealth Government are, in many significant aspects, equivalent to those performed by the State Archives and Records Authority (SARA) of NSW. The two institutions have a close working relationship and a history of productive collaboration, most notably as co-members of CAARA, the Council of Australasian Archives and Records Authorities.

This submission responds to the options for reform put forward by the “Review of the State Records Act 1998 Policy Paper” published by SARA, 8 January 2020.

Creating a Single New Institution to Replace SARA and Sydney Living Museums

The option to combine SARA and Sydney Living Museums is put forward on the basis that their combination would optimise the delivery of rich, heterogeneous stories about NSW’s social, historical and cultural identity to enliven current and future generations. The paper notes that closer working arrangements will offer synergies in the preservation of the collections and the production of content, exhibitions and programs.

The National Archives is supportive of this initiative’s objective – to maximise the extent to which the State’s cultural heritage is promoted and accessible. The consolidation of the two institutions will enable the development and delivery of public programs and resources that will encourage engagement with NSW’s cultural heritage and foster a deeper understanding of the State’s history. Similarly there are many benefits to be gained by combining the preservation expertise of the two institutions, as this can be applied into a single preservation program across the many media and artefacts held within the consolidated collection.

However in the area of Collection Management a distinction should be maintained between the records of government and other historically significant material in the care of the new Authority. While



on the one hand, the new institution will have the function to curate and interpret the collection to select and tell the stories of NSW's past, on the other hand as an archive of government records it must maintain a more neutral and objective approach to gathering the essential evidence of government activity, not to tell any particular story or interpretation of the past but as a measure to uphold transparency and accountability of government. I note the Policy Paper supports this approach through its recommendation to establish separate Committees with statutory responsibility for advising on and approving recordkeeping standards, the retention and disposal of records and the acquisition and management of buildings or places. I strongly support this committee structure and further submit that the revised legislation stipulate that the Committee assigned the responsibility for recordkeeping standards has sufficient authority, expertise and independence to fulfil its role.

Records of Enduring Value are Managed Preserved and Made Accessible

The National Archives supports the proposal to require public offices to make and implement plans to transfer control of records of enduring value that are no longer in active business use to the Authority. To ensure the effective implementation of this proposal, the legislation might stipulate that the Authority's recordkeeping standards Committee (referred to above) has the power to set the relevant requirements for each public office, and these requirements are mandatory. Further, the term "active business use" should be carefully interpreted in the digital business environment, to ensure that digital records can be archived at the earliest opportunity to ensure their preservation and protection against technological obsolescence.

Citizens have Timely Access to Records Documenting the Activities and Decisions the Shape NSW and the Lives of its Citizens

The National Archives supports the principle that records in the open access period will be open by default, except in those cases where specific exemptions apply. In order to maintain the public's trust in the integrity of this most important function, the National Archives suggests that the Authority's recordkeeping Committee has the power to make an independent assessment of any 'closed to public access' (CPA) direction and, without disclosing sensitive aspects of the direction, can make its assessment public. It is appreciated that these matters will often go to sensitive areas of security, privacy, confidentiality, legal privilege or cultural issues; and these factors would at times limit the Authority's ability to conduct an assessment. However any ability for the Authority to provide an independent view of CPA directions will build public trust in the Authority and will also enhance the public's understanding and appreciation of the necessity to keep some records out of the public domain until sensitivities have diminished.

The phased reduction of the closed access period down to 20 years is supported by the National Archives. This same measure has been introduced into the Commonwealth Archives Act, with the change from 30 years down to 20 years phased in from 2010 to 2020.

NSW Public Offices Create, Keep and Protect Records as Evidence of their Activities and Decisions

The National Archives supports the proposal for the Authority to have the power to require a public office to investigate its recordkeeping practices and report back on its findings. It is acknowledged that this proposal envisages that the public office would use its own resources to conduct any investigation; and therefore the Authority would not be limited by its own resource capabilities when determining that an investigation is required. It may however improve the efficacy of this change if the Authority also had the power to use the Authority's own resources to conduct the investigation if the Authority had a reasonable belief that this would improve the breadth or depth of the investigation.

Conclusion

The National Archives congratulates the NSW Government for this initiative and its commitment to the preservation of Government records as evidence and documentary heritage. We look forward to continuing the high level of cooperation and collaboration with the new Authority, including the new opportunities that will be presented by its expanded remit.

Sincerely,

David Fricker

