

**Submission
No 67**

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

Organisation: Jumbunna Institute for Indigenous Education & Research, UTS
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The Hon Shayne Mallard MLC
Chair, Legislative Council
Standing Committee on Social Issues
Parliament House
Macquarie Street
SYDNEY NSW 2000

24 July 2020

Dear Chair,

REVIEW OF THE *STATE RECORDS ACT 1998*

The Jumbunna Institute for Indigenous Education & Research appreciates the opportunity to provide a response to the Inquiry into the *State Records Act 1998* and the Policy Paper on its review.

About the Jumbunna Institute for Indigenous Education & Research

The Jumbunna Institute for Indigenous Education and Research, Research Unit (Jumbunna) works with Aboriginal people throughout Australia to highlight and redress the ongoing impacts of colonisation on Aboriginal Nations in Australia. We conduct that work in partnership with these Nations and the Aboriginal community-controlled sector, applying our expertise and resources to support their concerns and priorities.

Our position on Indigenous Archiving

The Jumbunna team are committed to research that supports Indigenous self-determination across Libraries, Archives and Museums. Our goal is to empower and build capacity for communities to care for and manage archival materials on Country and in digital spaces, to ensure their long-term preservation and use. We also aim to ensure that Indigenous peoples voices are included in any decision making regarding the management of data, records and collections. Key focus areas of the Indigenous Archives and Data Stewardship Hub within Jumbunna include:

- Advocating for the digital repatriation and return of records to Aboriginal people and communities, as well as enabling a right of reply to collections that are biased or incomplete

- Ensuring that Aboriginal collections are discoverable and widely accessible to the communities to which they relate
- Encouraging proactive return and management of records
- Identifying digital tools and systems that aid the return and management of historic records and collections
- Advocating for the support of Indigenous Cultural and Intellectual Property Rights (ICIP) in archives and libraries
- Bringing visibility to emerging issues in the archival and information sectors, including incorporating Indigenous worldviews into education and training and further support for Aboriginal employment
- Contributing to the advancement of Indigenous research in relation to the archives and information sectors.

One of the ways that we are progressing conversations in this area is through the launch of the NSW Australian Mukurtu Hub. The NSW Australian Mukurtu Hub has been developed through a Memorandum of Understanding (MOU) between Jumbunna, the State Library of New South Wales, and the Center of Digital Scholarship and Curation, Washington State University. The Hub connects with Aboriginal people and communities to share resources that assist with digital curation and stewardship of data, records and collections. This initiative, led by Jumbunna, represents the first international partnership of the Mukurtu project dedicated to driving an Australian national agenda in research on Indigenous archiving and digital stewardship.

Comments on the Policy Report and Review

The following broad comments are made on the Policy Paper on the review of the *State Records Act 1998*:

- 1) We note the distinct lack of engagement of the Policy Report into considerations of Aboriginal people's rights in records held in the custody of the State Archives and Records Authority. There is a lack of recognition of Aboriginal and Torres Strait Islander peoples unique relationship to the documentary heritage records held by State Records and the responsibilities that government have to ensure appropriate access, management and use of these materials.

- 2) The records held by the State Archives and Records Authority represent the evidence of the colonisation and forced dispossession of Aboriginal people in NSW. As such they have responsibilities to work in partnership with Aboriginal people in NSW, to care for and manage these items appropriately.
- 3) Many of the records held by the State Archives and Records Authority are highly sensitive and confidential as they document the oppressive and discriminatory policies adopted by successive NSW State Government agencies in controlling the lives of Aboriginal people in NSW. Decisions that are made around the description and management of these records need to be made in partnership with Aboriginal people.
- 4) The reports of the *Royal Commission into Aboriginal Deaths in Custody* (1991) and the *Bringing them Home Report* of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families (1997) both include recommendations relating to the importance of records for Aboriginal and Torres Strait Islander peoples. Many of these recommendations remain as unfinished business and require the full attention of the NSW Government.
- 5) The records of the Colonial Secretary and the NSW Aborigines Protection Board (later the Aborigines Welfare Board) and their successor agencies are vital records for the people of NSW and Australia to engage with in relation to national truth-telling. These records document the removal of Aboriginal children from their families as part of the Stolen Generations, the creation of Aboriginal reserves and settlements which segregated and dispossessed Aboriginal people from their lands, as well as records relating to the holding of monies by government in “trust” for Aboriginal people through withheld wages, child-endowment and other managed funds. Any reforms that take place in relation to the review of the *State Records Act 1998* must be developed with an understanding of the social and political context of these highly significant records.
- 6) The framing of the policy paper on “increasing public knowledge and enjoyment of the stories that shape our social, historical and cultural identity” does not acknowledge the distinct role that government recordkeeping has played in silencing and subjugating the lives and experiences of Aboriginal people in NSW. The records relating to Aboriginal people held by the State Archives and Records Authority do not capture the lived experiences of Aboriginal people, and as such the Policy Report’s paradigm of

“enjoyment” seems incommensurable to Aboriginal peoples need to set the record straight.

- 7) A recognition of Aboriginal people’s rights in records requires a focus on national truth-telling and healing which cannot be achieved solely through collection interpretation and exhibitions. We believe that a much more transformative work needs to be undertaken to engage Aboriginal people to be active agents in recordkeeping processes rather than remaining subjects of the records. On a practical level this means enabling greater access for Aboriginal people to these vital records and opportunities to make decisions about ongoing access, use and management of the materials that relate to their families and communities.
- 8) A key area for transformation relates to the needs for the State Records and Archives Authority to review digitisation processes and the suitability of archival information systems for digital access to records for Aboriginal people. The digital return and repatriation of records to communities should be a priority for the NSW Government. Many significant records relating to Aboriginal people are not prioritised for digitisation because of their historical sensitivities. We encourage the reform process to further consider Aboriginal people’s rights to records in the context of digital transformation.
- 9) Whilst we acknowledge the important role that agencies such as Aboriginal Affairs NSW have to play in these transformative archival agendas, it is vital that the State Records and Archives Authority has appropriate staffing and expertise to ensure that the NSW Government capture and manage Aboriginal peoples perspectives as evidence, rather than solely “stories” for the purposes of exhibitions. This work must be premised on the use of records for redress and social justice.
- 10) The 2019 launch of the International Council on Archives (ICA) *Tandanya-Adelaide Declaration* provides a best practice framework for the recognition of Indigenous peoples rights in records aligned with the United Nations Declaration on the Rights of Indigenous peoples. We see no evidence of the current Policy Paper or proposed reforms for the amalgamation of the State Archives and Records Authority and Sydney Living Museums to support these priorities similar to these.
- 11) While there is significant work required in managing historical records we also note the importance of the *State Records Act 1998* for regulating government accountability and

evidence. The experiences of the NSW Aboriginal Trust Fund Payment Scheme are a testament to the importance of government accountability and recordkeeping. This reparations scheme clearly demonstrated the failures of the NSW State Government in capturing and maintaining complete and accurate records of monies held in “trust” for Aboriginal people.

Conclusion

The records that are held by NSW Government in the custody of the NSW State Archives and Records Authority are vital evidence and documents of the impacts of colonisation on Aboriginal Nations in NSW.

The Policy Report and proposed reforms to the *State Records Act 1998*, and amalgamation of the State Archives and Records Authority and Sydney Living Museums, assert that they will provide a focus on “increased knowledge and enjoyment of the rich, multilayered stories that speak to who we are”. However, there is a distinct lack of engagement with Aboriginal peoples priorities, and a recognition of Aboriginal Sovereignty in the proposal as it currently stands.

Regards

Kirsten Thorpe

Submission prepared by:

Kirsten Thorpe

Invited Member, International Council on Archives (ICA) Indigenous Matters Expert Group

Submission supported by:

Distinguished Professor Larissa Behrendt

Professor Lindon Coombes