



Submission from the Australian Society of Archivists
to the Tune Review of the National Archives of Australia

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Australian Society of Archivists Inc.

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1. Executive Summary

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 the States and Territories.

This review of the NAA follows the 2018 Parliamentary review of national cultural institutions, which focused on the cultural role of and potential synergies between the various institutions. Due to the terms of reference for that review, it was unable to explore the crucial role of the NAA as an enabler of integrity and accountability in public administration. While the NAA's submission to the 2018 Review highlighted digital preservation, funding, and the need for a new national headquarters in the parliamentary triangle, many of the key issues discussed below were out of scope at that time. As a result, the review provided minimal guidance with regard to the governance of the NAA.

There has been great interest from our members in the Tune Review and we have received input from a range of individuals and our state-based Branch representatives. This reflects that the NAA is truly national in its physical presence in each state and territory, which is unlike almost all the other 'national' institutions based in Canberra. It is a key agency for the recordkeeping profession and the Australian community but it has been under pressure to provide that leadership role.

The ASA's position is that a restatement of the NAA's leadership role and governance framework is critical and that innovation and modernisation of practice should not be at the expense of well-trained staff or a reduction in services to the Australian community. The NAA has sought to implement a range of strategies to fulfil its charter but at times these have left researchers across the country feeling disenfranchised with the consolidation towards a Canberra-centric institution. The digital transformation of our economy and workplaces requires the NAA to balance the long-term control and management of both physical and digital formats and requires specialist staff with both traditional archival and computer-based technical skills. The current governance frameworks do not enhance the management, control and long-term preservation of digital records and archives and critical funding boosts are required to ensure the long-term accessibility of analogue formats.

The Tune Review is a welcome opportunity to review the NAA's resourcing and mandate. The ASA makes the following five recommendations.

1.1 Summary of recommendations:

I. **Role of the NAA**

The NAA should be enabled by legislation and resourced adequately to meet the urgent need for an institution that provides national and international leadership in recordkeeping and archival management. The NAA must be supported to ensure it can provide best-practice recordkeeping assistance, guidance and oversight in support of good public administration and to ensure that the archival resources of the nation are supported, appreciated, used and managed appropriately. The important and complementary twin roles of the NAA as both a national cultural institution and as a key agency that supports integrity and accountability in public administration need to be explicitly stated and celebrated.

II. **Access to Commonwealth Records**

The ASA recommends a revised model of access to Commonwealth records where creating/controlling agencies identify and justify which records should be access restricted (and for how long) to overcome an alarming and unsustainable lack of access to open period records.

III. Resourcing

The NAA remains disproportionately affected by efficiency dividends due to increased structural property costs and reduced staff numbers at a time when the NAA needs to undertake overdue digital transformation activities while continuing to meet existing deliverables. As such, the NAA's appropriations should be immediately increased and maintained at a level that is adequate to allow it to discharge its vital national responsibilities.

IV. Digital Archives Program

Digital transformation remains a high priority for the Australian Government. In addition to digitisation-for-access and the 2025 deadline for converting magnetic tape records to more sustainable formats (both of which are important and require supplementary funding), this transformation must enable the NAA to ensure the long-term accessibility and integrity of born-digital Commonwealth records. The transformation should encompass every aspect of NAA's internal and external work if the NAA is to remain relevant, efficient and effective, to ensure that vital born-digital records are not lost forever, and to enable the NAA to meet its obligations to government and to current and future generations of Australians.

V. Governance

The *Archives Act 1983* (Cth) is in need of modernisation to better reflect contemporary language and manage the impact of digital transformation on the operations of government departments, archivists, researchers, and other stakeholders. In particular, the NAA should be given genuine statutory independence to enable it to perform its role as a key enabler of integrity in public administration, similar to that enjoyed by other key integrity agencies like the ANAO and the Ombudsman. In addition, the *Archives Act* should be amended to allocate primary responsibility for making and keeping full and accurate records to the CEOs of Commonwealth agencies, with the NAA being required to provide advice and guidance to and oversight of agencies in such matters. The Act should provide for a meaningful regime of enforcement to ensure that CEOs take their recordkeeping responsibilities seriously and that significant breaches led to stronger penalties.

2. Role and Functions of the NAA

The mandated functions of the NAA as set out *Archives Act 1983* (Cth), s2 are to:

- identify the archival resources of the Commonwealth;
- preserve and make publicly available the archival resources of the Commonwealth;
- oversee Commonwealth record-keeping, by determining standards and providing advice to Commonwealth institutions;
- impose record-keeping obligations in respect of Commonwealth records.

The NAA has set out in its *Corporate Plan 2018–19 to 2021–22* a suite of commendable programs such as Digital Continuity 2020, the Digital Archives Taskforce and The Archives Way to ensure its continued delivery against these primary functions.

The challenge for the NAA is to continue to meet these functions with respect to the records of the Australian Government at a time of both stagnating resources and digital transformation. The NAA's functions must now extend across the analogue and digital recordkeeping environments, and ensure the continued creation, management, accessibility and preservation of current born-digital records as well as paper-based and analogue audio-visual records. Innovative processes are required to capture and preserve born-digital records as digital archives, while the professional capabilities of the NAA staff requires an investment in the training of new skills.

The ASA has focused on two functions for the Tune Review to consider which would strengthen the ability of the NAA to provide leadership and improve public accessibility.

- *Identify the archival resources of the Commonwealth*
- *Preserve and make publicly available the archival resources of the Commonwealth.*

2.1 Leadership role

The NAA is not just a repository of Commonwealth Archives. It is, and must remain, a national and international leader in recordkeeping, offering support and guidance, and presenting itself as a benchmark for archival and recordkeeping practice.

As discussed in more detailed in section 4.2 below, the NAA must be allowed to perform its role as an enabler of integrity in public administration independently from political or executive interference, and must retain ownership and control of key areas including:

- standards setting for recordkeeping
- the identification and protection of national archives
- the provision of access to national archives

The ASA is supportive of recent initiatives to encourage a greater role for the NAA in ensuring not just recordkeeping standards but archival support is provided to key recordkeeping bodies holding records about Australian citizens. The importance of access to public and private records for family history is not limited to genealogical research but can provide key information about individuals for which there may almost no other source. The importance of the availability and access to records was set out most recently during the *Royal Commission into Institutional Responses to Child Sexual Abuse Volume 8: Recordkeeping and information sharing* (2017) and it remains that many records are held outside Commonwealth agencies but are clearly of national importance to citizens.

Under the *Archives Act* s5(2), b,g,h,k,l and m, the NAA's functions extend beyond that of a 'keeper of public records'. This authority to support the preservation, appreciation and accessibility of the 'archival resources of the nation', not just Commonwealth records, has been largely dormant in recent times, leaving a vacuum in the area of national archival oversight and stewardship. The idea (which

was close to the heart of Canada's National Archivist W. Kaye Lamb when he wrote his 1973 report¹ that eventually led to the *Archives Act*) was that there should be a 'national archival system' with a national archives at the apex of that system. That vision is even more valid and necessary today and deserves explicit recognition, support and funding.

At the UNESCO Memory of the World Documenting Australian Society Summit in Canberra on 4 December 2018 and in subsequent public fora the Director General of the NAA, David Fricker, has suggested that the NAA would look at more actively positioning the NAA in this type of leadership role. The ASA endorses this proposed change in policy and practice, which we believe would greatly enhance and improve the social and evidential memory of Australia and the Commonwealth. However, to do so effectively will require appropriate resources if it is to be maintained. The Canadian experience documented by archivist Dr Laura Millar at the UNESCO seminar, cautions against centralisation without appropriate core funding and encourages a collaborative approach to documentation.²

The ASA is aware of a number of initiatives in Australia to provide portals for cultural collections including archives, driven primarily by the Museum and Library sectors (Trove, Victorian Collections, Australian Collections) and we would encourage the NAA to take a greater role in ensuring these initiatives incorporate appropriate structures for archival collections and archival research.

2.2. Access to Commonwealth Records

The power to make decisions on access to open-period records (notwithstanding the option to challenge these opinions through the Administrative Appeals Tribunal) was given to the NAA in the *Archives Act* because it was believed that access decisions should be made by an independent authority, not by the creating agency which may have a vested interest in withholding access to records that may prove to be embarrassing.

In practice, the NAA is required to consult with creating/controlling agencies to obtain their views when examining records for release. As these agencies have no particular legal urgency to respond, they are usually very slow at providing their advice to the NAA. It is a low priority and resources are tight. Furthermore, when the agencies do give advice it is often conservative and the NAA has proved to be reluctant to challenge that advice. The result is an alarming lack of access to open period records.

A new approach is required - one which is sustainable, and which ensures the correct balance between the desire for open access and the legitimate needs (privacy, national security, etc) to restrict access to certain records that are in the open-period.

Models are available in other Australian jurisdictions, where access to State and Territory archives is determined by the creating agency. As such, all records transferred to the relevant Archives are open from the point of transfer unless the agency specifically requires them to be closed. In Queensland and New South Wales, for example, agencies are required to provide access determinations at the time of transfer, and these can be reviewed/revise by the agency at any subsequent time. Where Queensland State Archives feels that an agency is being excessively cautious or restrictive it can refer the matter to the Public Records Review Committee. In Western Australia, this can only occur with the approval of the State Records Commission, consisting of the Information Commissioner, Auditor General, Parliamentary Ombudsman and the Governor's appointee. Requests for restrictions must be balanced against the public good, and there is a standard set of restriction periods with examples and policy backing up these decisions.

The ASA recommends that the controlling agencies should be responsible for and required to identify which open-period records (or which parts thereof) should be withheld from public access, why (with reference to specific criteria) and for how long such restrictions should apply. A time limit on all restricted access archives should be set. Agencies should be required to do this before (or not later

¹ W. K. Lamb, *Development of the National Archives: Report to the Special Minister of State, September 1973*. Canberra: Australian Government Publishing Service, 1974. 35p.

² Laura Millar, 'Pulling Strings: The Struggle to Document Canadian Society', Paper presented at the Documenting Australian Society Summit, 4 December 2018. Retrieved from https://www.amw.org.au/sites/default/files/australia_mow_laura_millar_essay.pdf

than) the time records enter the open period. The Information Commissioner should have oversight of this role with penalties enforced for non-compliance. Any non-decision should be tantamount to agreeing to open access. The public (and for that matter, the NAA) should have the option to appeal access restrictions to the Information Commissioner/Administrative Appeals Tribunal. Ideally, over time, the distinction between the closed period and the open period should become less and less relevant as the push for FOI and open government continues.

Another advantage of this approach is that it would encourage agencies to be more proactive about disposing of records that have reached the end of their minimum retention period rather than accumulating records as a means by which to postpone sentencing.

If this approach were adopted there would need to be some transitional arrangements and resourcing to deal with the current backlog of unexamined records that are in the open period. But the onus needs to be placed squarely on the agencies to identify which records should be access restricted by a set deadline, after which any records not explicitly identified as restricted should be deemed to be on open access. The Information Commissioner should play a prominent role in this process.

2.3 Access through regional offices

The NAA continues to provide access centres in each State and Territory. Over the past decade or more, the NAA has been gradually centralising material, thereby reducing the records held in state-based sites. There have been some concerns reported to the ASA that the NAA has been reticent to inform researchers about the collections that have been moved, or to provide updated access information.

There are often sound preservation reasons behind such actions, but the consequence is an impact on the ability of locally based researchers who use these collections where they have most relevance. While digitisation can assist with access for some purposes, it is often difficult to ascertain how much of this material has been digitised or is available via the NAA's RecordSearch system.

The continued national distribution of offices and collections under the NAA is to be commended. However, the ASA recommends that the NAA develop more open management processes with regard to the location of collections, clear messaging through state and territory offices and their users, support mechanisms for local researchers impacted by collection movements, and consultation, review, and appeal processes for those affected. For key users such as university-based researchers increased transparency in this area will assist with project planning and funding applications, and help develop a collaborative relationship between the NAA and other intensive users around the country.

3. Resourcing

In its own introduction to this review, the NAA noted:

For some years now, the National Archives has been facing many challenges as a result of the tightening fiscal environment and growing public demand for our services. Budget and staffing reductions are affecting our capacity to perform our fundamental role of securing, preserving, maintaining and making accessible the authentic and essential records of the decisions and actions of government, while providing high standards of service delivery that all Australians should expect from their National Archives.

ABS statistics show that, though archival institutions have by far the largest holdings of any of the cultural and memory organisations, they have far less resourcing than their equivalents in the other cultural sectors. Nevertheless, as ongoing institutions for evidence and memory, they have similar requirements with respect to provision of collection materials (particularly in an online environment), and responsibility for the physical and digital preservation, identification and description of these resources. To fulfil its mandate effectively, the NAA must be resourced in a manner commensurate to those requirements.

Instead, the NAA is at a point where funding levels are critical and forecasting an operating loss of \$6.0 million in 2018-19. The bulk of this stems from “investment in digital information management and capability priorities and the implementation of a voluntary redundancy program to reduce staff numbers to ensure the NAA remains financially sustainable.” (Portfolio Budget Statements 2019-20, p164). At the same time the NAA received additional government appropriation revenue of \$3 million over two years from 2018-19, for the Digitisation of Prime Ministers’ Records.

The NAA requires a revalidation of its role if it is to continue to meet its legislative responsibilities. The Archives should not be required to run at an operating loss to deliver on mandated activities, including the need to fund an industrial scale, sustainable, end-to-end solution for preserving born-digital records. Increasing structural property costs and reduced staff numbers mean the NAA is disproportionately affected by efficiency dividends while digital transformation activities remain overdue. The result is neither effective nor efficient, producing instead an organisation that is struggling to keep up with the current analogue archives it is responsible for, let alone invest in digital transformation.

3.1 Capability and employment

The NAA acknowledges the impact of its voluntary redundancy program in contributing to an operational deficit in the 2018-19. The 2019-20 staffing is set at 345 compared to 475 as reported at 30 June 2010, representing a 27% reduction in staff over a ten-year period.

The increasing pressures faced by all national cultural institutions have been well documented in recent years. With extensive valuable holdings and fixed costs, there have been clear indicators the level of resourcing of the national cultural institutions has been shrinking over many years, with budget cuts between 2013 and 2017 estimated at over \$36 million across the institutions. Institutions have had to slash staff over multiple years. All national cultural institutions remained primarily dependent on government funding over the 2009-2015 period and where that has been reduced, the net effect has been a reduction in support for core functions supported by appropriate staffing levels.³

The NAA, unlike most national institutions, operates in each State and Territory and has significant physical infrastructure to fund, at the same time as it expands its digital archives capabilities. Savings have come at the expense of staffing as the NAA and any additional staffing resources sourced through project funding. There is a need to invest in staff to ensure the NAA has a professionally trained workforce with the requisite skills to respond to digital transformation.

3.2 Digital Archives Program

Digital archives deserve detailed consideration in this context. In 2018, ASA surveyed Australasian archives and records agency corporate members to determine the state of Digital Archives Programs across the nation. The cohort of government archives represented by the Council of Australasian Archives and Records Agencies (CAARA) responded to the survey. Only two of eight CAARA agencies were able to report fully functional programs: Public Records Office Victoria; and State Records New South Wales.

The NAA reported an incompletely operational program with 'some' elements in place. Of an estimated 1596.6 terabytes (TB) of holdings, the bulk (1452.9TB) consists of audio-visual archives, with only a small component (9.08TB) of structured and unstructured born-digital records. Disclosed shortfalls in digital preservation and stewardship services for digital archives currently in NAA custody include 62TB on hard drives and shared drives managed outside of the resilient IT practices and infrastructure required for effective digital preservation.

As this holdings data makes clear, the majority of born-digital archives exist outside the custody of the NAA. It is unclear what digital stewardship arrangements currently exist for these archives. In 2016, in a survey of its own, NAA estimated that 4.5 PB of digital records currently held by Commonwealth agencies would require future transfer as National Archives. Apart from the archival value born-digital

³ Kristin van Barneveld and Osmond Chiu, 'A Portrait of Failure: Ongoing Funding Cuts to Australia's Cultural Institutions', *AJPA* Vol 77(1), First published: 12 May 2017 <https://doi.org/10.1111/1467-8500.12248>, pp7-8, Figure 3.

records in agency custody that cannot currently be transferred to the NAA, there would be a much larger volume of temporary-value born-digital records required to be kept for more than ten years that remain held by creating agencies. These records also require professional digital preservation management because the relentless march of technological obsolescence means that after ten years they usually cannot be retained in their native file formats and/or native authoring applications. Creating agencies would appreciate support from the NAA in relation to the provision of digital preservation solutions and services from accredited in-house or third-party service providers for all born-digital Commonwealth records that need to be retained for ten years or longer. As such, the Commonwealth 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 NAA.

ASA concludes that a significant capacity deficit exists in NAA provisioning for digital archives. In doing so, we join with many other national and international voices in calling for action on digital archives program development. UNESCO published a *Charter for the Preservation of Digital Heritage* in 2003. In 2013 it recognized the need to “establish a roadmap for solutions, agreements and policies,” and consequently established the PERSIST Project.⁴ PERSIST works with other stakeholders in the digital cultural heritage space such as the Digital Preservation Coalition (DPC) and International Council on Archives (ICA) to give effect in UNESCO member states to Charter aspirations for digital heritage preservation and the *Universal Declaration on Archives* in respect of digital archives.

Adequate funding and resourcing is required for NAA’s digital archives program if Australia’s obligations as a UNESCO member state are to be met. Other motivators include:

- Technology
- Reputation
- Business continuity
- Corporate/cultural memory
- Accountability

Case studies based on each of these key motivators can be found in the *Facts and Figures* section of the Digital Preservation Coalition’s *Executive Guide on Digital Preservation*.⁵

That there is an urgent need for a sustainable program devoted to the protection of born digital records of government does not remove the need for NAA to be resourced for the highly specialised and costly work to rescue existing archive holdings on fragile and obsolete formats. Both are essential roles for NAA, for both the benefit of government and Australian society.

4. Barriers for the NAA

In addition to the problems and barriers identified above, the following should also be considered

4.1 Regime for ensuring good Commonwealth recordkeeping

The *Archives Act* should be revised to make it clear that the CEOs of agencies have primary responsibility for making and keeping good records. The role of the NAA in this regime would be as expert advisor, standards setter, disposal authoriser and provider of oversight and reporting to Parliament on the state of Commonwealth recordkeeping. Enforcement of breaches by CEOs should be the responsibility of the new Federal ICAC, with the NAA having the option of referring potential breaches to the ICAC. The enforcement regime should be meaningful and have real teeth.

Having said that, every jurisdiction around the world is struggling to deliver good recordkeeping outcomes in the rapidly changing digital world. In that context, the NAA is seen as providing leadership in respect of its Digital Transition Strategy, which has very good traction with agencies and

⁴ United Nations Educational, Scientific and Cultural Organisation. (2003). *Charter on the Preservation of Digital Heritage*. Retrieved from http://portal.unesco.org/en/ev.php-URL_ID=17721&URL_DO=DO_TOPIC&URL_SECTION=201.html

⁵ Digital Preservation Coalition, *Executive Guide on Digital Preservation*. Retrieved from <https://dpconline.org/our-work/dpeg-home/dpeg-intro>

a reasonable regime of oversight and reporting as set out in its Annual Report 2017-18. However, a clearer regime of CEO responsibilities and meaningful enforcement would enhance Commonwealth recordkeeping overall.

4.2 Governance

For the NAA to be a truly independent agent of integrity in public administration it needs genuine independence. Although there is an advantage in the current link between the NAA and the Attorney-General's Department (recognising the role of records as evidence in the rule of law), the NAA needs to be an independent Statutory Authority with a governing board, or alternatively an agency that is part of the legislative arm of government (not the Executive arm) like the Ombudsman and the Audit Office. The current model of the NAA being a business unit within a Department of State with an Advisory Council that has severe limitations on its powers is insufficient.

The current Archives New Zealand review includes submissions that the New Zealand Archivist be made a Parliamentary Officer, much like the Ombudsman and Auditor General. A similar role for the National Archivist of Australia would be appropriate, particularly with respect to the ability to provide clear guidance and independent review of Commonwealth agencies, and in providing leadership for archival institutions within Australia.

4.3 Complementary roles

There is a need to explicitly acknowledge and celebrate the twin complementary roles of the NAA as both a cultural memory institution and as an enabler of integrity in public administration. They are both equally important and should be recognised as such.

5. Summary

The NAA is a national and international leader in recordkeeping and archival management. However, the agency has been and continues to be hampered by the combined impact of efficiency dividends, resourcing and legislative constraints and the implementation of existing policies and mandates, particularly with regard to our collective national memory and access to agency records.

As a result, the NAA is facing difficulties in meeting the needs of users and depositors during a time when digital transformation, the looming obsolescence of substantial quantities of analogue audio-visual media, and the continuing requirements of new and existing collections of paper-based records all require urgent attention. In isolation none of these challenges are trivial. Together, they constitute a threat to the NAA's ability to continue meeting its core obligations now, and into the future.

The ASA thanks the Tune Review for its work, and keenly awaits the report and recommendations to come. We offer our support to the NAA and its staff and look forward to working together on building a more effective, digitally-enabled and accessible archives for all Australian communities.

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