

THE UNIVERSITY OF
NEW SOUTH WALES



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SUBMISSION TO THE TUNE REVIEW OF THE NATIONAL ARCHIVES OF AUSTRALIA (NAA)

We are Australian legal historians and intellectual property experts who are professional researchers with significant experience accessing original archival material in Australia and in public archives overseas. We have experience accessing NAA offices in most states and territories of Australia.

Our submission seeks to draw urgent attention to a significant deterioration in the capacity of the NAA to service professional research needs in Australia in a timely and efficient manner. In conjunction with increasingly restrictive access to research funds in Australia, the withdrawal of Fellowships at the NAA and increasing workloads in academia which make travel to research in archives for extended periods impossible, the capacity to plan and conduct significant Australian-centered research projects is being seriously compromised. The effect of the funding restrictions of the NAA need to be considered in conjunction with similar cut-backs experienced by the Australian Research Council and universities. Combined they lead to massive frustration for researchers, a confinement of research ambition, projects being foregone, and research questions being pursued overseas with reduced national benefit, due to time and financial constraints on Australian researchers conducting research on Australian cultural, economic and political life within Australia.

On site visits

Significant original legal research often requires accessing multiple files to locate relevant materials. We have experienced problems with pre-ordering documents in advance many times and, despite consistently ordering such material well in advance of visits to reading rooms, we have subsequently found material was not available on arrival or needed re-ordering with up to 48 hours waiting for delivery. As files have minimal indexing, research inquiries often cascade as the relevance of related files becomes apparent. The turn around times in ordering, in particular at the temporary premises of the Canberra Reading Room at Old Parliament House over the last year, generally means that multiple visits are required. Delays lead to the need to find new windows of availability to travel and the additional further expense of accommodation and airfares. Costs compound.

Office hours

The closure of weekend openings further exacerbate difficulties of accessing sites efficiently and manage academic workloads, especially where travel to Canberra is required. It is noted that, up until 2014, the Canberra Reading Room was open until 7pm one evening per week in addition to being open every Saturday. By comparison, while the National Archives of the UK is closed Sunday and Monday, it is open on Saturdays with late opening hours (until 7pm) on Tuesdays and Thursdays. In terms of State-based reading rooms, the Melbourne office facilities are very poor, limited to two large tables with one staff member available, and opening hours limited to Wednesday through Friday, 10am-4:30pm. Large orders of files is not viable and, as this office houses a significant proportion of WWI-related material, it makes research into this area exceedingly difficult and expensive for interstate visitors. Similarly, the Sydney office hours are also limited to Wednesday through Friday and, being located on the outskirts of Sydney, transport to this site is difficult.

Digital copies

We greatly appreciate the service of providing for online ordering of digital copies and that these copies will be available to be accessed by the public in the future. We appreciate that there are many demands on staff and as a result service times are difficult to predict. However, for academic researchers the cost of ordering copies of multiple files is often prohibitive and the difficulty of predicting when material may be available in digital format makes in-person visits more efficient — but for the frustrating problems experienced above. It would be very helpful if a set fee could be capped for professional researchers per annum who need to access large numbers of files. (eg. \$1000 for up to 50 files per annum).

Opening Files

We have noticed an increasing conservatism in decision-making surrounding opening of files reflecting a culture that is antithetical to the public mission of a national archive and to the conduct of quality legal research. It is not entirely clear what the processes now are for decision-making that leads to denial of access or 'open with exemption' restrictions. Greater clarity and transparency in regard to the 'public interest' test as exercised by NAA staff is required.

Fellowships

The three NAA Fellowships – the Ian Mclean Award, Frederick Watson Fellowship and Margaret George Award - were very prestigious and permitted dedicated research on site. There are few significant public institutions that do not offer, on a competitive basis, the opportunity to conduct research on important questions supported by Fellowships. The withdrawal of NAA Fellowships not only deprives researchers of the opportunity for dedicated research time in the archive with access to professional archival staff so they can pursue significant and important research projects, it impacts on perceptions of the value and importance of historical research altogether.

Staff expertise

We have all benefitted from the professionalism and courtesy of NAA staff in servicing our requests. However, reduced staffing and, in particular, difficulties in the Canberra office, highlight a significant loss of expertise in utilising the collection effectively and efficiently. There are simply not enough staff members to effectively service demands on site and behind the scenes.

Open Access

The NAA has been at the forefront of making public records accessible to the public, subject to various regulatory restrictions affecting some content. As copyright experts we appreciate the complexity of the policy environment. Recent changes to copyright in unpublished works have little impact on the NAA practice because the institution was already progressive in servicing the public interest in information pertaining to government. However, as Australian law catches up with best international practice in making content open and accessible, the material conditions for accessing original files at the NAA are increasingly restricting access. This is a perverse outcome.

Overseas comparisons

As dedicated, long-term users of public and national archives in Australia, New Zealand, the UK, EU and the US we appreciate there are distinctive histories and challenges affecting service obligations and practices that impact on the researcher's experience in the archive. However, without doubt, the NAA now poses significant access challenges that do not exist in other places to anywhere near the same degree. A benchmarking comparison with the British National Archives – in terms of hours, available services, onsite and offsite file delivery, access to professional expertise and amenity would prove instructive.

We are dismayed and deeply depressed that our national archive has been so poorly treated by consecutive governments and funding arrangements. At a time when historical accuracy, critical reflection and public discussion about Australian public life and values is most sorely needed, significant obstacles now face Australian researchers.

We would welcome the opportunity to discuss our concerns further in person, if that was agreeable.

Regards

Professor Kathy Bowrey (Faculty of Law, UNSW)

Dr Catherine Bond (Faculty of Law, UNSW)

Professor Isabella Alexander (Faculty of Law, UTS)

Professor Kathy Bowrey researches in Indigenous legal history and intellectual property history and practice. Her forthcoming book, *Copyright, Creativity, Big Media & Cultural Value: Historical answers to contemporary questions about corporate control* (Routledge) draws upon archival research at Auckland Museum; Bristol Record Office; British Library; Curtis Brown Archive, Columbia University; EMI Trust Archives; National Archives of Australia (NSW, Canberra, Darwin); National Archives of UK; National Film and Sound Archive of Australia; National Library of Australia; Norwich Record Office; The Random House Group Archive and Library, University of Reading; Manx National Heritage; Mitchell Library; State Library of NSW; and the State Library of Victoria.

Dr Catherine Bond researches in colonial copyright, and the relationship between intellectual property and war in Australia. Her award-winning book, *Anzac: The Landing, The Legend, The Law* (Australian Scholarly Publishing, 2016) drew on archival materials sourced from the National Archives of Australia, Australian War Memorial, National Archives of New Zealand and the National Archives of the United Kingdom. Dr Bond has also undertaken research at the Imperial War Museum and National Archives of the United States.

Professor Isabella Alexander researches in the history of copyright law in the United Kingdom and Australia. She currently holds an ARC Discovery Grant, DP160100393 *Copyright and Cartography: Understanding the past, shaping the future* (\$194,000) which has involved archival research at the National Archives of Australia, Canberra and Perth, and the Public Records Office of Victoria. She has also undertaken archival research at National Archives of the United Kingdom, the Royal Geographical Society (UK), UK Post Office, London Metropolitan Archives and the UK Hydrographic Office.