

My first attempts at writing a submission for the review were written to try and include the views of the NAA South Australian office, where I am employed. The intention was to make it clear that staff in Adelaide are capable, good at managing change and keen to participate in NAA's goals for the future. I thank my colleagues for their assistance in that attempt and thank our office Director for the suggestion that I should make a submission from my own perspective. My submission is made with the intention of being constructive to the review. At the core of this submission are considerations of the Archives Act 1983 and ideas of what the National Archives Act¹ could include for NAA to continue 'securing, preserving, maintaining and making accessible the authentic and essential records of the decisions and actions of government'.

When carrying out my duties I have always considered The Archives Act 1983 as a legislated commitment to open government. NAA is a party to the *Open Government Partnership Action Plan* and responsible for *Commitment 3.3 – Improve the discoverability and accessibility of Government Data: Archived Records*². NAA can be congratulated on achieving the identified steps of this commitment, although I believe there was a missed opportunity in not including a step to incorporate open period material still held in agencies into recordSearch. Perhaps this could be included in the next Action Plan. The description of open period records is vital to improving discoverability and accessibility of government information. Unfortunately the part of the Archives Act 1983 (Part VIII) that compelled the NAA to carry out description was quietly removed from the Archives Act 1983 with the Civil Law and Justice Legislation Amendment Bill 2018. I say quietly because I cannot find discussion of the removal of Part VIII from the Act in the Explanatory Memoranda³ or in any communications NAA released.

Below is two subsections from the now removed Part VIII:

66 Australian National Guide to Archival Material

(1) The Archives shall maintain a guide to be known as the Australian National Guide to Archival Material.

(2) Subject to subsection (4), the Guide shall contain particulars, in such form as the Director-General considers appropriate, of all Commonwealth records in the open access period that have been examined in accordance with subsection 35(1).⁴

ANGAM (Australian National Guide to Archival Material) was ingested into recordSearch at the end of the 1990's and recordSearch can be considered the guide (ANGAM). Section 35(1) relates to the identification of exempt records, which the NAA refers to as access examination.

The access examination procedure relies heavily on records being described on recordSearch. For a researcher to nominate records for which they would like an access determination, the records first need to be described on recordSearch. Further legislative changes to the Act or the introduction of a new act, in my opinion, should consider three elements. The above procedure of requesting examination of records, the open period of twenty years from creation of the record, and the amount of administrative records in the open period but not in NAA custody. Further legislative changes could not only reinstate an obligation to maintain a guide but also expand on Section 66 and require an attempt to describe all records created by the Commonwealth that are in the open period. Description

¹ Goal 4, Archives 2020 Strategic Plan http://www.naa.gov.au/about-us/organisation/accountability/archives_2020_strategic_plan/index.aspx

² <https://ogpau.pmc.gov.au/commitment/33-improve-discoverability-and-accessibility-government-data-archived-records>

³ http://classic.austlii.edu.au/au/legis/cth/bill_em/clajlab2018402/memo_0.html

⁴ Archives Act 1983 Compilation No. 38 <https://www.legislation.gov.au/Details/C2016C00772>

and access along with assessment and preservation are the essential pillars of archival theory and practice.

The above is an ambitious proposal particularly considering the Archives added 591,095⁵ new item descriptions last financial year. My office, I expect like others in NAA, has seen success in item description through use of innovations such as The archIVE⁶ and use of the Electronic Load Module, known as ELM (pronounced like the tree). The more than half a million new item descriptions that I refer to here I assume, are descriptions of records in the archives custody and mostly well into the open period already.

ELM was developed for the very purpose of assisting government agencies to transfer their metadata to recordSearch⁷ a 2003 Memento Article states, 'ELM will mainly be used for transferring records and record information from agencies' electronic recordkeeping systems into the recordSearch database. Agencies will be able to download item information to a neutral format. This information will be checked, validated and uploaded onto a transitional database before being loaded onto recordSearch.' I suspect (and I declare this to be supposition on my part) the use of ELM by agencies has slowed or stalled for two reasons; lack of space, that is shelf space and digital repository capacity, and a lack of staff resources in the Government Information Management branch of NAA.

I propose that future legislative changes could make it possible for records in the open period that are in the custody of their agencies to stay in their custody while still being listed on recordSearch. The record descriptions could have a location description of 'in agency custody' to help researchers be aware of their status. The agencies would need to manage these records whether they are listed on recordSearch or not. With a significant increase in the financial resources of the Government Information Management branch, NAA could assist in the management of these records that are in or entering the open period. The NAA has established some joint funded positions with its state counterparts, and I suggest NAA can do something similar with the record keeping units of Commonwealth Government agencies. Joint funding for specified positions in agencies would not necessarily raise the 'Average Staffing Level' of the Australian Public Service, as existing positions could be identified to report to both the agency that the position is embedded in and the Director General of the Archives. The embedded officer would continue to work for the agency ensuring government recordkeeping is to the standard required while adding records in the open period to recordSearch. Excel reports from the agencies' Record Management Systems could be manipulated to be used for ELM uploads to recordSearch. A network of joint agency/NAA officers embedded in agency recordkeeping units would build on the four goals of the *Archives 2020 Strategic Plan*⁸. The increased reach of NAA and the description of open period administrative records would firm the commitment to open government and be in keeping with Australia's commitment to the UNESCO Universal Declaration on Archives. '*Open access to archives enriches our knowledge of human society, promotes democracy, protects citizens' rights and enhances the quality of life.*'⁹ I acknowledge the above suggestions are unconventional and would involve changes for many organisations. As an alternative to the above NAA could simply compel agencies to transfer custody of material without restructuring government recordkeeping, such as Section 27 of the current act does.

⁵ <http://www.naa.gov.au/about-us/publications/annual-reports/2017-18/report-on-performance/index.aspx>

⁶ <http://transcribe.naa.gov.au/>

⁷ See *Agency to Archives Online* Page 10, Memento 24

<http://www.naa.gov.au/naaresources/publications/memento/pdf/memento24.pdf>

⁸ Insert link to 2020 strat plan

⁹ https://www.ica.org/sites/default/files/UDA_June%202012_web_EN.pdf

A further benefit of having officers that report to the Director General of the Archives within agencies is that they can advocate for the return of material sent to the agencies for advice. Tim Sherratt claims 1467 files have been waiting more than three years¹⁰ for agency advice to assist in the access determination. The current legislation tends to favour not sending records back to agencies for access examination advice (see below).

35 Identification of exempt records ...

(2) Except in the case of records exempted from transfer to the care of the Archives by virtue of a determination under section 29, an examination of records for the purposes of subsection (1) shall be conducted on premises of the Archives.¹¹

In my opinion government agencies can trust in the experience and skills of the NAA access examiners.

The discussion above refers equally to paper as it does to digital records and there is no distinction or definition made in the Archives Act 1983 as to the format of a record. Although different formats of records have their own specific requirements for protection, preservation and storage. The volume of records covered by the Archives Act has been steadily increasing with the increasing population of Australia and the good work being carried out in government recordkeeping. Thus, it follows that the volume of records entering the open period is also increasing and the variety of formats increasing, it is clear NAA needs a significant investment in both digital and conventional storage and staff to capture, secure and make accessible Commonwealth records still in the custody of Commonwealth institutions.

NAA has worked hard to transition from a thirty year open period in 2011 toward a twenty year open period in 2021, including proactive access examination of two years' worth of selected cabinet documents each January. I believe, cabinet releases only show the decision making aspect of government information while the administrative records show the actions. The UNESCO statement referred to above specifically mentions administrative records stating that archives *'are authoritative sources of information underpinning accountable and transparent administrative actions.'*¹² The administrative records of government from recent history are mostly still in the custody of the agencies that created them, unexamined and not yet described on a publicly available guide. From my understanding, I do not believe NAA has the financial or staff resources to complete the obligation of making these records accessible.

The volumes of material to be access examined for release will increase as higher volumes of records come into the open period. With the proposal of a National Archives Act by 2020 there is the opportunity to be less risk adverse and adopt a more *laissez-faire* approach to the release of information. Less exemption categories could potentially speed up the release of records and open up more transparency of government information. Although, sound decisions and fair administration practices in government will always stand up to rigorous interrogation of archival material and I believe the Archives Act 1983 was written with this in mind. The access exemptions in the current Act are perhaps already the minimum exemption categories possible.

Access to digital records is circumstantially different to access to paper records and will bring with it many opportunities for NAA and for its researchers. Digital records are very different to digitised

¹⁰ <http://discontents.com.au/closed-access/>

¹¹ Archives Act 1983 Compilation No. 42 <https://www.legislation.gov.au/Details/C2019C00179>

¹² https://www.ica.org/sites/default/files/UDA_June%202012_web_EN.pdf

records and I will discuss digitised records later. Digital records are able to be viewed and access examined over a network. As more records in these digital formats enter the open period there will be opportunities to distribute the access examination of these records over the entire footprint of NAA. Access examiners may have the opportunity to broaden their knowledge and skills with this distributed nature. The current delegations for access examination decisions consign the ability to make determinations to officers based on where the record is held in custody. This is one example of where digital records represent a paradigm shift for NAA, archivists and researchers. Digital records behave somewhat like digitised records in that they can be accessed online or over a network. Digital records can be examined or viewed anywhere but do not take the same investment in time and labour to make available online as digitised copies of paper do. How the NAA responds to the 'digital deluge', the new wave of digital records entering the open period, could set the tone for research and archival practice for years to come. Other institutions in Australia and the region will look to NAA for guidance and standards of best practice.

Although digitised records¹³ can be viewed online like digital records, digitised records are simply copies of records. The availability of digitised records does not constitute access to government information. The difference between access to, and availability of, government information can be illustrated by looking at the differences between digital records and digitised records. A digital record transferred from a government agency and described on recordSearch is discoverable and accessible government information. Digitised records are *copies* of government information to which access has already been provided. Digitised records require an access determination and description before they can be made available online. Given that digitised records are copies of records to which access has already been provided¹⁴ it is surprising that availability of digitised records is included in a commitment within the First Open Government National Action Plan¹⁵.

A misunderstanding of the difference between access to government information and the availability of online copies of records may lead to misdirection of resources away from projects to ensure open government. As resources in government are finite and reduced annually through the efficiency dividend, less work can be carried out in description and access determinations if more work is carried out in largescale copying projects. Copying or digitisation projects may not see a return on investment for tax payers. To digitise one million records of ten or so pages at fifteen minutes each, would take thirty people five years to complete. Compare that project with automated description through the use of ELM and expedited access examination practices where researchers would be able to choose records they want or need based on their description, nominate them for an access determination and order copies of that particular record. Those thirty people working for five years would be able to ensure greater access to government information rather than more availability of already accessible information through digitisation. I believe it would be more efficient and effective to describe digital and digitally controlled records to recordSearch than to spend time copying records already in NAA custody.

My position is, that if a series of records has had an access determination for only a certain proportion of its records in the decades it has been described and the decades it has been in the archives custody then an *en masse* proactive digitisation project does little to further make those records accessible.

¹³ In the discussion of digitisation projects I am not referring to digitisation for preservation reasons like the project to digitise AV records, I hope other submissions will discuss digitisation for preservation.

¹⁴ That is the records are described, in the archives custody and have been determined as open or open with exception.

¹⁵ <http://www.naa.gov.au/about-us/partnerships/open-government/index.aspx>

Digitisation only makes the records more available, with the expensive risk that some of those digitised records may not be viewed even after they have been digitised. Proactive digitisation programs are not mentioned in the Archives Act 1983 although digitisation of records is - in Section 36 (2) (c). I am not suggesting by stating this that legislation should be rewritten to fit with the work NAA has been carrying out in this direction. Rather, I am suggesting that making copies available is not in keeping with the same spirit of open government in which, I believe, the enabling and existing legislation was written. The persistent calls by researchers for more free digital copies to be made through digitisation can be denied under Section 36 (4) (a):

(4) Where the giving of access under this Part in the form requested by the person in his or her application for access:

(a) would interfere unreasonably with the operations of the Archives or of another Commonwealth institution that has the custody of the record;

By increasing the availability of copies of information, without increasing access to the administrative records of government as they enter the open period, NAA risks losing its status as an integrity agency. The reduction of the open period from thirty to twenty years means that decisions and actions of past governments that are still shaping Australian society can be analysed and assessed within a generation. This is the sphere in which NAA may claim to be an agency that is ensuring integrity. The integrity of government recordkeeping combined with the democratic access to government information by its citizens. Should the NAA place too much importance on one aspect of its purpose or one particular group of records, NAA faces the risk of losing its unique identity. For example, if too much focus were placed on military history when a significant investment has been made to the Australian War Memorial for this purpose. I say that one of the most prominent aspects of NAA is its whole government focus and the ability to allow diverse research of recent and early history. This is contingent on resourcing NAA's ability to describe and provide access to the authentic records of government decision making and administration.

I have made the above assertions and suggestions with a genuine interest in seeing the Tune Review make recommendations that assist the NAA in achieving its core legislated functions. All suggestions and assumptions represent my views only. I have based the above on my knowledge and publicly available information. I have not used any information that I have come across through the course of my employment that would not already be public knowledge to form these views or make the assessments or suggestions contained above. Thank you for the invitation to make a submission to the review.