Access to Archival Records for Aboriginal and Torres Strait Islander Peoples

Sue Rosly

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This article covers recent developments on Aboriginal and Torres Strait Islander issues, particularly access policy, in the Australian Archives.

The author endorses the call to archives and archivists to look closely at the important and complex issues of managing archives relating to Aboriginal and Torres Strait Islander peoples. If we accept that archives do have a vital role to play in the reconciliation process, the challenge is how best to perform the role. We need to take concerted action and preferably on a national basis.

IN HIS EDITORIAL for the Limited Addition theme issue: Archives and Aboriginal Australians Adrian Cunningham wrote:

Archivists have a vital role to play in the post-Mabo reconciliation process so we had better start playing it properly ... and soon! ¹

Limited Addition includes a survey of developments in Museums and Libraries particularly in the role they have played in providing services to Aboriginal and Torres Strait Islander peoples. Some significant national policy initiatives have occurred in recent times.

In December 1993 the Council of Australian Museums Associations (CAMA) launched the policy document Previous Possessions, New Obligations.² As the title suggests, it is a new policy for managing the existing cultural heritage and it was developed after comprehensive negotiations and consultation with
Aboriginal and Torres Strait Islander peoples. The central principle is the right of Aboriginal people to self-determination for cultural heritage matters. In their report the Council said:

It is hoped that in the next two years further progress will be made so that indigenous Australians can truly say that they are partners in the way in which museums deal with their cultures and heritage and that they, the indigenous peoples, have achieved appropriate levels of control and self-determination in respect of their cultural heritage.³

Henrietta Fourmile (of the Yidinji Tribe—Cairns) wrote in 1992 warning against tokenism:

Our ownership rights to our cultural property and sites are not recognised by the law, and our rights to manage and control our heritage are reduced to advisory status, that is, token participation.⁴

On the same theme, Patrick Dodson, Chairperson, Council for Aboriginal Reconciliation, observed in 1993:

In my view, processes of consultation should become processes of negotiation.⁵

There has been a major change in attitude and shift in emphasis on the part of organisations holding material about Aboriginal and Torres Strait Islander peoples. In response to charges that they have not been consulted or that they have been ‘reduced to advisory status’, organisations are now actively pursuing collaboration and negotiation with them to ensure that their interests and wishes are heeded.

Librarians Alex Byrne and Heather Moorcroft (Northern Territory University Library) have been working with Dr Alan Barnes (Aboriginal Research Institute, University of South Australia) for some time now to improve practices in libraries and archives to bring them more in line with the aspirations of Aboriginal and Torres Strait Islander peoples. A set of draft National Protocols intended to guide libraries, archives and information services on appropriate ways to interact with Aboriginal and Torres Strait Islander peoples has been circulated to a wide range of organisations and groups.

In September 1994 representatives from organisations and groups met in Canberra in a national forum to rework the draft Protocols and develop guidelines to individual Protocols. (The Consultative Workshop on National Protocols for Aboriginal and Torres Strait Islander Information in Libraries, Archives and Information Services.)
At the Workshop Alex Byrne stressed that the Protocols are not meant to be prescriptive, but rather a guide to good practice to be interpreted in the light of each organisation’s mission statement, collection and client base. The Protocols cover issues such as: cultural property; moral rights of groups creating material; the adaptation of information services to make them more accessible to Aboriginal and Torres Strait Islander peoples; the management of sacred and secret material; and the participation of Aboriginal and Torres Strait Islander peoples in both employment and management of libraries and archives.

The Workshop was very successful not only in achieving its stated aim of redrafting the Protocols and developing draft guidelines to explain different practices between institutions, but in serving as a national forum where ideas could be exchanged and problems could be discussed.

One of the particular strengths of the Protocols is the recognition that despite the inevitably different practices in institutions there is a need for a national code of good practice. I agree with Adrian Cunningham when he described the Protocols as a most worthwhile endeavour and pointed out that the development of the Protocols need not preclude the Australian Society of Archivists from developing its own policy.

The Archival Background

What of archival institutions? Archives and archivists have taken actions to make their collections more accessible to Aboriginal and Torres Strait Islander peoples. Most archives have prepared guides to Aboriginal and Torres Strait Islander related records in their holdings and Aboriginal and Torres Strait Islander peoples are increasingly employed in archival and associated institutions. It is possible that these initiatives have been largely unheralded because they have been done entirely in the context of the particular institution rather than in the broader arena. There is at present no national forum which brings together archival institutions and Aboriginal and Torres Strait Islander peoples.

Legislation varies considerably between the Commonwealth and State archives. For instance, the Northern Territory Archives Service has no legislation on archives or public access whereas the Australian Archives has detailed arrangements for all dealings with Commonwealth records set out in the Archives Act 1983. The Archives Authority of New South Wales operates under legislation which contains an implied rather than statutory right of public access with transferring agencies setting access conditions at the time
of transfer, or subsequently. Other archives operate under library or library/archives legislation (WA, SA and Qld) with varying public access provisions. Differing legislative obligations result in a range of policies and practices, particularly in the area of access. I suggest that this is one of the reasons that archives have not to date seen the need for a national forum to exchange ideas and developments on Aboriginal and Torres Strait Islander peoples and archives.

On the other hand, there is a strong unifying concern on the part of archival institutions to protect the meaning and value of their archival collections. This derives from a shared understanding of fundamental archival principles. For example, the notion of editing or censoring records to remove or change information is an anathema to archivists. The threat of implied censorship is nowhere more evident than in the area of information judged to be offensive or hurtful to particular groups or individuals within the community. The fundamental principle that the contents of archival records are to be judged according to the time and context in which they were created means that editing or censoring of these records to remove or change information is contrary to fundamental archival principles. In addition:

Governments rarely create records for purely historical or cultural purposes. However, as evidence of the actions, intentions or thinking of those involved in government and of those affected by government, records may over time come to have value for those purposes.7

Ros Fraser in her introduction to *Aboriginal and Torres Strait Islander people in Commonwealth records. A Guide to records in the Australian Archives ACT Regional Office* wrote:

Some of the terms used by the original recorders in item titles (and in the items themselves) are very offensive, for example, 'half-caste', 'nigger' or 'lubra'. They are retained in the item titles listed, however, in accordance with usual archival practice and because in themselves they give information about the attitudes of the time and the context in which the records arose.8

It is not always easy or possible to reconcile archival principles with special needs of groups or individuals. Baiba Berzins when writing in *Archives and Manuscripts* in 1991 said:

In the Anglo-Saxon tradition the Archivist is the impartial guardian of records. But we cannot maintain a neutral stance when dealing with Aboriginal and Torres Strait Islander records and we need to take positive measures to resolve the problems which they raise even at the cost of modifying hallowed practices.9
There is no more fitting introduction to what has been, and still is, happening in the development of access policy for Aboriginal and Torres Strait Islander peoples in the Australian Archives.

**Royal Commission into Aboriginal Deaths in Custody**

The significance of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC) in shaping the Archives’ access policy towards Aboriginal people cannot be overestimated. Recommendation 53 of the Royal Commission which deals with access to government records in particular is the starting point for explaining how the access policy has developed.

The Royal Commission into Aboriginal Deaths in Custody was set up jointly by the Commonwealth, the States and the Northern Territory on 16 October 1987 in response to concern that Aboriginal deaths in custody were too common. The tabling of the findings of the Royal Commission in May 1991 was a landmark in the history of Australia: a total of 339 recommendations were made aimed at eliminating the disadvantages suffered by the Aboriginal people in a wide range of areas including law, justice, health, education, housing and employment. The Commission found the most important factor contributing to the over representation of Aboriginal people in custody was the disadvantaged and unequal position of Aboriginal people in society.10

The Commission’s Report made it clear that all governments were to work together to deliver a national response and that extensive consultation with Aboriginal and Torres Strait Islander peoples on the national government response was vital. The Aboriginal and Torres Strait Islander Commission (ATSIC) was to play leading role in organising consultations.11

The national government response on progress with implementation of the Commission’s recommendations is coordinated by a monitoring unit located within ATSIC. To date, an interim and final report for 1992–93 have been published with the 1993–94 report now being prepared for publication.

The Australian Archives shares responsibility for implementing Recommendations 53 and 57 of the Royal Commission with ATSIC for Recommendation 53 and the Department of the Prime Minister and Cabinet (PM&C) for Recommendation 57.

Recommendation 57 deals with the custody and access arrangements for the records created by the Royal Commission itself. The approved policy framework has been put in place by PM&C (the lead agency) for the custody and access arrangements for the Royal Commission’s own records with the
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Archives responsible for the physical custody arrangements. Arrangements to relocate the records to the relevant Australian Archives’ State Offices are well underway.

**Recommendation 53**

Because of its importance in shaping policy, the full text of Recommendation 53 for which ATSIC is the lead agency and Archives the contributing agency, warrants reproduction:

> That Commonwealth, State and Territory Governments provide access to all Government archival records pertaining to the family and community histories of Aboriginal people so as to assist the process of enabling Aboriginal people to re-establish community and family links with those people from whom they were separated as a result of past policies of Government. The Commission recognises that questions of the right of privacy and questions of confidentiality may arise and recommends that the principles and processes for access to such records should be negotiated between Government and appropriate Aboriginal organisations, but such negotiations should proceed on the basis that as a general principle access to such records should be permitted.¹²

In 1991 at the time of this Recommendation very few Aboriginal people were using Australian Archives’ records for the purposes envisaged by the Royal Commission. Patrick Dodson, when Western Australian Commissioner for the Royal Commission reported:

> During the processes of my Commission, I found that Aboriginal people do not have access to, and know about, historical records which have been written about their personal lives.

> Recognising these matters suggests that research into family history can make a significant contribution to the empowerment of Aboriginal people.¹³

The Royal Commission had found that the number of deaths in custody were higher for Aboriginal people who had been separated from their families than for Aboriginal people generally.¹⁴ Because State governments had responsibility for the administration of Aboriginal affairs, most of the records required by Aboriginal people for re-establishing family and community links are held by state governments (and state archival institutions). However, in the Northern Territory, where the Commonwealth administered Aboriginal affairs, and in Victoria, where the state government transferred record holdings (from 1860s) to the Commonwealth, there are significant holdings of records relating to Aboriginal and Torres Strait Islander peoples in the Australian Archives.
The Australian Archives' Response

Commonwealth records include much information which is relevant to Aboriginal and Torres Strait Islander peoples. Some of it is about day-to-day administration and particular events and people; much of it documents government policies and programs related to Aboriginal and Torres Strait Islander peoples. Not all of it is clearly identifiable as being about Aboriginal and Torres Strait Islander peoples. Given the major role that governments played in their lives, the extent and nature of information recorded about Aboriginal and Torres Strait Islander peoples is often sensitive and sometimes biased reflecting the community attitudes of the day.

The level of detail as well as the personal sensitivity of the information goes well beyond what was normally recorded about the white community. Understandably some Aboriginal and Torres Strait Islander peoples regard the very existence of such records as an affront, while on the other hand, others recognise the value of the records as a unique source of personal, family and community history. In some cases the records may be the best if the only source of information.  

Although the Archives Act 1983 provides all members of the public with a statutory right of access to Commonwealth records after thirty years, the public release of certain types of information—even after a time lapse of thirty years—can constitute an unreasonable disclosure of the personal affairs of an individual. The main area of sensitivity is that of personal information which is exempted from public access under s.33(1)(g) of the Archives Act if it is an unreasonable disclosure of the personal affairs of an individual.

The dilemma is that often it is precisely this type of personal information which is required by Aboriginal and Torres Strait Islander peoples seeking to trace their personal identities and re-establish family and community links.

There is a diversity of views within the Aboriginal community about who should have access to what records and what information may be made available in the records. An Archives and Aboriginal Research Seminar "Gettin' the Facts" was held by the Archives' Northern Territory office in November 1993. The aim of the seminar was to assist Aboriginal and Torres Strait Islander researchers to use the Archives and to get feedback on ways the Archives could better service Aboriginal needs. At this seminar Aboriginal and Torres Strait Islander people expressed concerns about access, particularly in relation to sensitivities which would not be apparent to or understood by the white community. It was clear that certain types of family relationship information which might seem innocuous to the white community would be
considered unsuitable for public release by Aboriginal people unless to specific older family members.

On the other hand information which the white community considered sensitive would not necessarily be regarded as such by Aboriginal and Torres Strait Islander peoples. For example, illegitimacy does not always carry the same stigma in the Aboriginal community as it did in the white community. Thus, over time, the white community’s attitudes have moved closer to those of Aboriginal and Torres Strait Islander peoples.

A major point of agreement between all participants at the seminar was that it was imperative for Aboriginal peoples to be involved in the access processes and decision making. Karu Aboriginal and Islander Child Care Agency representatives attending the seminar were well aware of the extent of access sensitivities in government records. Karu is an Aboriginal organisation which works with Aboriginal and Torres Strait Islander adults who were separated from their families when children and raised by non-Aboriginal peoples in institutions or private homes. Link-up agencies are specifically charged with helping Aboriginal and Torres Strait Islander peoples to find their families and providing counselling, research and support services; there are link-up contacts in every State and the Northern Territory.

Link-up agencies were the ideal Aboriginal organisations to be involved in collaborative access arrangements with the Archives especially in terms of Recommendation 53 (...processes for access should be negotiated with appropriate Aboriginal organisations ...). Informal consultative and collaborative arrangements with link-up agencies were developed in the Archives’ Northern Territory and Victorian offices.

The access arrangements were essentially informal involving a mixture of discretionary access (where the person was the subject of the file) and negotiation and collaboration with link-up officials and/or counsellors on sensitivities in the records. The arrangements took account of Aboriginal personal and cultural sensitivities in the access processes and ensured that specialised counselling was available to people linking up with families previously unknown to them. The arrangements were entirely on a case-by-case basis given the complexities and sensitivities of the area.

One of the major practical difficulties in the link-up process was the problem of identifying personal name details in government records. As part of implementing Recommendation 53, the Australian Archives in 1993 published two comprehensive guides to archival sources relating to Aboriginal and Torres Strait Islander peoples. While these guides had been very well
received, it was clear that there was a pressing need for additional retrieval aids such as a detailed name index of Aboriginal people recorded in government records. Government records documenting administrative functions are complex and time consuming to research for genealogical purposes: many hours of research can yield very few or no relevant records. A simple name index would be an invaluable and user friendly aid for Aboriginal people tracing family information. The guides were very useful in locating potentially relevant records for research, but they could only go so far—the research itself is the responsibility of the researcher/s.

In recognition of this problem, which was canvassed at the "Gettin' the Facts" seminar in 1993, Judy English-Ellis, Director of the Australian Archives Northern Territory office, in conjunction with the Karu agency, prepared a joint submission to ATSIC Darwin Regional Council seeking grant money to prepare a name index of Aboriginal people recorded in Northern Territory records.

In November 1994, Myrna Deverall, Assistant Director, Access and Information Services, Australian Archives Victorian Office, liaised with ATSIC(Vic) to obtain grant money for a similar purpose. In her submission to ATSIC it was pointed out that in spite of the publication of the joint guide My Heart is Breaking:

...Koorie people undertaking genealogical research are missing material relevant to their families because there is no simple finding aid suitable for research into family history.

There is a name index in the Joint Guide, but it covers case files only. People use this index to request access to relevant family case files but do not undertake research in the majority of records which are not indexed.18

Towards the end of 1994, the Australian Archives had recognised that a special need for access to government records existed in respect of Aboriginal people separated from their families and was trying to enhance accessibility by various means such as published guides, collaborative access with link-up agencies, and seeking grant money for the preparation of practical name indexes. Taken together they should help Aboriginal people to obtain a more comprehensive form of access to records.

The Australian Archives had also been instrumental in drawing attention to government policies responsible for removing Aboriginal people from their families through the very well received and popular travelling exhibition 'Between Two Worlds'.19 The exhibition was prepared for the International Year of the World’s Indigenous People in 1993. Senator McMullan speaking
about ‘Between Two Worlds’ in October 1993 commented that the exhibition was an example of the way that cultural activities could contribute to the social development of the nation. He said that the exhibition:

... is merely one way, but an important way, in which the government is furthering the process of reconciliation within Australia by providing an opportunity for Australians to learn about aspects of the social and political history of indigenous Australians in the 20th century.20

The exhibition looks at two Northern Territory institutions run by the Commonwealth government: the Bungalow in Alice Springs and the Kahlin Home in Darwin. Through oral histories, documents and photographs drawn mainly from the Australian Archives' holdings the exhibition shows what happened to the children placed in those institutions. It traces their journey from one place to another and one culture to another as well as the government policy which was responsible for this. It was prepared with the support of a small group of Aboriginal and Torres Strait Islander people who advised the exhibition team throughout the development of the exhibition.21 Over the past two years the exhibition has been in Darwin, Alice Springs, Adelaide, Perth, Sydney, Canberra and Geraldton. It is currently scheduled to tour to Dubbo and Melbourne.

In October 1994 the Karu Aboriginal and Islander Child Care agency in Darwin organised the historic Going Home Conference for the ex-residents and their families who had been placed in children’s homes in the Northern Territory. These are the people specifically referred to in Recommendation 53 of the Royal Commission and the ‘Between Two Worlds’ exhibition. Held in Darwin from 3–6 October 1994, the conference attracted media attention particularly in the light of the proposed claims against the Commonwealth on the part of Aboriginal people removed from their families.22

The Australian Archives accepted an invitation to attend the Going Home Conference and apart from ATSIC and the Land Councils who addressed the Conference at various times, the Australian Archives was the only Commonwealth government organisation to attend the Conference. The Australian Archives' Northern Territory office set up an information stand within the venue featuring posters from the 'Between Two Worlds' exhibition as well as a range of brochures and copies of the published guides. The information stand was extremely well patronised for the duration of the Conference.

Issues discussed at the Conference included access to information on family and community histories, land rights and social justice. Central to all these
issues was the need for Aboriginal and Torres Strait Islander peoples to re-establish family, community and land connections. Access to archival sources whether in the Australian Archives or in other institutions is critical to all these issues.

Access to personal information in Aboriginal related records—despite the initiatives taken by the Archives as part of implementing Recommendation 53—was still a major obstacle in that it was a complex, sensitive and essentially time consuming process. For the reasons outlined earlier on in this article, there was no guarantee that access was comprehensive in terms of all information being identified.

To overcome these problems, Archives developed broad principles for a different form of access. In summary, the arrangements will allow accredited researchers to have full access to all relevant records over thirty years of age without taking account of the normal criteria restricting access to personally sensitive information. This allows Aboriginal and Torres Strait Islander peoples removed from their families—the people referred to in Recommendation 53 of the Royal Commission—to have access to the personal information required for tracing and re-establishing family links. To restrict access to this information, as would happen if standard access procedures were followed, would have the effect of denying access to vital information which would obstruct the link-up process.

As Baiba Berzins said, ‘...we need to take positive measures to resolve the problems ... even at the cost of modifying hallowed practices’. By taking a new approach to access, the Australian Archives had indeed modified practices.

The broad principles for the new form of access were informally canvassed between the Archives and senior ATSIC representatives in Canberra in early December 1994. Discussions were held on the basis that ATSIC is the lead agency for implementing Recommendation 53, as well as the agency with prime administrative responsibility for Aboriginal affairs. Aboriginal link-up groups also receive their funding from ATSIC.

To give effect to the access arrangements, a memorandum of understanding, or similar document, will be agreed between all the parties involved in the processes. The memorandum of understanding will set down agreed arrangements for access, use of records, consultation and collaboration mechanisms, any restrictions applying to the disclosure/further disclosure of information, agreement on copying of records and so on. The memorandum is seen as the best means of expressing and safeguarding Aboriginal and Torres
Strait Islander peoples' needs for access to Commonwealth records while safeguarding real confidentiality and privacy concerns.

The Katherine Regional Aboriginal Legal Aid Service (KRALAS), the legal representatives of the Going Home Conference Committee, and the Minister for Aboriginal Affairs have already been advised about the broad principles. A new project officer position is to be located in the Northern Territory office to negotiate the memorandum of understanding and manage the project.

Aboriginal people have become increasingly aware that had it not been for the past actions of governments they would not now be relying on government records to re-establish their history. As Henrietta Fourmile wrote, regarding the value of re-establishing history:

Such information is vital for those who suffered under government policies of removal and dispersal.

They can become re-informed about family history, what country they belong to, tribal identity, language—all of which is the stuff of cultural recovery.25

**Conclusion**

Adrian Cunningham has summarised admirably the recent developments in Aboriginal issues in the theme issue of *Limited Addition* already referred to in this article.

In concluding, one development I would like to mention is that the Australian Archives has recently secured the agreement of all State Archives and the Northern Territory Archives Service (COFSTA) to form a working party convened by the Australian Archives. The working party is to operate as a vehicle to exchange information and to meet joint concerns for access and preservation of records relating to Aboriginal people and to develop effective means of client assistance. Perhaps this working party can be the means of establishing a national forum for archives and Aboriginal people. When writing about the CAMA policy in *Limited Addition* Baiba Berzins said:

The archival community's commitment to the resolution of indigenous issues likewise needs to be demonstrated in word and practice.26

I think it is important for archives not only to participate in initiatives taken by other organisations, such as the National Protocols, but also to look for a national forum for archives and Aboriginal and Torres Strait Islander peoples where these issues can be discussed so that we can play a vital role in the reconciliation process.
Note

I would like especially to thank the following readers of this article for their helpful and constructive comments: Myrna Deverall, Judy English-Ellis, Anne-Marie Schwirtlich, Steve Stuckey and Richard Summerrell.

Endnotes


3. Previous Possessions, p. 33. It is also worth noting that CAMA plans to review the principles in the policy document commencing in September 1995.


5. Patrick Dodson, ‘Public Administration of Aboriginal Affairs has not been Human Enough’, Canberra Bulletin of Public Administration, no. 73, September 1993, p. 23.


8. Ros Fraser, Aboriginal and Torres Strait Islander People in Commonwealth Records A Guide to Records in the Australian Archives Regional Office, AGPS, Canberra, 1993, p. xii.


11. ibid., pp. 6–7.


15. See Foreword ‘Queensland Government records represent the best chance many Aboriginal and Torres Strait Islander Families have of tracing their past’, Records Guide Volume 1 A guide to Queensland Government records relating to Aboriginal and Torres Strait Islander peoples, Queensland State Archives & Department of Family Services and Aboriginal and Islander Affairs, Brisbane, 1994.

16. The “Gettin’ the Facts” seminar was organised originally as a joint venture of the Australian Archives, NT, the NT Archives Service and the NT University Archives
(the NT University Archives subsequently withdrew because of their abolition as an independent unit within the University).

17. The two 1993 guides were Ros Fraser's guide (see endnote 8) and 'My heart is breaking' A Joint Guide to records about Aboriginal People in the Public Record Office of Victoria and the Australian Archives, Victorian Regional Office, AGPS, Canberra, 1993.

18. Neither submission has been approved for funding to date.


20. Senator McMullan replying to a question from Senator Chris Evans who asked what the government, through its cultural institutions, was doing to address the lack of understanding about the dispossession suffered by indigenous people. Australia, Senate 1993, Weekly Hansard, vol. 10, 21 October 1993, p. 2332–3.

21. ‘The importance of ensuring that Aboriginal Australians played an integral role in the exhibition’s development was recognised from the inception of the project.’ Exhibition brochure, ‘Between Two Worlds’.

22. Articles about the Conference appeared in the Northern Territory press, the Australian and the Canberra Times over the week of the Conference. It was reported on extensively in other media. The Conference itself was closed to the media.


24. Steve Stuckey, Assistant Director-General, Records Standards & Access, Australian Archives and the writer canvassed these issues at a meeting with ATSIC representatives Colin Plowman and Ray Kent in Canberra on 1 December 1994.

25. Henrietta Fourmile, op. cit.