

Appendix 1

List of submissions

Sub. no.	Submitter	<i>Abbreviation / acronym</i>
1	Australian National Audit Office	<i>ANAO</i>
2	Royal Australian Mint	
3	Australian Law Reform Commission	<i>ALRC</i>
4	Australian Institute of Criminology	<i>AIC</i>
5	The University of Melbourne	
6	McGraw Hill Education	<i>McGraw Hill</i>
7	Council of Australian University Librarians	<i>CAUL</i>
8	Mr Ron Ross	
9	WA State Solicitor's Office* WA State Solicitor's Office (Part 2)	
10	CCH Australia Limited	<i>CCH</i>
11	LexisNexis Australia LexisNexis Australia (Part 2)	<i>LexisNexis</i>
12	Swinburne University of Technology	
13	Thomson Legal & Regulatory Limited	<i>Thomson</i>
14	ANZLIC – the Spatial Information Council	<i>ANZLIC</i>
15	Film Australia	
16	WA Department of Land Information	
17	Professor Brian Fitzgerald	
18	Bureau of Meteorology	

* Confidential

Sub. no.	Submitter	Abbreviation / acronym
19	Australian Libraries' Copyright Committee and Australian Digital Alliance	<i>ALCC</i> <i>ADA</i>
20	Australian Spatial Copyright Collections Limited	<i>ASCC</i>
21	Australian Information Industry Association	<i>AIIA</i>
22	Association of Parliamentary Libraries of Australasia	<i>APLA</i>
23	Department of the House of Representatives	
24	Vi\$copy Ltd	<i>Vi\$copy</i>
25	Australasian Legal Information Institute	<i>AustLII</i>
26	National Library of Australia	
27	Australian Copyright Council	<i>ACC</i>
28	AEShareNet Limited	<i>AESN</i>
29	WA Department of the Premier and Cabinet	
30	Council of Australian State Libraries	<i>CASL</i>
31	Screenrights	
32	Australian Library and Information Association	<i>ALIA</i>
33	Law Council of Australia	
34	Attorney-General for Western Australia	
35	Western Australian Department of Industry and Resources	
36	Department of Family and Community Services	<i>FACS</i>
37	National Archives of Australia	
38	Department of Finance and Administration	<i>DOFA</i>
39	Hon John Doyle, Chief Justice of South Australia	
40	National Association for the Visual Arts Ltd	<i>NAVA</i>
41	Australian Film Commission	<i>AFC</i>
42	Law Institute of Victoria	
43	Department of Education, Science and Training	<i>DEST</i>

Sub. no.	Submitter	Abbreviation / acronym
44	The Law Society of Western Australia	
45	Department of Health and Ageing	
46	Flexible Learning Advisory Group	<i>FLAG</i>
47	Arts Law Centre of Australia	<i>Arts Law</i>
48	Copyright Agency Limited Copyright Agency Limited (Part 2) Copyright Agency Limited (Part 3)	<i>CAL</i>
49	Australian Vice-Chancellors' Committee	<i>AVCC</i>
50	Australia Council for the Arts	
51	Department of Foreign Affairs and Trade	<i>DFAT</i>
52	Attorney-General for South Australia Attorney-General for South Australia (Part 2)	
53	Australian Society of Archivists Inc	
54	Australian Broadcasting Corporation	<i>ABC</i>
55	Department of Veterans' Affairs	
56	NSW Government	
57	NSW Attorney General's Department	
58 [#]	Ms Judith Bannister	
59	Australasian Performing Right Association and Australasian Mechanical Copyright Owners Society	<i>APRA</i> <i>AMCOS</i>
60	Department of Communications, Information Technology and the Arts	<i>DCITA</i>
61	Federal Court of Australia	
62 [*]	Ministerial Council on Education, Employment, Training and Youth Affairs Schools Resourcing Taskforce	<i>MCEETYA</i>
63	Australian Electoral Commission	<i>AEC</i>

[#] Not for publication

^{*} Confidential

Sub. no.	Submitter	<i>Abbreviation / acronym</i>
64	Victorian Government Victorian Government (Part 2*)	
65	Queensland Department of Natural Resources, Mines and Energy	
66	The Law Society of New South Wales	
67	Department of the Senate	
68	Australian Society of Authors	
69	Administrative Review Council	<i>ARC</i>
70	Judge D J McGill SC, District Court of Queensland	
71	Queensland Government	
72	Solicitor for the Northern Territory	
73	Mr Ken Michael Mr Ken Michael (Part 2)	
74	Department of Employment and Workplace Relations	<i>DEWR</i>
75	The Royal Australian Institute of Architects	<i>RAIA</i>
76	Barry Family	
77	Department of Justice, Tasmania	

* Confidential

Appendix 2

List of those who participated in the Committee's consultations

Public forum, Sydney, 27 July 2004

(listed in alphabetical order of agencies)

Mr Geoffrey Walker, Deputy President, Administrative Appeals Tribunal
Mr Paul Kelly, Executive Director, ANZLIC – the Spatial Information Council
Ms Eve McGregor, Corporate Counsel, APRA Limited
Mr Scot Morris, Director – International Relations, APRA Limited
Ms Kate Curr, Association of Parliamentary Libraries of Australasia
Mr Brendan O'Callaghan, Graduate Legal Officer, Attorney-General's
Department
Mr Philip Chung, Executive Director, Australasian Legal Information Institute
(AustLII)
Professor Graham Greenleaf, Co-Director, Australasian Legal Information
Institute (AustLII)
Ms Tamara Pallos, Policy Officer, Australia Council for the Arts
Ms Libby Baulch, Executive Officer, Australian Copyright Council
Mr Marlowe Thompson, Project Officer Litigation Team, Parliamentary and
Ministerial Section, Australian Electoral Commission
Ms Vanessa Tuckfield, Project Officer Copyright IP, Vocational, Education and
Training, Australian Flexible Learning Framework
Ms Bridget Larsen, Policy Manager, Australian Information Industry
Association
Ms Sarah Waladan, Copyright Advisor (Law and Policy), Australian Libraries
Copyright Committee, and Executive Officer, Australian Digital Alliance
Mr Chris Shain, Australian Institute of Professional Photography and Society of
Advertising, Commercial and Magazine Photographers
Ms Colette Ormonde, Copyright Adviser, Australian Library and Information
Association
Dr Jeremy Fisher, Executive Director, Australian Society of Authors

- Mr Jack de Lange, Chief Executive Officer, Australian Spatial Copyright Collections Limited
- Mr Matthew Deaner, Manager Legal, Policy and Industry Development, Australian Subscription Television and Radio Association
- Mr Conor King, Director, AVCC Policy and Analysis, Australian Vice-Chancellors' Committee
- Mr Anthony Barry
- Mr Charles Alexander, Member, Intellectual Property Committee, Business Law Section, Law Council of Australia
- Ms Sharon Bennett, Business Director, CCH Australia Limited
- Mr Michael Fraser, Chief Executive, Copyright Agency Limited
- Ms Caroline Morgan, General Manager and Company Secretary, Copyright Agency Limited
- Ms Melissa Willan, Copyright Agency Limited
- Ms Eve Woodberry, University Librarian UNE, Council of Australian University Librarians
- Mr Peter Ostergaard, Manager, Rights Management, Intellectual Property Branch, Department of Communications, Information Technology and the Arts
- Mr Mark Cunliffe, First Assistant Secretary, Legal Services Division, Department of Defence
- Ms Sandra Somerville, Principal Lawyer, Intellectual Property Unit, Legal Services Branch, Department of Education and the Arts
- Mr Ian Albrey, Senior Government Lawyer, Schools & Indigenous Section, Procurement, Assurance & Legal Group, Department of Education, Science and Training
- Mr Henry Carr, Principal Government Lawyer, Department of Employment and Workplace Relations
- Ms Sophie Nevell, Legal Policy Officer, Civil Law Policy, Department of Justice, Victoria
- Mr Neale Hooper, Assistant Crown Solicitor, Intellectual Property, Technology and Communication Team in Crown Law, Department of Justice and Attorney-General, Queensland
- Mr Tim Beale, Department of Justice and Attorney-General (Crown Law), Queensland
- Dr Anne Fitzgerald, Principal Legal Officer, Crown Law, Intellectual Property, Technology and Communication Team, Department of Justice and Attorney-General, Queensland

Ms Natasha Camphorst, Principal Policy Officer, Department of State
Development & Innovation, Queensland

Ms Robyn McClelland, Clerk Assistant (Table), Department of the House of
Representatives

Ms May Priddle, Manager, Information and Records Services, Department of
the Treasury

Judge D J McGill, District Court of Queensland

The Hon Justice K Lindgren, Federal Court of Australia and President,
Copyright Tribunal

Ms Bev Dalgairns, Manager, Film Library, Film Australia

Ms Judith Bannister, Lecturer, School of Law, Flinders University of South
Australia

Mr Jeff Roberts, Assistant Director, IP Research and Projects, IP Australia

Ms Julie Austin, Editorial Standards and Policy Manager, LexisNexis Australia

Ms Daemoni Bishop, Publishing Director, LexisNexis Australia

Ms Laura Whitton, Acquisitions Editor, Schools Division, McGraw-Hill
Education

Ms Sharyn Ch'ang, National Director – Intellectual Property, Ministerial
Council on Education, Employment, Training and Youth Affairs – Schools
Resourcing Taskforce

Mr Paul Dagleish, Assistant Director, Access and Information Services,
National Archives of Australia

Ms Delia Browne, Legal Adviser, National Association for the Visual Arts

Ms Tamara Winikoff, Executive Director, National Association for the Visual
Arts

Mr Ben Atkinson, Solicitor, NSW Attorney General's Department

Ms Samantha Schrader, Senior Lawyer, Office of Australian Government
Solicitor

Mr Simon Lake, Chief Executive, Screenrights

Ms Bronwyn Coop, Manager, Policy & Research, State Library of NSW

Mr Rick Barton, Company Secretary and Legal Counsel, The Royal Australian
Institute of Architects

Mr Michael Dean, Intellectual Property Officer, The University of Melbourne

Mr Brett McCarthy, Solicitor, Thomson Legal & Regulatory Limited

Ms Anita Sibrits, Commercial Manager, General Law, Thomson Legal &
Regulatory Limited

Ms Justine Clarke, Intellectual Property Research Institute of Australia,
University of Melbourne

Ms Mary Wyburn, Faculty of Economics & Business, University of Sydney
Ms Chryssy Tintner, Chief Executive Officer, Vi\$copy Ltd

Perth, 20 August 2004

WA Government representatives

Mr Bruce Roberts, Registrar of Titles, Department of Land Information
Mr John Strijk, Manager, State Law Publisher
Mr Peter van Bruchem, Department of Industry and Resources
Mr John Lightowlers, General Counsel, Public Sector Review, Ministry of the
Premier and Cabinet
Ms Irene Hislop, Ministry of the Premier and Cabinet
Ms Nhi Do, Department of Education and Training
Ms Sue Lapham, Department of Education and Training
Ms Sarah Sandstad, State Solicitor's Office
Mr Jeff Saville, Senior Assistant State Solicitor, State Solicitor's Office

The Hon Paul Seaman QC, retired judge of the Supreme Court of Western
Australia

Melbourne, 24 August 2004

State Government representatives

Mr Rupert Burns, Senior Legal Adviser, Department of Premier and Cabinet,
Victoria
Mr Chris Humphreys, Director, Civil Law Policy, Department of Justice,
Victoria
Mr Eamonn Moran QC, Chief Parliamentary Counsel and Government Printer,
Victoria
Ms Sophie Nevell, Legal Policy Officer, Civil Law Policy, Department of
Justice, Victoria
Ms Ruvani Wickremesinghe, Assistant Director, Civil Law Policy, Department
of Justice, Victoria
Mr Simon Millington, Senior Solicitor, Crown Law, Tasmania
Ms Anna Moulton, Senior Policy Officer, Department of Justice, Tasmania

Ms Giulia Bernardi, Director, Prudential Management Group, Attorney-
General's Department, South Australia

Representatives of other agencies

Mr Terry Healy, General Counsel, CSIRO

Ms Elizabeth Beal, Director, Victoria, Communications Law Centre

Professor Christopher Arup, Communications Law Centre

Ms Natalina Velardi, Manager, Research & Information, Law Institute of
Victoria

Mr David Jansen, Victorian Government Solicitor, Law Institute of Victoria

Ms Robin Wright, Swinburne Legal, Swinburne University of Technology

Appendix 3

NSW waivers of copyright in judgments and legislation

Notice: Copyright in judicial decisions¹

Recognising that the Crown has copyright in decisions of the courts and tribunals of New South Wales, including but not limited to prerogative rights and privileges of the Crown in the nature of copyright, and that it is desirable in the interests of the people of New South Wales that access to such decisions should not be impeded except in limited special circumstances:

I, The Honourable John Hannaford, Attorney General for the State of New South Wales, make and publish this instrument on behalf of the State of New South Wales.

Definitions

1. In this instrument:

“authorisation” means the authorisation granted by this instrument;

“copyright” includes any prerogative right or privilege of the Crown in the nature of copyright;

“Council” means the Council of Law Reporting established by the Council of Law Reporting Act 1969 of New South Wales;

“judicial decision” means:

(a) a judgment, order or award of a State court; or

(b) the reasons for any judgment, order or award given by the State court or a member of the State court, that has or have been publicly delivered, made or given;

“State” means the State of New South Wales, and includes the Crown in right of the State of New South Wales;

¹ The Hon John Hannaford MLC, Attorney General, ‘Notice: Copyright in judicial decisions’ *NSW Government Gazette* No.23 (3 March 1995) p. 1087

“State court” means:

- (a) any court constituted or continued by or under a law of New South Wales; or
- (b) any tribunal or other body constituted or continued by or under a law of New South Wales and exercising judicial or industrial arbitration functions.

Authorisation

2. Any publisher is by this instrument authorised to publish and otherwise deal with any judicial decision, subject to the following conditions:

- (a) copyright in judicial decisions continues to reside in the State;
- (b) the State reserves the right at any time to revoke, vary or withdraw the authorisation if the conditions of its grant are breached and otherwise on reasonable notice;
- (c) any publication of material pursuant to the authorisation must not indicate directly or indirectly that it is an official version of the material or that it is a version of the material published by or for the Council or any other law reporting agency of the State;
- (d) any publication of material pursuant to the authorisation must not:
 - include any headnote or other summary of a judicial decision (or any summary of submissions) prepared by or for the Council or other law report agency, except with the further authority of the Council or agency; or
 - reproduce any footnotes, comments, case lists, cross-references or other editorial material in any report of a judicial decision prepared by or for the Council or agency, except with the further authority of the Council or agency;
- (e) the arms of the State must not be used in connection with the publication of material pursuant to the authorisation, except with the further authority of the Governor (acting with the advice of the Executive Council) or of the Attorney General;
- (f) any publication of material pursuant to the authorisation is required to be accurately reproduced in proper context and to be of an appropriate standard.

Non-enforcement of copyright

3. The State will not enforce copyright in any judicial decision to the extent that it is published or otherwise dealt with in accordance with the authorisation. For this purpose, the authorisation has effect as a licence binding on the State.

Revocation, variation or withdrawal of authorisation

4. Any revocation, variation or withdrawal of the authorisation may be effected generally or in relation to specified publishers or specified classes of publishers. The authorisation may also be revoked, varied or withdrawn in relation to specified judicial decisions or specified classes of judicial decisions. Any such revocation, variation or withdrawal may be by notice in the New South Wales Government Gazette, or by notice to any particular publisher, or in any other way as determined from time to time by the Attorney General.

Unauthorised Documents Act 1922

5. Attention is drawn to the Unauthorised Documents Act 1922 of New South Wales, which restricts the use of the State coat of arms.

Copyright Act 1968 of the Commonwealth

6. Nothing in this instrument affects the rights of any person (other than the State) under the Copyright Act 1968 of the Commonwealth. In particular, attention is drawn to section 182A of that Act, which gives any person the right to make one copy, by reprographic reproduction, of a judicial decision.

Dated at Sydney this 28th day of February, 1995.

The Hon John Hannaford
Attorney General

* * * * *

Notice: Copyright in legislation and other material²

Whereas:

- (1) it is recognised that the Crown has copyright in the legislation of New South Wales and in certain other material, including but not limited to prerogative rights and privileges of the Crown in the nature of copyright, and that it is desirable in the interests of the people of New South Wales that access to such legislation and material should not be impeded except in limited special circumstances, and
- (2) a notice relating to such copyright was published in Government Gazette No 94 of 27 August 1993, and
- (3) it is expedient to extend the authorisation to publish and otherwise deal with such legislation and material, as provided for in that notice:

I, The Honourable J W Shaw QC, MLC, Attorney General for the State of New South Wales, make and publish this instrument on behalf of the State of New South Wales.

Definitions

1 In this instrument:

“authorisation” means the authorisation granted by this instrument.

“copyright” includes any prerogative right or privilege of the Crown in the nature of copyright.

“legislative material” means:

- (a) Acts of the Parliament of New South Wales, and
- (b) statutory rules within the meaning of the Interpretation Act 1987, and
- (c) environmental planning instruments within the meaning of the Environmental Planning and Assessment Act 1979, and
- (d) proclamations or orders made under an Act of the Parliament of New South Wales and published in the Government Gazette, and

² The Hon JW Shaw QC, MLC, Attorney-General, ‘Notice: Copyright in legislation and other material’ *NSW Government Gazette* No. 110 (27 September 1996) p. 6611.

- (e) admission rules made under the Legal Profession Act 1987 and rules made by the costs assessors' rules committee under section 208R of that Act, and
 - (f) any other instruments that are required under any law to be made, approved, or confirmed by the Governor or a Minister of State for New South Wales and that are published in the Government Gazette, and
 - (g) provisions applying as a law of New South Wales, by virtue of an Act of the Parliament of New South Wales, and
 - (h) any of the above in the form in which they are officially printed or reprinted, and with or without the inclusion of further amendments duly made, and
 - (i) official explanatory notes and memoranda published in connection with any of the above, and
 - (j) tables of provisions, indexes or notes published with any of the above.
- “State” means the State of New South Wales, and includes the Crown in right of the State of New South Wales.

Authorisation

2 Any publisher is by this instrument authorised to publish and otherwise deal with any legislative material, subject to the following conditions:

- (a) copyright in the legislative material continues to reside in the State,
- (b) State reserves the right at any time to revoke, vary or withdraw the authorisation if the conditions of its grant are breached and otherwise on reasonable notice,
- (c) Any publication of material pursuant to the authorisation must not indicate directly or indirectly that it is an official version of the material,
- (d) the arms of the State must not be used in connection with the publication of material pursuant to the authorisation, except with the further authority of the Governor (acting with the advice of the Executive Council) or of the Attorney General,
- (e) any publication of material pursuant to the authorisation is required to be accurately reproduced in proper context and to be of appropriate standard.

Non-enforcement of copyright

3 The State will not enforce copyright in legislative material to the extent that it is published or otherwise dealt with in accordance with the authorisation. For this purpose, the authorisation has effect as a licence binding on the State

Revocation, variation or withdrawal of authorisation

4 Any revocation, variation or withdrawal of the authorisation may be effected generally or in relation to specified publishers or specified classes of publishers. The authorisation may also be revoked, varied or withdrawn in relation to specified legislative material or specified classes of legislative material. Any such revocation, variation or withdrawal may be by notice in the Government Gazette, or by notice to any particular publisher, or in any other way as determined from time to time by the Attorney General.

Unauthorised Documents Act 1922

5 Attention is drawn to the Unauthorised Documents Act 1922, which restricts use of the State coat of arms.

Copyright Act 1968 of the Commonwealth

6 Nothing in this instrument affects the rights of any person (other than the State) under the Copyright Act 1968 of the Commonwealth.

Previous instrument

7 This instrument is intended to replace the instrument published in Gazette No 94 of 27 August 1993 in relation to copyright, and accordingly the authorisation granted by the previous instrument is subsumed by the authorisation granted by this instrument. However, this instrument does not affect any rights or liabilities accrued or accruing under the previous instrument.

Dated at Sydney this 17th day of September 1996

The Hon J W Shaw QC, MLC
Attorney General

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