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Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Monday, 24 November 2025

Dear Committee Secretary,

RE: Copyright Amendment Bill 2025

National and State Libraries Australasia (NSLA) Inc. welcomes the Government's Copyright Amendment Bill 2025, which proposes to amend the *Copyright Act 1968* to introduce an Australian orphan works scheme, clarify the scope of provisions relating to the performance and communication of works or other subject matter in the course of educational instruction, and make technical amendments.

NSLA's Australian members—our national, state and territory libraries—are the trusted custodians of Australia's documentary heritage. In 2024-25, our institutions collectively welcomed 65.3 million visits to our libraries, websites and digital catalogues, enabling access to content—books, artworks, historical manuscripts, photographs, cultural objects—and 7.5 petabytes of digital collections.¹ With a combined asset value exceeding \$3.45bn, these collections are stewarded on behalf of all Australians, yet some of this material is effectively inaccessible or unusable due to its unknown or unlocatable copyright ownership. **We strongly support the Copyright Amendment Bill 2025 as a welcome legislative instrument that will further unlock access to culturally and historically significant materials for all Australians**, on whose behalf we make this submission and on whose behalf we have previously advocated for a limitation on remedies for the use of orphan works material where a diligent search to identify the owner of the material has been conducted.²

We note that the Copyright Amendment Bill 2025 confirms that it complements existing exceptions and does not limit the operation of any other provision of the *Act* if the other conditions of that section are met (116AAB(2)). **Under current law, our institutions can rely on s200AB to undertake our work, but this provision does not extend to library users—the communities of researchers, creatives and the curious whom our institutions serve.** The orphan works scheme as proposed in the Bill is a welcome extension of access, use and reuse of this material.

We are encouraged that the amendment also respects protections for copyright owners, and **maintains balance between access, use and reuse and the rights of creators, which libraries respect and uphold.** We appreciate that the Bill's orphan works provisions are designed with care to protect creators' interests: the requirement of a reasonably diligent search to locate a copyright owner (116AAE(2-4)) before a work is deemed 'orphaned' is sensible and reflects the best practices to which our institutions have striven for well over a decade. We welcome the provision of reliance on industry standards for diligent searches. NSLA is committed to the principles of a reasonably diligent search and has previously published, and continues to maintain, industry guidelines for conducting a reasonably diligent search in keeping with international practice.³ NSLA plays a leadership role in the Australian library sector and we are committed to updating and maintaining these guidelines on behalf of our sector to align with the Bill's new provisions, ensuring that the orphan works scheme is employed effectively and responsibly and maximising the scheme's benefits for all Australians. We welcome the limitation on remedies if a previously unknown copyright owner should emerge and believe that this balanced approach will give library users the confidence to access and use material, while respecting the rights of creators. We have previously

¹ National and State Libraries Australasia, Annual Report 2024-25.

² For example, NSLA's Submission to the Senate Standing Committees on Environment and Communications Inquiry into the National Cultural Policy, 2 October 2025, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/NCP48P/Submissions.

³ See for example our *Position statement: Reasonably diligent search for orphan works*, <https://www.nsla.org.au/resources/position-statement-orphan-works/>

advocated for such a solution and are pleased to see protections for creators and users alike embedded in the legislation. We note also the condition of notice given in a “clear and reasonably prominent manner” (116AAE(6-7)) and respect the opportunity that this will afford a copyright owner to later identify themselves. As we provide access to complex digital collections at scale through our individual catalogues and via Trove, we will look to find practicable ways to provide this information to the public.

While orphan works are the centrepiece of NSLA’s interest in this Bill, we also congratulate the Government on other well-considered reforms. **The proposed clarifications and amendments to s28 of the Act are sensible and welcome.** We appreciate the clarity regarding the use of material for educational instruction regardless of whether that education occurs in a physical or remote setting (17(9)), and we particularly note the inclusion of language that refers to a “teacher or other person giving the instruction” (17(8)). Both provisions recognise the different means with which educators are working in their schools and communities, and recognise the modern reality that education is evolving, and lifelong. The provisions will be welcomed by library professionals across the country working in education, engagement and learning initiatives (there were, in 2023-24, over 400,000 programs attracting 7 million participants in Australia’s network of 1,716 public library outlets⁴).

In summary, **Australia’s national, state and territory libraries offer their strong endorsement of the Copyright Amendment Bill 2025.** We applaud the introduction of an Australian orphan works scheme as a landmark gain for Australian scholarship and creativity, enabling richer stories and research that incorporates even more of our cultural record. We welcome these reforms and look forward to their successful implementation for the benefit of all Australians. We thank the Government for its leadership on this issue and the opportunity to contribute this submission on behalf of the millions of Australian library users who every day access our nation’s documentary heritage curiously, creatively and responsibly.

For more information, contact

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⁴ Australian Library and Information Association and National and State Libraries Australasia, *Australian Public Libraries Statistical Report 2023-24* (Deakin: Australian Capital Territory), p. 26. Available online via Trove: <https://nla.gov.au/nla.obj-3921043747/view>