

2. Rights and Freedoms in Context

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2.36 Instruments such as the ICCPR provide some protection to rights and freedoms from statutory encroachment, but, like the principle of legality, generally only when a statute is unclear or ambiguous.⁶³

Where a statute or subordinate legislation is ambiguous, the courts should favour that construction which accords with Australia's obligations under a treaty or international convention to which Australia is a party.⁶⁴

2.37 In *Mabo v Queensland [No 2]*, Brennan J said that 'international law is a legitimate and important influence on the development of the common law, especially when international law declares the existence of universal human rights'.⁶⁵

2.38 However, even international instruments to which Australia is a party do not create binding domestic law in Australia. Nor do they abrogate the power of the Commonwealth Parliament to make laws that are inconsistent with the rights and freedoms set out in these instruments. In *Dietrich v The Queen*, Mason CJ and McHugh J said:

Ratification of the ICCPR as an executive act has no direct legal effect upon domestic law; the rights and obligations contained in the ICCPR are not incorporated into Australian law unless and until specific legislation is passed implementing the provisions.⁶⁶

2.39 In *Minister for Immigration v B*, Kirby J said that the High Court 'cannot invoke international law to override clear and valid provisions of Australian national law'.⁶⁷

2.40 International law protects rights in other ways. For example, Australia periodically reports to and appears before relevant United Nations human rights treaty bodies.⁶⁸ And as discussed below and in Chapter 3, Australian parliamentary committees scrutinise laws for compatibility with core international human rights

63 In *Coleman v Power*, Gleeson CJ distinguished between statutes enacted before ratification of a particular international treaty and those statutes enacted after ratification, arguing that only the latter can be interpreted in line with the relevant treaty: *Coleman v Power* (2004) 220 CLR 1, [19].

64 *Minister for Immigration and Ethnic Affairs v Teoh* (1995) 183 CLR 273, 287 (Mason CJ and Deane J). There is a 'common law principle that statutes should be interpreted and applied, so far as their language permits, so as not to be inconsistent with international law or conventions to which Australia is a party': *Momcilovic v The Queen* (2011) 245 CLR 1, [18] (French CJ). Every statute is 'to be so interpreted and applied as far as its language admits as not to be inconsistent with the comity of nations or with established rules of international law': *Jumbunna Coal Mine NL v Victorian Coal Miners' Association* (1908) 6 CLR 309, 353 (O'Connor J).

65 *Mabo v Queensland [No 2]* (1992) 175 CLR 1, 42. Professor Ivan Shearer has said: 'This puts the matter in a nutshell: the Covenant is not as such part of the law of Australia, but is a powerful influence on the judges in developing the common law': Ivan Shearer, 'The Relationship between International Law and Domestic Law' in Brian Opeskin and Donald Rothwell (eds), *International Law and Australian Federalism* (Melbourne University Press, 1997) 56.

66 *Dietrich v The Queen* (1992) 177 CLR 292, 305.

67 *Minister for Immigration v B* (2004) 219 CLR 365, [171] (Kirby J). Similarly, in *The Malaysian Declaration Case*, Kiefel J said that a 'statute is to be interpreted and applied, so far as its language permits, so that it is in conformity, and not in conflict, with established rules of international law ... However, if it is not possible to construe a statute conformably with international law rules, the provisions of the statute must be enforced even if they amount to a contravention of accepted principles of international law'. *Plaintiff M70/2011 v Minister for Immigration and Citizenship* (2011) 244 CLR 144, [247].

68 See Attorney-General's Department, *United Nations Human Rights Reporting* <<http://www.ag.gov.au>>.

treaties. The United Nations Human Rights Committee also considers communications from individuals who claim to be victims of a human rights violation.⁶⁹

2.41 While the focus of the Terms of Reference is upon common law rights and freedoms,⁷⁰ international human rights law informs approaches to domestic law and also the ALRC's obligations in conducting inquiries.⁷¹

The nature of common law rights

2.42 Some of the rights and freedoms listed in the Terms of Reference directly give rise to legal obligations and may be enforced in courts of law. Others are more like freedoms or liberties and are protected in Australia by virtue of the fact, and largely only to the extent, that laws do not encroach on the freedom.⁷² The High Court said in *Lange v Australian Broadcasting Corporation*:

Under a legal system based on the common law, 'everybody is free to do anything, subject only to the provisions of the law', so that one proceeds 'upon an assumption of freedom of speech' and turns to the law 'to discover the established exceptions to it'.⁷³

2.43 Many common law rights may therefore be largely residual,⁷⁴ and perhaps for this reason, more vulnerable to statutory encroachment.⁷⁵

69 *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976) First Optional Protocol, art 1.

70 The Terms of Reference do not expressly refer to Australia's legal obligations under international human rights instruments, as pointed out by Councils for Civil Liberties, *Submission 142*; Law Council of Australia, *Submission 140*; Refugee Advice & Casework Service, *Submission 119*. See also Monash University Castan Centre for Human Rights, *Submission 18*.

71 The ALRC must aim to ensure that the laws, proposals and recommendations it reviews, considers or makes are, as far as practicable, consistent with Australia's international obligations that are relevant to the matter: *Australian Law Reform Commission Act 1996* (Cth) s 24(1)(b).

72 The most comprehensive and compelling explanation of the nature of rights and liberties and the jural relations that they create was provided by the American jurist Wesley Newcomb Hohfeld: Wesley Hohfeld, 'Some Fundamental Legal Conceptions as Applied in Judicial Reasoning' (1913) 23 *Yale Law Journal* 16. For a discussion, see Suri Ratnapala, *Jurisprudence* (Cambridge University Press, 2009) ch 13. In a speech about common law protections of human rights, Chief Justice French said that it was 'important to recognise ... that common law 'rights' have varied meanings. In their application to interpersonal relationships, expressed in the law of tort or contract or in respect of property rights, they are justiciable and may be said to have 'a binding effect'. But 'rights', to movement, assembly or religion, for example, are more in the nature of 'freedoms'. They cannot be enforced, save to the extent that their infringement may constitute an actionable wrong such as an interference with property rights or a tort': Chief Justice Robert French, 'Protecting Human Rights Without a Bill of Rights' (Speech, John Marshall Law School, Chicago, 26 January 2010).

73 *Lange v Australian Broadcasting Corporation* (1997) 189 CLR 520, 564 (Brennan CJ, Dawson, Toohey, Gaudron, McHugh, Gummow and Kirby JJ) quoting *Attorney General v Guardian Newspapers (No 2)* [1990] 1 AC 109, 283. The corollary of this principle is that no person or authority may interfere with the liberty of a person except by authority of law: see, eg, *Entick v Carrington* (1765) 19 St Tr 1029.

74 'The traditional doctrine in English law is that Parliament is sovereign. However, individuals may say or do whatever they please provided they do not transgress the substantive law or infringe the legal rights of others. Furthermore, public authorities including the Crown may do nothing but that which they are authorized to do by some rule of common law (including the royal prerogative) or statute and, in particular, may not interfere with the liberties of individuals without statutory authority. Where public authorities are not authorized to interfere with the individual, the individual has liberties. It is in this sense that such liberties are residual rather than fundamental and positive in their nature: they consist of what

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2.44 In some other jurisdictions, rights and freedoms are afforded additional protection from statutory encroachment by bills of rights and human rights statutes. The degree of protection offered by these statutes varies. A constitutionally entrenched bill of rights, such as that found in the United States Constitution, allows the judiciary to declare a law invalid. This may be contrasted with the *Human Rights Act 1998* (UK), which does not give courts the power to strike down legislation, but provides that ‘[s]o far as it is possible to do so, primary legislation and subordinate legislation must be read and given effect in a way which is compatible’ with rights and freedoms set out in the *European Convention on Human Rights*.⁷⁶ The Victorian Charter has a similar provision, quoted above.⁷⁷

2.45 Common law rights overlap with the rights protected in these international instruments and bills of rights. In their history and development, each may be seen as an important influence on the other. A statute that encroaches on a traditional common law right will often, therefore, also encroach on its related human right. However, the two rights may not always have the same scope. While some common law rights are often conceived of as residual, human rights are rarely thought of in this way. Moreover, human rights have been said to tend to grow in content and form. Professor Tom Campbell has written:

More and more interests are recognized as justifying the protection that flows from being adopted as a human right. This growth is a matter of the form of human rights as well as their content. Thus, even traditional core civil and political liberties are seen as involving positive correlative duties to secure the interest identified in the right, and not, as before, merely negative correlative duties to let people be and leave them alone to go their own way. Human rights are also being put to a wider variety of uses.⁷⁸

2.46 Many social and economic rights are also recognised as human rights in international law—for example, the right to work and the right to housing. As important as these rights may be, they are not the focus of this Inquiry.⁷⁹

remains after taking account of all the legal restraints that impinge upon an individual’: Hugh Tomlinson, Richard Clayton and Victoria Butler-Cole, *The Law of Human Rights* (University Press, 2009) 28.

75 One consequence of the fact that many common law rights are residual is that Parliament can always ‘legislate fundamental rights out of existence’: *Ibid* 29.

76 *Human Rights Act 1998* (UK) s 3(1). Section 4(2) also gives the courts a power to make a ‘declaration of incompatibility’. In a speech about human rights, Lady Hale said that statements from Lord Nicholls, Lord Steyn and Lord Rodger in *Ghaidan v Godin Mendoza* gave ‘a very broad meaning’ to what was ‘possible’: ‘as long as an interpretation was not contrary to the scheme or essential principles of the legislation, words could be read in or read out, or their meaning elaborated, so as both to be consistent with the convention rights and “go with the grain” of the legislation, even though it was not what was meant at the time’: Lady Hale, ‘What’s the Point of Human Rights?’ (Warwick Law Lecture, 28 November 2013). See also, *Ghaidan v Godin Mendoza* [2004] 2 AC 557.

77 *Charter of Human Rights and Responsibilities Act 2006* (Vic) s 32(1).

78 Tom Campbell, Jeffrey Goldsworthy and Adrienne Stone, *Protecting Human Rights: Instruments and Institutions* (Oxford University Press, 2003) 17.

79 The Report focuses on the rights and freedoms listed in the Terms of Reference.

Extra-territorial application

2.47 In the absence of a specific legislative restriction which is consistent with the *Constitution*, the enjoyment of most common law rights and freedoms is not confined to Australian citizens.⁸⁰

2.48 At common law, people who are not Australian citizens ('aliens'), other than enemy aliens, are to be treated, while they are in Australia, as being within 'the Queen's Peace', not as outlaws placed beyond the ordinary legal system. The High Court has noted on several occasions that such people are entitled to the same protection with respect to civil rights as the law affords to Australian citizens.⁸¹

2.49 A related issue concerns whether common law rights have extra-territorial effect—that is, do they apply to people who are outside Australia, or on their way to Australia. Generally, Australian common law does not apply of its own force in areas beyond the limits of Australia.⁸² In *Ruddock v Vadarlis*, Beaumont J held that asylum seekers aboard the MV *Tampa* had not, and could not, assert a common law right to enter Australia; and it is unlikely they had other Australian common law rights that could be enforced.⁸³

2.50 There is a common law presumption that legislation does not have extra-territorial application. Australian law may be given extra-territorial effect in legislation—for example, as has been done in relation to child sex offences.⁸⁴ Where Australian law has extra-territorial effect, common law rights may apply. For example, an Australian military tribunal operating outside Australia would be expected to observe natural justice.

Identifying laws that limit rights and freedoms

2.51 The first of the tasks of this Inquiry is to identify Commonwealth laws—not state and territory laws—that encroach upon traditional rights, freedoms and privileges.⁸⁵ There is no doubt that laws often encroach on traditional rights and freedoms. In *Malika Holdings v Stretton*, McHugh J said that 'nearly every session of Parliament produces laws which infringe the existing rights of individuals',⁸⁶ although

80 At common law, freedom of movement concerns the freedom of citizens to leave and return to their own country. Therefore, migration laws applying to non-citizens are not generally considered to directly engage this particular right. See Ch 7.

81 *Bradley v Commonwealth* (1973) 128 CLR 557, 582 (Barwick CJ); *Re Minister for Immigration and Multicultural Affairs v Te* (2002) 212 CLR 165, [125] (Gummow J); *Singh v Commonwealth* (2004) 222 CLR 322, [201] (Gummow, Hayne and Heydon JJ).

82 In *Commonwealth v Yarmirr*, the High Court held that native title rights and interests were capable of being recognised by the common law in respect of the sea and sea-bed beyond the low-water mark: *Commonwealth v Yarmirr* (2001) 208 CLR 1, [34]–[35]. However, there was no suggestion that the common law extended beyond the territorial sea.

83 *Ruddock v Vadarlis* (2001) 110 FCR 491, [97]. Beaumont J stated that the absence of a common law claim was fatal to the case for relief in the form of the common law prerogative writ of *habeas corpus*. See also *CPCF v Minister for Immigration* [2015] HCA 1.

84 *Criminal Code* div 272.

85 See Terms of Reference.

86 *Malika Holdings Pty Ltd v Stretton* (2001) 204 CLR 290, [28] (McHugh J).

perhaps fewer encroach on the most important and fundamental of common law rights.⁸⁷ This Report sets out many of the Commonwealth laws that may be said to interfere with the common law rights and freedoms listed in the Terms of Reference. It provides an extensive survey of such laws, without making a judgment about the justification for them.⁸⁸

2.52 The Terms of Reference ask the ALRC to include consideration of Commonwealth laws in the areas of commercial and corporate regulation, environmental regulation, and workplace relations.⁸⁹ These laws are highlighted throughout this Report.

2.53 Having identified laws that affect traditional rights and freedoms, the second task was to ask whether the laws were appropriately justified. The following section discusses justifications for limits on important rights and principles at a general level—and particularly the framing principle of proportionality. More particular justifications are then discussed throughout the Report, in the context of the rights listed in the Terms of Reference.

Justifying limits on rights and freedoms

2.54 Laws that interfere with traditional rights and freedoms are sometimes considered necessary for many reasons—such as public order, national security, public health and safety. The mere fact of interference will rarely be sufficient ground for criticism.

2.55 Important rights often clash with each other, so that some must necessarily give way, at least partly, to others. Freedom of movement, for example, does not give a person unlimited access to another person’s private property, and convicted murderers must generally lose their liberty, in part to protect the lives and liberties of others. Individual rights and freedoms will also sometimes clash with a broader public interest—such as public health or safety, or national security.

2.56 Accordingly, it is widely recognised that there are reasonable limits even to fundamental rights. Only a handful of rights—such as the right not be tortured—are considered to be absolute.⁹⁰ Limits on traditional rights are also recognised by the common law. In fact, some laws that limit traditional rights may be as traditional as the rights themselves. However, such laws are generally regarded as part of the *scope* of common law rights, rather than as limits or encroachments on those rights.

87 Although in this same passage, McHugh J also said that ‘times change’: ‘What is fundamental in one age or place may not be regarded as fundamental in another age or place... [C]are needs to be taken in declaring a principle to be fundamental’: *Malika Holdings Pty Ltd v Stretton* (2001) 204 CLR 290, [28] (McHugh J).

88 A list of all the statutory provisions cited in this report is included at Appendix A. Lists of certain laws that limit rights are also set out in G Williams, *Submission 76*; Institute of Public Affairs, *Submission 49*.

89 The Terms of Reference are also clear that this Inquiry is not to be limited to these areas.

90 *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976) arts 6, 7, 8 (paras 1 and 2) 11, 15, 16 and 18: art 4.2. See, eg, Williams and Hume, above n 5, [5.3]. See also Attorney-General’s Department, *Absolute Rights* <<http://www.ag.gov.au>>.

2.57 Bills of rights in other jurisdictions and international human rights covenants and related guidelines also feature limitations provisions. For example, limits on rights in the ICCPR are recognised in the text of the ICCPR and are elaborated upon in the ‘Siracusa Principles’.⁹¹

2.58 Nevertheless, much of the value of calling something a right will be lost if the right is too easily qualified or diluted. Many common law rights were developed carefully over long periods of time and have been applied in many cases. In many jurisdictions, these rights are considered so fundamentally important that they have constitutional status. There seems little doubt, therefore, that the common law rights in the Terms of Reference should be treated with considerable respect in law making and should not lightly be encroached upon. Where a law does encroach on a traditional right, the encroachment should be justified.

2.59 ‘Human rights enjoy a prima facie, presumptive inviolability, and will often “trump” other public goods,’ Louis Henkin wrote in *The Age of Rights*:

Government may not do some things, and must do others, even though the authorities are persuaded that it is in the society’s interest (and perhaps even in the individual’s own interest) to do otherwise; individual human rights cannot be sacrificed even for the good of the greater number, even for the general good of all. But if human rights do not bow lightly to public concerns, they may be sacrificed if countervailing societal interests are important enough, in particular circumstances, for limited times and purposes, to the extent strictly necessary.⁹²

2.60 The ALRC has been asked to consider whether limits on traditional rights and freedoms are ‘appropriately justified’.⁹³ This question might be considered on two broad levels. The first involves testing the law according to a particular measure or standard—such as proportionality. Laws that pass this standard might be said to have been *substantively* justified. This is the most commonly used meaning of the word justified, in this context, and it is the main focus of this Inquiry.

2.61 The second level concerns the processes that lead to the making of the law—the *procedural* justification. It is not suggested, however, that procedural justification implies substantive justification. Both of these types of justification are discussed below.

Proportionality

2.62 A common way of determining whether a law that limits rights is justified is by asking whether the law is proportionate. This concept is commonly used by courts to test the validity of laws that limit rights protected by constitutions and statutory bills of

91 United Nations Economic and Social Council, *Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights*, UN Doc E/CN.4/1985/4, Annex (28 September 1984). These principles were formulated at a conference sponsored by non-governmental organisations in Siracusa, Italy, in 1984. The object of the conference was to achieve a consistent interpretation and application of the limitation and restriction clauses of the ICCPR.

92 Louis Henkin, *The Age of Rights* (Columbia University Press, 1990) 4.

93 See Terms of Reference.

rights.⁹⁴ However, proportionality tests can also be a valuable tool for law makers and others to test the justification of laws that limit other important—even if not strictly constitutional—rights and principles.⁹⁵

2.63 In short, a structured proportionality analysis involves considering whether a given law that limits important rights has a **legitimate objective** and is **suitable** and **necessary** to meet that objective, and whether—on **balance**—the public interest pursued by the law outweighs the harm done to the individual right.

2.64 A 2014 book on the jurisprudence of proportionality includes this ‘serviceable—but by no means canonical’ formulation of the test:

1. Does the legislation (or other government action) establishing the right’s limitation pursue a legitimate objective of sufficient importance to warrant limiting a right?
2. Are the means in service of the objective rationally connected (suitable) to the objective?
3. Are the means in service of the objective necessary, that is, minimally impairing of the limited right, taking into account alternative means of achieving the same objective?
4. Do the beneficial effects of the limitation on the right outweigh the deleterious effects of the limitation; in short, is there a fair balance between the public interest and the private right?⁹⁶

2.65 Proportionality has been called the ‘most important doctrinal tool in constitutional rights law around the world for decades’⁹⁷ and ‘the orienting idea in contemporary human rights law and scholarship’.⁹⁸

Proportionality has been received into the constitutional doctrine of courts in continental Europe, the United Kingdom, Canada, New Zealand, Israel, and South Africa, as well as the jurisprudence of treaty-based legal systems such as the European Court of Human Rights, giving rise to claims of a global model, a received approach, or simply the best-practice standard of rights adjudication. Even in the United States, which is widely understood to have formally rejected

94 Former President of the Supreme Court of Israel, Aharon Barak, said proportionality can be defined as ‘the set of rules determining the necessary and sufficient conditions for a limitation on a constitutionally protected right by a law to be constitutionally protected’: Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations* (Cambridge University Press, 2012) 3.

95 In other words, proportionality tests need not only be used by *courts*, and need not only be used to test limits on *constitutional* rights.

96 G Huscroft, B Miller and G Webber (eds), *Proportionality and the Rule of Law: Rights, Justification, Reasoning* (Cambridge University Press, 2014). Cf Aharon Barak: ‘According to the four sub-components of proportionality, a limitation of a constitutional right will be constitutionally permissible if (i) it is designated for a proper purpose; (ii) the measures undertaken to effectuate such a limitation are rationally connected to the fulfilment of that purpose; (iii) the measures undertaken are necessary in that there are no alternative measures that may similarly achieve that same purpose with a lesser degree of limitation; and finally (iv) there needs to be a proper relation (“proportionality *stricto sensu*” or “balancing”) between the importance of achieving the proper purpose and the special importance of preventing the limitation on the constitutional right’: Barak, above n 94, 3.

97 Kai Moller, ‘Proportionality: Challenging the Critics’ (2012) 10 *International Journal of Constitutional Law* 709, 709.

98 Huscroft, Miller and Webber, above n 96, 1.

proportionality, some argue that the various levels of scrutiny adopted by the US Supreme Court are analogous to the standard questions posed by proportionality.⁹⁹

2.66 Proportionality may now also be said to have been received to some extent into the constitutional doctrine of courts in Australia. For example, in *McCloy v New South Wales*, the High Court applied a structured proportionality test to determine whether a law infringed the constitutional right to political communication.¹⁰⁰ More commonly the courts have considered this question in terms of whether the law is ‘reasonably appropriate and adapted to serve a legitimate end’, which reflects a form of proportionality analysis.¹⁰¹

2.67 The Court in *McCloy* explained how proportionality has been used in various contexts in Australian law:

The term ‘proportionality’ in Australian law describes a class of criteria which have been developed by this Court over many years to determine whether legislative or administrative acts are within the constitutional or legislative grant of power under which they purport to be done. Some such criteria have been applied to purposive powers; to constitutional legislative powers authorising the making of laws to serve a specified purpose; to incidental powers, which must serve the purposes of the substantive powers to which they are incidental; and to powers exercised for a purpose authorised by the Constitution or a statute, which may limit or restrict the enjoyment of a constitutional guarantee, immunity or freedom, including the implied freedom of political communication. Analogous criteria have been developed in other jurisdictions, particularly in Europe, and are referred to in these reasons as a source of analytical tools which, according to the nature of the case, may be applied in the Australian context.¹⁰²

2.68 Proportionality is used by Australian parliamentary committees to scrutinise Bills. The Parliamentary Joint Committee on Human Rights, for example, applies a proportionality test. The Committee’s *Guide to Human Rights* states:

A key aspect of whether a limitation on a right can be justified is whether the limitation is proportionate to the objective being sought. Even if the objective is of sufficient importance and the measures in question are rationally connected to the

99 Ibid. The Siracusa Principles, noted above, includes a proportionality test: United Nations Economic and Social Council, *Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights*, UN Doc E/CN.4/1985/4, Annex (28 September 1984) [10], [11].

For recent discussions of proportionality in the UK High Court, see *R (Lord Carlile) v Home Secretary* [2014] 3 WLR 1404, [28]–[34] (Lord Sumption); *Bank Mellat v HM Treasury [No. 2]* [2014] AC 700, [68]–[76] (Lord Reed); and *R (Nicklinson) v Ministry of Justice* [2014] 3 All ER 843, [168] (Lord Mance).

100 *McCloy v New South Wales* [2015] HCA 34 (7 October 2015).

101 ‘What upon close scrutiny is disproportionate or arbitrary may not answer to the description reasonably appropriate and adapted for an end consistent or compatible with observance of the relevant constitutional restraint upon legislative power’: *Roach v Electoral Commissioner* (2007) 233 CLR 162, [85] (Gummow, Kirby and Crennan JJ). The question of whether a law is reasonably appropriate and adapted to advance a legitimate object ‘involves what is referred to in these reasons as “proportionality testing” to determine whether the restriction which the provision imposes on the freedom is justified’: *McCloy v New South Wales* [2015] HCA 34 (7 October 2015) [2] (French CJ, Kiefel, Bell and Keane JJ). See also Adrienne Stone, ‘The Limits of Constitutional Text and Structure: Standards of Review and the Freedom of Political Communication’ (1999) 23 *Melbourne University Law Review* 668, 677.

102 *McCloy v New South Wales* [2015] HCA 34 (7 October 2015) [3] (French CJ, Kiefel, Bell and Keane JJ).

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objective, the limitation may still not be justified because of the severity of its impact on individuals or groups.¹⁰³

2.69 In a public sector guidance sheet about permissible limits on rights, the Attorney-General's Department includes a list of 'useful questions to ask when assessing whether a measure limiting a right is reasonable, necessary and proportionate':

Will the limitation in fact lead to a reduction of that problem? Does a less restrictive alternative exist, and has it been tried? Is it a blanket limitation or is there sufficient flexibility to treat different cases differently? Has sufficient regard been paid to the rights and interests of those affected? Do safeguards exist against error or abuse? Does the limitation destroy the very essence of the right in issue?¹⁰⁴

2.70 A classic discussion of the principle of proportionality may be found in the 1986 Canadian Supreme Court case of *R v Oakes*.¹⁰⁵ This case concerned a drug control statute that placed a legal burden of proof on the defendant, and so undermined the person's right, under the *Canadian Charter of Rights and Freedoms*, to be presumed innocent until proven guilty. Section 1 of the Canadian Charter guarantees the rights and freedoms in the Charter 'subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society'.¹⁰⁶

2.71 Dickson CJ said that to establish that a limit is reasonable and demonstrably justified in a free and democratic society, two central criteria must be satisfied. The first concerned the importance of the objective of the law:

First, the objective, which the measures responsible for a limit on a Charter right or freedom are designed to serve, must be 'of sufficient importance to warrant overriding a constitutionally protected right or freedom'. The standard must be high in order to ensure that objectives which are trivial or discordant with the principles integral to a free and democratic society do not gain s 1 protection. It is necessary, at a minimum, that an objective relate to concerns which are pressing and substantial in a free and democratic society before it can be characterized as sufficiently important.¹⁰⁷

2.72 Secondly, the means chosen for the law must be 'reasonable and demonstrably justified', which involves 'a form of proportionality test' with three components:

First, the measures adopted must be carefully designed to achieve the objective in question. They must not be arbitrary, unfair or based on irrational considerations. In

103 Parliamentary Joint Committee on Human Rights, Parliament of Australia, *Guide to Human Rights* (2014) 8.

104 Attorney-General's Department (Cth), *Permissible Limitations*, available at <www.ag.gov.au>.

105 *R v Oakes* [1986] 1 SCR 103 [69]–[70].

106 The Victorian Charter similarly provides: 'A human right may be subject under law only to such reasonable limits as can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom, and taking into account all relevant factors including—(a) the nature of the right; and (b) the importance of the purpose of the limitation; and (c) the nature and extent of the limitation; and (d) the relationship between the limitation and its purpose; and (e) any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve': *Charter of Human Rights and Responsibilities Act 2006* (Vic) s 7(2). See also, *Human Rights Act 2004* (ACT) s 28; *New Zealand Bill of Rights Act 1990* (NZ) s 5.

107 *R v Oakes* [1986] 1 SCR 103 [69]–[70].

short, they must be rationally connected to the objective. Second, the means, even if rationally connected to the objective in this first sense, should impair ‘as little as possible’ the right or freedom in question. Third, there must be a proportionality between the effects of the measures which are responsible for limiting the Charter right or freedom, and the objective which has been identified as of ‘sufficient importance’.¹⁰⁸

2.73 In each case, Dickson CJ said, courts will be ‘required to balance the interests of society with those of individuals and groups’.¹⁰⁹ There are variations, but the language in *Oakes* is reflected in most proportionality tests.

2.74 Proportionality—‘a single flexible standard’—has been contrasted with the law of the First Amendment to the *United States Constitution*, which ‘uses a multitude of less flexible, but more precise, rules designed to respond to particular kinds of cases’.¹¹⁰

2.75 In *Roach v Electoral Commissioner*, Gleeson CJ expressed reservations about an ‘uncritical translation’ of proportionality into Australia from jurisdictions with human rights instruments and wider powers of judicial review.¹¹¹ In *Momcilovic*, Heydon J suggested that the proportionality test in the Victorian Charter created ‘difficult tasks’ that should be for legislatures, not judges.¹¹² Professor John Finnis has said that all the proportionality criteria ‘involve matters of fact (including counter-factuals) and evaluative opinion in which legal learning is of little assistance and forensically ascertainable evidence is unavailable’:

[T]here is little or nothing judicial—nothing *law applying*—about assessments of proportionality in relation to rights such as those in the [*European Convention on Human Rights*], when these assessments are made by courts coming fresh to them in the context of general legislative or legislatively approved arrangements for social life.¹¹³

108 Ibid.

109 Ibid.

110 Adrienne Stone, ‘The Limits of Constitutional Text and Structure Revisited’ 28(3) *UNSWLJ* 842, 844. ‘The choice between the competing merits of these approaches depends on rather large questions of fact and value. Rules will appeal to those who value certainty in the application of judicial rules and who believe that rules created by one court are capable of constraining later and lower courts. Flexible standards will appeal to those who value flexibility and to those who are, in any event, sceptical about the capacity of legal doctrine to effectively constrain judges’: Ibid.

111 Human rights instruments ‘create a relationship between legislative and judicial power significantly different from that reflected in the Australian Constitution’: *Roach v Electoral Commissioner* (2007) 233 CLR 162, [17] (Gleeson CJ).

112 ‘It will lead to debates in which many different positions could be taken up. They may be debates on points about which reasonable minds may differ. They may be debates in which very unreasonable minds may agree. They are debates that call for resolution by legislative decision’: *Momcilovic v The Queen* (2011) 245 CLR 1, [431] (Heydon J). Heydon J said that s 7(2) ‘creates a kind of “proportionality” regime without comprehensible criteria’: Ibid [432].

113 John Finnis, ‘Judicial Power: Past, Present and Future’ (Speech, Gray’s Inn Hall, London, 20 October 2015) 21.

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2.76 However, some of these concerns may not arise when the proportionality analysis is being applied by law makers, parliamentary committees and others to test the merits of laws, rather than by courts.¹¹⁴

2.77 Other criticisms of proportionality apply more broadly.¹¹⁵ Some have suggested that proportionality tests give insufficient weight to rights, or call for the comparison of incommensurable values. Others have said it ‘suggests a far more rigorous algorithm of criteria than is in fact or law available’.¹¹⁶ Proportionality has even been called an ‘assault on human rights’.¹¹⁷ To balance rights may be to ‘miss the distinctive moral status that a rights claim presupposes and affirms’.¹¹⁸ Far from rights being ‘trumps’,¹¹⁹ a balancing approach might suggest that everything is ‘up for grabs’.¹²⁰

2.78 Nevertheless, in submissions to this Inquiry, a number of stakeholders said that proportionality was the appropriate concept to apply.¹²¹ For example, the Law Council of Australia submitted that the proportionality test in *R v Oakes* ‘has been applied in Australian domestic law and can produce logical and predictable outcomes when applied to legislation’:

‘Proportionality’ is ... a fluid test which requires those analysing and applying law and policy to have regard to the surrounding circumstances, including recent developments in the law, current political and policy challenges and contemporary public interest considerations.¹²²

2.79 In its submission to this Inquiry, the Human Rights Law Centre stated that

the test for determining whether a restriction is appropriate should be one of proportionality as used in international and comparative human rights jurisprudence and under the *Charter of Human Rights and Responsibilities Act 2006* (Vic) ... A proportionality test is appropriate as it preserves rights, provides a framework for

114 The role of parliamentary committees is discussed below and in Ch 3.

115 For criticisms of proportionality reasoning, see, eg, Francisco J Urbina, ‘Is It Really That Easy: A Critique of Proportionality and “Balancing as Reasoning”’ (2014) 27 *Canadian Journal of Law and Jurisprudence* 167; Stavros Tsakyrakis, ‘Proportionality: An Assault on Human Rights?’ (2009) 7 *International Journal of Constitutional Law* 468; Gregoire CN Webber, ‘Proportionality, Balancing, and the Cult of Constitutional Rights Scholarship’ (2010) 23 *Canadian Journal of Law and Jurisprudence* 179. In defence, see, eg, Moller, above n 97; Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations* (Cambridge University Press, 2012).

116 John Finnis, ‘Judicial Power: Past, Present and Future’ (Speech, Gray’s Inn Hall, London, 20 October 2015) 20.

117 Tsakyrakis, above n 115.

118 Ibid 489.

119 This is Ronald Dworkin’s well-known metaphor: Ronald Dworkin, ‘Rights as Trumps’ in Jeremy Waldron (ed), *Theories of Rights* (Oxford University Press, 1984).

120 Tsakyrakis, above n 115, 489. ‘With the balancing approach, we no longer ask what is right or wrong in a human rights case but, instead, try to investigate whether something is appropriate, adequate, intensive, or far-reaching’: Ibid 487.

121 National Association of Community Legal Centres, *Submission 143*; Australian Human Rights Commission, *Submission 141*; Law Council of Australia, *Submission 140*; Public Interest Advocacy Centre, *Submission 133*; ANU Migration Law Program, *Submission 107*; Law Council of Australia, *Submission 75*; Human Rights Law Centre, *Submission 39*. See also Centre for Comparative Constitutional Studies, *Submission 58*. Although in most submissions, the justification for laws limiting rights was not discussed at this more general level.

122 Law Council of Australia, *Submission 75*.

balancing competing rights and enables other important public concerns, such as national security and public order, to be duly taken into account.¹²³

2.80 The Public Interest Advocacy Centre endorsed the use of the principle and suggested that it could be ‘more deeply embedded’ in Australian law.¹²⁴

2.81 In this Inquiry, the ALRC does not consider the question of whether testing the proportionality of laws that limit rights is better carried out by the judiciary or the legislature. Nor is it necessary, in this Inquiry, to find a perfect method—if such a method exists—for testing the justification of laws that limit rights. Whether a particular law that limits a right is justified will of course sometimes be a question about which reasonable people acting in good faith disagree. A rigid insistence on a prescribed proportionality framework may also discourage more thorough and wide ranging analysis.

2.82 While the ALRC does not propose that one particular method must always be used to test the justification for laws that limit traditional rights and freedoms, proportionality tests offer a valuable way of structuring the critical analysis. They call for a considerable degree of rigour, and are clearly more thorough than mere unsupported statements that a law is justified because it is in the public interest. Proportionality is also used widely in many other countries and jurisdictions. When considering similar laws in Australia, law makers will naturally find these other analyses instructive. Importantly, the use of proportionality tests suggests that important rights and freedoms should only be interfered with reluctantly—when truly necessary.

Scrutiny processes

2.83 A law that limits important rights may be said to be justified in another more limited sense, namely, that it was made following open and robust scrutiny. A law that limits a right might therefore be said to be justified *procedurally*, if the law was made after a procedure that thoroughly tested whether the limit was *substantively* justified. A fundamental procedural justification for laws might be, for example, that they are made by a democratically elected parliament in a country with a free press. Another important process is scrutiny by parliamentary committees.

2.84 Rigorous processes for scrutinising laws for compatibility with traditional rights may be more important in jurisdictions without a constitutional bill of rights. So called ‘political rights review’ or ‘legislative rights review’, Professor Janet Hiebert has written,

entails new responsibilities and new incentives for public and political officials to assess proposed legislation in terms of its compatibility with protected rights. This innovation results in multiple sites for non-judicial rights review (government, the public service, and parliament), which distinguish this model from the American-

123 Human Rights Law Centre, *Submission 39*.

124 It also suggested how might this be done: Public Interest Advocacy Centre, *Submission 133*.



OENOVIVA
CERTIFICATION OF AUTHENTICITY
COMMERCIAL IN CONFIDENCE

DATE: WEDNESDAY, 10TH DAY OF MAY 2017

TO: THE RESERVE BANK OF AUSTRALIA, ABN: 50 008 559 486 (DRAWEE)

RE: ACCEPTANCE INTERNATIONAL BILL OF EXCHANGE SERIAL NO: 61:00064/17

We, OenoViva Capital Resources ABN; 42 388 204 496, herewith certify with full responsibility that this International Bill of Exchange Serial No: 61:00064/17 is issued pursuant to our Banking Indenture, *the UNCITRAL Convention on Bills of Exchange – 1990, United Nations*, for the purposes of deposit to account of Andrew Morton Garrett in his capacity as Trustee of the Australian People Future Fund ABN: 26 317 275 322 pursuant to a purchased payment facility to be established with the Drawee in accordance with an application made on the 30th March 2017 made by email from the Trustee to the Drawee.

Furthermore, we certify that this International Bill of Exchange Serial No: 61:00064/17 has been issued against the Credit Value of the balance sheet of OenoViva Capital Resources ABN 42 388 204 496 pursuant to *the Reserve Bank of Australia Act 1959 (AU), the Banking Act 1959 (AU), the Banking Regulations 1966 (AU) the Bills of Exchange Act 1909 (AU), the Payment Systems Regulation Act 1998 (AU), the Payment Systems and Netting Act 1998 (AU) and Part 7.3 of the Corporations Act 2001 (AU), and the UNCITRAL Convention – 1990 UNITED NATIONS*. We certify the value of International Bills of Exchange Serial No: 61:00064/17 is secured by Registration on the Personal Property Security Register as Registration ID 201705070000609 (see ANNEXURE) over the assets that are the subject of the Balance Sheet of OenoViva Capital Resources.

THE DRAWER

AUTHORISED SIGNATORY)
ANDREW MORTON GARRETT)
MANAGING TRUSTEE)



WITNESS & ACKNOWLEDGEMENT

AT: Hobart, Tasmania, Australia

On this 10th day of May 2017 before me **DAYNE EMIL JOHNSON OF HOBART TASMANIA** Notary Public, the person named hereto did personally appear: Andrew Morton Garrett, holding Australian Passport No: N3926144 and UK Passport No; 538401308 acting in his aforesaid capacity as the Managing Trustee on behalf of OenoViva Capital Resources ABN: 42388 204 496 and verified by me to be the sovereign citizen and/or person whose name is subscribed to be within the Certification hereto and this Secured International Bills of Exchange Serial No: 61:00064/17 related and attached hereto and who declared to me that he executed the attached instrument in his aforesaid authorized capacity of the entity in which he executed the International Bills of Exchange Serial No: 61.00064/17

WITNESSED BY MY HAND AND OFFICIAL SEAL HERETO:

Dayne Emil Johnson
Notary Public
59 Harrington Street Hobart
Tasmania Australia



MY COMMISSION; TERM OF MY LIFE

SIGNATURE:

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Australian Government
Australian Financial Security Authority



Personal Property
Securities Register

07/05/2017

Verification Statement Financing Statement

This verification statement is provided under section 156 of the *Personal Property Securities Act 2009*

This PPSR registration was created on 07/05/2017 14:02:58 (Canberra Time)

PPSR Registration Details

PPSR Registration number:	201705070000609	Change number:	43798425
Registration kind:	Security interest		
Giving of notice identifier:	The Crown/The Australian People Future Fund		
Registration start time:	07/05/2017 14:02:58 (Canberra Time)		
Registration end time:	No stated end time		
Registration last changed:	07/05/2017 14:02:58 (Canberra Time)		
Subordinate registration:	Yes	Transitional:	No

This registration is linked to an earlier registration.

Earlier PPSR registration number: 201605190014552

Grantor Details

Organisation identifier:	50 008 559 486	Organisation identifier type:	ABN
Organisation name:	RESERVE BANK OF AUSTRALIA (Verified)		
Organisation identifier:	61 970 632 495	Organisation identifier type:	ABN
Organisation name:	DEPARTMENT OF FINANCE (Verified)		
Organisation identifier:	15 217 882 958	Organisation identifier type:	ABN
Organisation name:	THE LIBERAL PARTY OF AUSTRALIA - FEDERAL SECRETARIAT (Verified)		
Organisation identifier:	49 269 815 144	Organisation identifier type:	ABN
Organisation name:	AUSTRALIAN LABOR PARTY (Verified)		
Organisation identifier:	65 528 840 245	Organisation identifier type:	ABN
Organisation name:	GOVERNOR OF SA (Verified)		
Organisation identifier:	19 108 283 540	Organisation identifier type:	ABN
Organisation name:	OFFICE OF THE GOVERNOR BRISBANE (Verified)		
Organisation identifier:	39 481 796 354	Organisation identifier type:	ABN
Organisation name:	OFFICE OF THE GOVERNOR (VIC) (Verified)		
Organisation identifier:	57 079 680 866	Organisation identifier type:	ABN
Organisation name:	OFFICE OF THE GOVERNOR (Verified)		
Organisation identifier:	67 582 329 284	Organisation identifier type:	ABN
Organisation name:	OFFICE OF THE OFFICIAL SECRETARY TO THE GOVERNOR-GENERAL (Verified)		

Organisation identifier:	17 441 396 042	Organisation identifier type:	ABN
Organisation name:	DEPARTMENT OF TRANSPORT PLANNING AND LOCAL INFRASTRUCTURE (Verified)		
Organisation identifier:	92 366 288 135	Organisation identifier type:	ABN
Organisation name:	Department of Planning Transport and Infrastructure (Verified)		
Organisation identifier:	19 040 349 865	Organisation identifier type:	ABN
Organisation name:	DEPT OF TREASURY & FINANCE SA (Verified)		
Organisation identifier:	44 128 890 975	Organisation identifier type:	ABN
Organisation name:	DEPARTMENT OF TREASURY AND FINANCE (Verified)		
Organisation identifier:	75 277 967 856	Organisation identifier type:	ABN
Organisation name:	SOUTH AUSTRALIAN GOVERNMENT FINANCING AUTHORITY (Verified)		
Organisation identifier:	99 593 347 728	Organisation identifier type:	ABN
Organisation name:	Department of Finance (Verified)		
Organisation identifier:	25 628 526 128	Organisation identifier type:	ABN
Organisation name:	DEPARTMENT OF TREASURY AND FINANCE (Verified)		
Organisation identifier:	84 104 377 806	Organisation identifier type:	ABN
Organisation name:	Department Of Finance Services And Innovation - LPI (Verified)		

Collateral Details

Collateral type: Commercial property
Collateral class: All present and after-acquired property - With exceptions
Description: All Assets and Undertakings of the Crown howsoever arising, whether domiciled in the territory of the Commonwealth of Australia or elsewhere, securing admissions of Liability of the Crown to OenoViva Capital Resources ABN 42 388 204 496 in the amount of \$1,556,969,829,685 gifted by way of secured International Bill of Exchange SN; 61.00064/17 deposited to the Reserve Bank of Australia for the benefit of the Trustee of the Australian People Future Fund ABN 26 317 275 322
Proceeds: Yes - All present and after acquired property.

Secured Party Details

Organisation identifier:	26317275322	Organisation identifier type:	ABN
Organisation name:	The Trustee for Australian People Future Fund (Verified)		

Address for Service

Contact name: Andrew Morton Garrett
Email: andrew.garrett@oenoviva.com
Mailing address: 10/15 Hunter Street
Hobart
Tasmania 7000
AUSTRALIA
Physical address: No address provided

You may be obliged by section 157 of the *Personal Property Securities Act 2009* to give a notice of this verification statement to another person. The notice must be in the approved form. Information about your obligations under section 157 of the *Personal Property Securities Act 2009* is available from: www.ppsr.gov.au.

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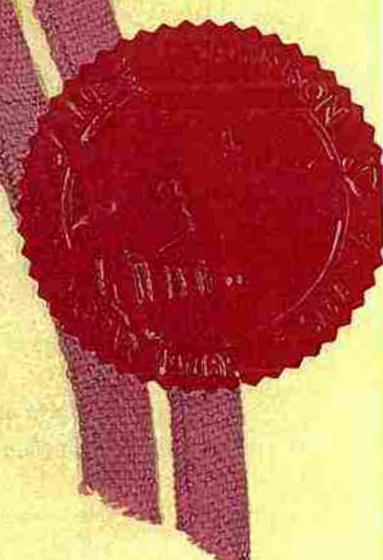
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ANNEXURE 4

Uncovering the secret Thatcher files: What Britain thought about Australia

By
[Brett Mason](#)

30 Dec 2016 - 12:06 PM UPDATED 30 Dec 2016 - 8:27 P



Margaret Thatcher in 1975 takes over from Edward Heath as the new leader of the Conservative Party. (AAP)

The faded documents inside the handwritten file marked ‘The resignation of the Prime Minister, Margaret Thatcher’ provide an unprecedented glimpse into a world leader’s dying days in power.

At first glance, there’s nothing even remotely impressive about the dog-eared yellow manila folder – except of course for its secret contents.

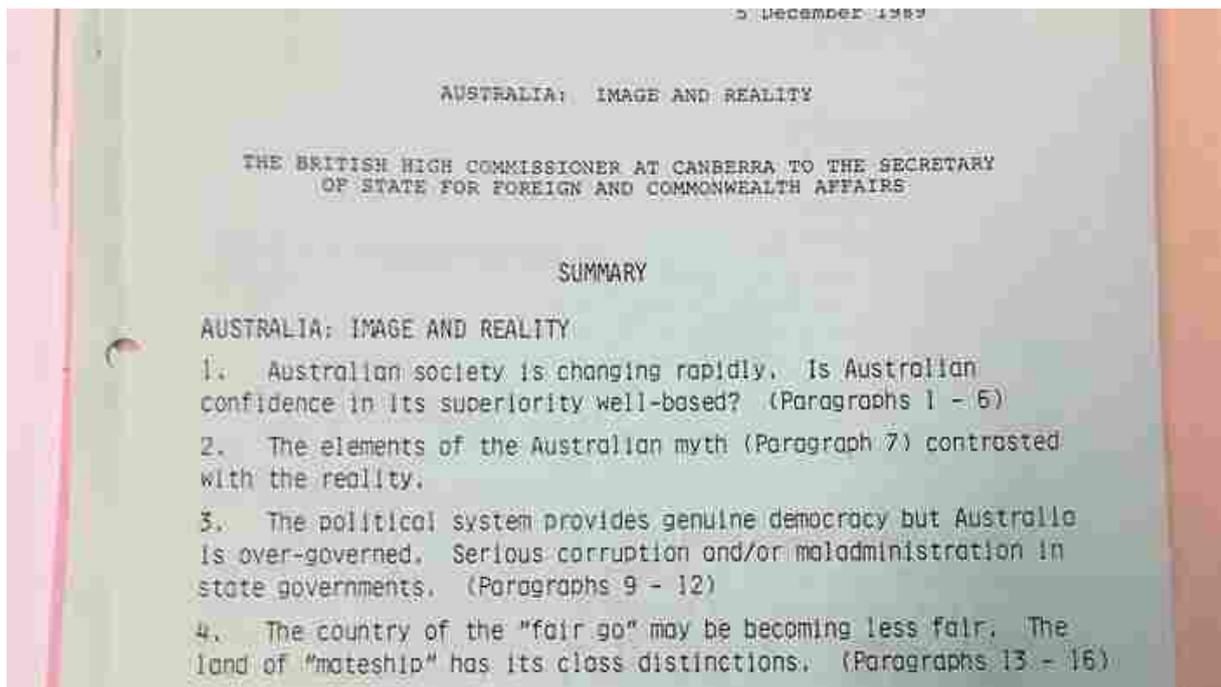
After 11-and-a-half years in office, the United Kingdom’s first female prime minister – and the longest serving of the century – finally faced the infuriating reality that, despite winning three elections and enjoying the vast support of her party’s membership, she no longer commanded the support of enough parliamentary colleagues to retain the keys to 10 Downing Street.

Meticulous from the moment she arrived, Mrs Thatcher remained so until the very moment she left, instructing staff to prepare a confidential dot-point ‘resignation action plan’ for November 22, 1990.

“The files throw light on perhaps the most momentous resignation of modern times,” explains Mark Dunton from Britain’s National Archives.

“Only one hour and a quarter after telling Cabinet (who, according to the minutes, “took note, with profound sadness”), Mrs Thatcher is busy writing letters and signing them off to foreign leaders, explaining about her decision to resign, wishing them well and thanking them for their co-operation.”

In all, 40 letters were frantically signed and dispatched before her audience with the Queen at Buckingham Palace, where Margaret Thatcher formally tendered her resignation.



The controversial dispatch from the British High Commission in Canberra titled 'Australia: Image and Reality'.

While Australia's Prime Minister at the time, Bob Hawke, received the same basic sentiments as most other trusted allies, the Iron Lady didn't waste one last opportunity to sprawl some trademark steely flourishes on others.

"I shall certainly continue to make my views known", she scribbled boldly at the bottom of her letter to the Emir of Kuwait.

Just a year after the fall of the Berlin Wall, perhaps the most surprising exchange was with the Soviet Union's Mikhail Gorbachev, who, in a letter addressed to "Dear Margaret", noted with irony, "Five years ago we had party coups in the Soviet Union and elections in Britain. Now, it seems to be the other way round". In her final reply to the man with whom she formed an unexpected diplomatic partnership, she signed off with another handwritten sprawl: "We shall continue to watch your success with the greatest positive interest."

US Secretary of State Henry Kissinger telephoned Downing Street "in a very emotional state" to say the Prime Minister's resignation "was worse than a death in the family".

"You took decisions that moulded the beginnings of an independent Zimbabwe," effused the President of Zambia.

"In this outmoded so-called man's world, it required a mother to put an end to the carnage that led to the destruction of more than 45,000 lives."

Prince Bandar bin Sultan of Saudi Arabia went further still, writing: "No British leader in modern times, Winston Churchill notwithstanding, has so earned the admiration and gratitude of my family and my countrymen and the free world."

In a three paragraph, unsigned reply, Bob Hawke said he had appreciated Mrs Thatcher's "direct and straightforward approach" while a much longer tribute from then Opposition Leader Dr John Hewson praised her "revolution of ideas".



“Many of the foreign leaders writing back to her express shock and consternation at the fact that she had been toppled from power. Still, one gets the impression of a politician fizzing with resolution and determination,” said Mr Dunton.

One of the more interesting letters to arrive at Downing Street that day was from Brussels, though not from the lofty Commissioners but her team of interpreters.

They wrote: “We derived enormous pleasure and enjoyment from being both spectators and players during your many memorable innings... We shall greatly miss your responsiveness, consideration and unflagging energy.”

One of her final dispatches before her departure from Downing Street was a handwritten reply on the iconic letterhead. “I think European Councils will be a little less lively and a little less interesting!” she joked, “I shall miss them.”

There is only one document in the bound bundle that hints at the bitterness that would haunt Mrs Thatcher until her death in 2013.

Replying to a telegram from the White House, her closest Downing Street Advisor, Charles Powell, explained rather bluntly that Mrs Thatcher’s demise, “was a devastating blow and a sad commentary on the standards of loyalty in politics”.

Australia: image and reality

SBS can further reveal that after her successful visit to Australia in 1988, Margaret Thatcher wrote to the Civil Service that “Australia deserves a greater priority in our foreign policy”, echoing the frustrations of the British High Commissioner to Australia at the time, Sir John Coles, who concluded that “redefining Britain’s relationship with Australia” was “long overdue”.

"Despite the much expressed contempt for governments (Australia) is in some ways the greatest nanny-state of all."

In a confidential and colourful 15-page dispatch titled 'Australia: Image and Reality', Sir John attempts to help bureaucrats in London better understand the "rapidly changing Australian society".

"In order to protect and advance our substantial interests we need to be as aware of the nature of that society as we are of the societies of our European, North American and other allies", his dossier begins.

"But somehow that knowledge does not come so easily in the case of Australia.

"The British media show little interest in the real problems of this country.

"The Australian myth is that this is the land of opportunity, the land where the class system of Britain and elsewhere does not exist, where no person is better than the next, where everyone is entitled to 'a fair go', where the 'battler', given a modicum of luck, can achieve the good life and rise to whatever position his talents entitle him.

"This land of 'mate ship' and democracy has more private schools than Britain.

"And the 'battler'? The people of this country have become 'soft'.

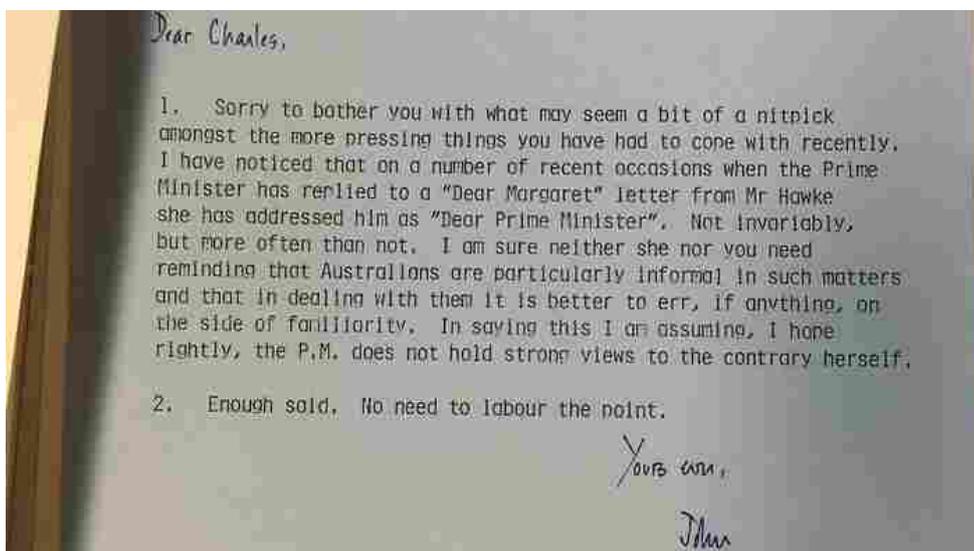
"The effects of easy living on the majority of Australians are all too apparent in the relative absence of the work ethic and in denigrating attitudes towards achievement and productivity.

"The soap-opera 'Neighbours' is a more accurate picture of Australia than the 'Flying Doctors'.

"The confidence that Australia is the best is a constant in the daily scene here.

"The Australian audience loves to be told that this or that Australian achievement has no equal.

"Much of the impetus which drives Australia to its excellence in sport is fired by a national determination to assert Australianness against the rest of the



Dear Charles,

1. Sorry to bother you with what may seem a bit of a nitpick amongst the more pressing things you have had to cope with recently. I have noticed that on a number of recent occasions when the Prime Minister has replied to a "Dear Margaret" letter from Mr Hawke she has addressed him as "Dear Prime Minister". Not invariably, but more often than not. I am sure neither she nor you need reminding that Australians are particularly informal in such matters and that in dealing with them it is better to err, if anything, on the side of familiarity. In saying this I am assuming, I hope rightly, the P.M. does not hold strong views to the contrary herself.
2. Enough said, No need to labour the point.

Yours ever,
John

The Foreign and Commonwealth Office expressed frustration at Mrs Thatcher's refusal to warmly address letters to Bob Hawke.

The High Commissioner went on to make a devastating assessment of Australia's three tiers of government – local, state and federal.

“Despite the much expressed contempt for governments this is in some ways the greatest nanny-state of all.

“The major charge which can be fairly leveled against public administration in Australia is that of corruption.

“Some of the states are notorious,” he noted, adding that earlier in 1989 “many heads rolled” in Queensland.

“The New South Wales Minister for Police told me some time ago that if there was ever an enquiry into corruption in his own police force it would make the Queensland affair look like a children's tea-party.

“The long-established corruption and maladministration in the States are a bad blemish on the country's political system.

“The quality of government at State level is generally poor.

“Yet I do not find that surprising.

“The population base of 16 million is too small to provide politicians of high quality to man political parties in nine separate political units.”

Even the Australian climate was not spared.

“The claims made for the merits of the Australian climate are also not self-evidently true.

“Sydney suffered 75 wet days out of 120 between last January and April, the Australian summer.

“There are too many exceptions for that picture of sun-soaked Australia to be sustainable.”

The High Commissioner's observations on the issue of immigration and multiculturalism were prescient.

“Australians like to regard themselves as more tolerant and easy going than others.

“This claim is being tested by the changing racial composition of Australian society.

“The pattern of immigration is a sensitive subject here and the public debate is of a low quality.

“There is no doubt that many Australians, especially the older generation, are disturbed by the increasingly complex racial mix of Australian society.

“The generally tolerant attitudes of most Australians on most questions are often seriously strained by this issue.

“Australian governments and others put a great deal of energy and resources into trying to solve the problems of the 230,000 Aboriginal inhabitants of Australia; but there are plenty of Australians who believe this effort to be excessive and misdirected, and the situation of most Aborigines remains hapless.

“Yet on balance the Australian record of absorbing immigrants, some 4.6 million since the Second World War, is impressive.

“The ordinary Australian is a tolerant person.

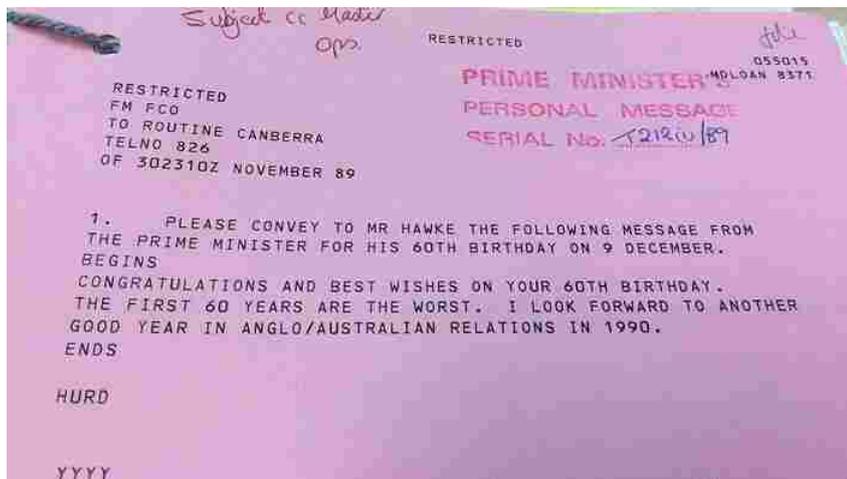
“There is an easiness and openness in personal relationships which distinguishes this country.

“The desire to cut down tall poppies is a weakness in the Australian make-up.

“The philistine, iconoclastic, beer-swilling Aussie exists but the Australian does not have a monopoly of these qualities.

“Far too little recognition is accorded abroad to Australian cultural achievement.”

The High Commission went on to outline the potential political impact.



“The first 60 years are the worst” – a friendly birthday telegram sent to Australian Prime Minister Bob Hawke by British Prime Minister Margaret Thatcher.

“The modern Australia is in truth very far removed from the one which sent its troops to fight alongside ours in two World Wars, very different too, from the country portrayed by expatriate Australian comedians or even by Crocodile Dundee.

“For many recent migrants the Australian connexion (sic) with Britain has no special meaning.

“Many young Australians, unlike their parents, have no knowledge of, and no natural predilection for, Britain.

“More and more we shall have to recognise Australia for what it really is: an independent state with a powerful sense of nationhood, an urbanized society with most of the problems of similar societies elsewhere, a country hesitantly adapting to its Asian environment, not wanting to weaken its traditional links with Britain, Europe and America but keen to establish with those traditional partners a modern political and commercial relationship which first the aspirations and sentiments of the Australia of today.”

Australian insights

The hundreds of bundles of documents give a rare insight into Australia-UK relations, particularly the decades-long campaign to secure an enhanced trade deal with the European Union.

While Australia has this year signalled a desire to ‘kick start’ a trade relationship with the United Kingdom post-Brexit, in 1990 the Foreign and Commonwealth Office noted, “Australia is a significant and growing investor in the United Kingdom, attracted by its advantages as a base for expansion into the Single European Market”.

Europe, and Australia’s long running battle to secure an agricultural trade deal, was the topic of discussion when the two Prime Ministers met face-to-face for the last time in office at the 75th anniversary commemorations of Gallipoli, in Turkey.



Minutes of the meeting hinted at frustrations that would boil to the surface years later in the EU referendum.

“Mr Hawke asked how the Prime Minister assessed the view of the other EC countries on the French and German proposals on political union. The Prime Minister said she thought they would mostly be in favour, although no-one seemed to have a clear idea what political union meant. She found it rather like boxing against a feather mattress.”

The High Commissioner to Australia was infuriated after protestors disrupted Margaret Thatcher’s visit to Australia in 1988, writing a stern dispatch after a particularly bad experience on the streets of Melbourne.

It said the visit had been "marred" because an "insufficient police presence" made the outing a "noisy, physically unpleasant and tense affair... to which [Thatcher] should never have been exposed".

The High Commissioner observed, "the Australian media are notorious for their low standards of journalism, their scurrilousness, triviality and bias", and their reporting of the Prime Minister's visit was largely "snide comment, half-baked and out-of-date ideas about Britain and grudging admiration of the Prime Minister".

The Prime Minister's files reveal she sent personal thank you notes to her Victoria Police Close Protection Officers following the incident, as well as the manager of the Body Shop where the protestors had gathered. Mrs Thatcher also kept photographs and handwritten letters sent by students from remote outback cattle stations who she spoke with by radio during a visit to the School of the Air in Alice Springs.

As previously [revealed](#) by SBS, Margaret Thatcher and Bob Hawke 'disagreed profoundly' over the Harare declaration and the Commonwealth's response to ending South Africa's apartheid.

The relationship had become so fraught that the Foreign and Commonwealth Office raised the tone of Mrs Thatcher's correspondence with her Australian counterpart after she repeatedly ignored their advice to address letters 'Dear Bob' rather than 'Dear Prime Minister'.

Revelations on stormy Hawke-Thatcher relationship

There are fresh details about the turbulent relationship between political heavyweights Bob Hawke and Margaret Thatcher.

Her Private Secretary promised to do better, noting the refusal was perhaps "the female factor", suggesting "she [was] cheesed off with him" after they clashed over South Africa at the Commonwealth Heads of Government Meeting (CHOGM).

There was, however, one topic on which the pair did agree: Australia receiving one of two original copies of the Australian Constitution.



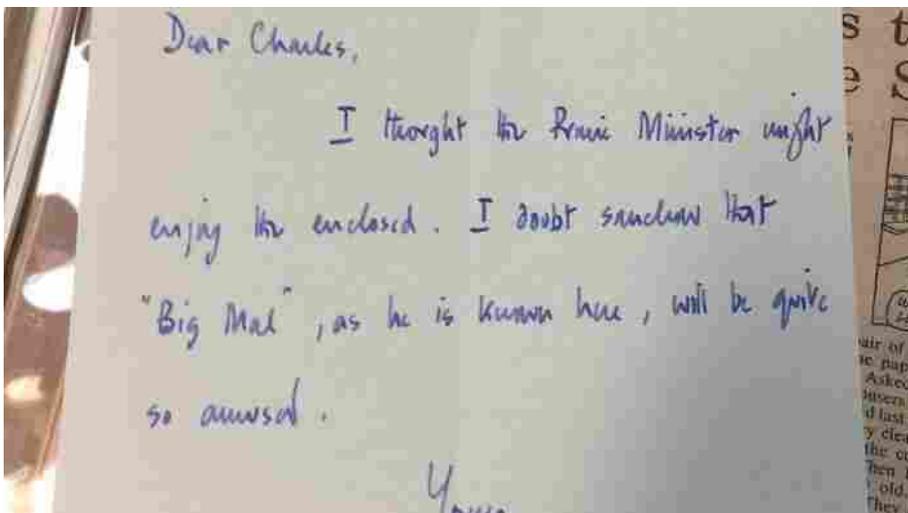
A directive sent from Downing Street reveals that, despite refusals from the Lord Chancellor and Civil Service, Mrs Thatcher was "sympathetic to the request" and pushed ahead with her instructions for one of the documents to be sent to Canberra.

The memo read: "(T)he Prime Minister said that the birth of a nation was a remarkable event and not to have it legitimized by a birth certificate must be galling, especially when the foster parents had two. She wondered how people in this country would feel if somebody else had two copies of the Magna Carta and we had none. She thought we were being selfish in refusing the Australians."

Mr Hawke had made four formal requests that had been politely declined, refusing to accept the offer of a replica, noting, "permanent possession of the original document containing the Australian Constitution is a matter of great consequence for all Australians".

The Foreign Minister, Gareth Evans, didn't appear, however, to share the Prime Minister's determination. When Britain's Foreign Secretary raised the issue with him directly during a meeting at CHOGM in Kuala Lumpur in 1989, the minutes noted,

"Senator Evans reacted with surprise... saying that 'he didn't give a stuff about the Constitution Act'".



The British High Commissioner to Australia sent these clippings to Margaret Thatcher in London after an embarrassing incident involving former Australia.

British bureaucrats noted that despite, "his officials intervening to say that Australia had been asking for an authentic copy and that they were still asking", Senator Evans "ploughed on regardless", expressing his "complete lack of interest".

A Foreign and Commonwealth Office "personality profile" described Opposition Leader Dr Andrew Hewson as "an archetypal over-achiever and working-class boy made good".

"Very ambitious.

"A touch arrogant and a workaholic.

"Has a penchant for monogrammed shirts and French champagne."

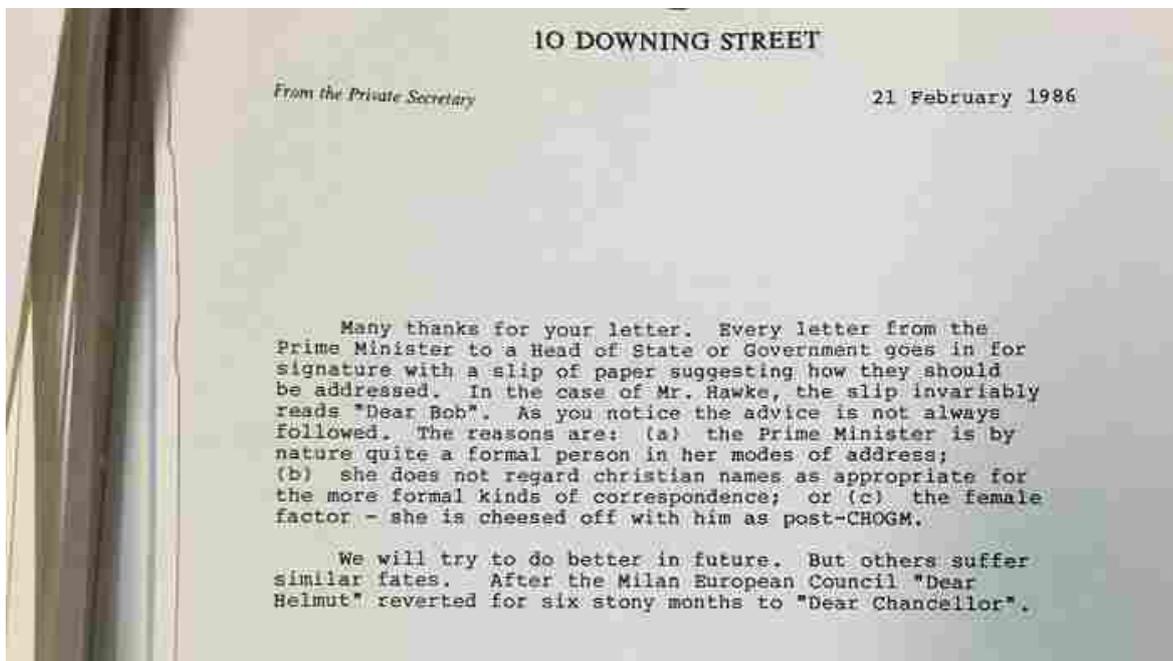
Political polar opposites, the files reveal that Mrs Thatcher and Mr Hawke shared a healthy sense of humour. For his 60th birthday, Mrs Thatcher sent a personal telegram: "Congratulations – the first 60 years are the worst."

After visiting Australia in May 1989, the Secretary of State recalled a conversation he had with the Prime Minister ahead of the upcoming election against Opposition Leader Andrew Peacock: “His comment to me on Peacock was that a Leader of a Party could be lazy and he could also have a third-rate mind but he should not be both!”

One dispatch from the British High Commission in Canberra ahead of the 1987 election noted that in one opinion poll, “Mrs Thatcher is rated more highly than Mr Hawke,” a sentence underlined and ticked by an amused Prime Minister.

Following his win, another telegram was dispatched from London: “I send you my warm congratulations on your Election. There is a lot to be said for third terms.”

Only one would win a fourth.



The Foreign and Commonwealth Office expressed frustration at Mrs Thatcher’s refusal to warmly address letters to Bob Hawke.

Royal relationship

Perhaps the most unusual find in the final bundles of cabinet documents during Margaret Thatcher’s time in office, is a handwritten note exchanged with Princess Margaret, the Queen’s late sister.

Communications between senior members of the royal household and members of the government are ‘absolutely exempt’ from the Freedom of Information Act.

Written on Kensington Palace letterhead and dated February 7, 1980, Princess Margaret wrote the following over four pages:

My Dear Prime Minister,

I write belatedly to thank you for your kind letter. I just had to have some things dug out of my face but luckily everything went well and were' worrying.

I was so interested to hear about your visit to the United States. I expect you surprised them no end at answering their questions in a positive way, when they are used to waffling on for hours in figures of 8, not actually answering anything. The steel strike is depressing. I well remember when Charles Villiers took it over. I congratulated him on his courage and he said, "I am taking on a moribund, old fashioned, out of date, uneconomical, out of date industry" [sic] and I said "Is there any hope of improving it?" and he said "Very little." [sic]

I suppose if one is an ordinary working man and one's union tells one not to vote for new machinery or technology because otherwise you will lose your job or your card - you just don't dare. I went to Cambridge for a Debate (rather fully all about the church, lots of clerics) and found them all rabid conservatives - not a Trotskyite to agree with! They were passionately against the Olympic Games in Moscow. I tried the "Isn't it hard on the athletes" bit but they were adamant. I suppose individuals must choose whether to go as it's up to the Olympic Committee if that silly boxer doesn't make a hash of it he might get Africa to cock a snook at the Russians.

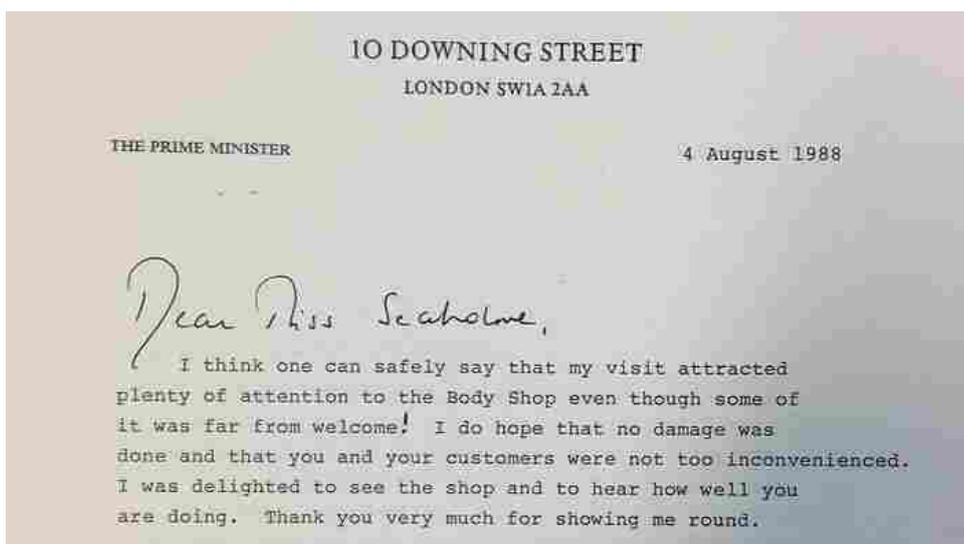
I found it quite impossible to find out what is happening in Afghanistan. Are they about to wheel into Iran and get all the oil? More power to your policy of nuclear power stations. I wish they weren't called "nuclear" as people always think of the bomb. I've been advocating them since I was 20!

Many thanks for allocating £10,000 to the N.S.P.C.C. (National Society for the Prevention of Cruelty to Children) They are vital and I am President and support their free service.

With again many thanks for your letter

Yours very sincerely

Margaret



One of numerous hand signed thank you notes signed by Margaret Thatcher after protestors disrupted her visit to Melbourne in 1988.

“There are other dimensions to Mrs Thatcher, not just the steely Iron Lady”, Mr Dunton from Britain’s National Archives told SBS.

After 12 years of colourful files documenting Mrs Thatcher’s time in power, are historians sad to read the last of them?

“I wouldn’t like to say that,” he laughed.

“I believe, actually, there is still a lot more interesting records to come.

“I look forward to John Major’s marginalia," he said.

“These comments in the margin are absolutely fascinating, they are so revealing about the prime ministers, the pressures they’re under, their personalities, their reactions to events.”

<p>What culture or governance practices and other practices (including risk management, recruitment and remuneration practices and/or the use of a superannuation member's retirement savings by a financial service entity) of the entity are of concern and why?</p>
<p>How effective are the mechanisms for consumer redress and how could they be improved?</p> <p>Completely ineffective.....ASIC in particular avoids investigating breach of trust issues in respect to Company Entities acting as Financial Intermediaries</p>
<p>What changes would you like the Royal Commission to recommend?</p> <p>Act in the Public Interest and stop protecting Insolvency Practitioners and Banks</p>
<p>Other Comments</p>

Andrew Garrett

From: [REDACTED]
Sent: Wednesday, 24 May 2017 9:47 AM
To: Coulter, Trevor; Jane.Ferry@ato.gov.au; chris.jordan@ato.gov.au; vincent.tavolaro@ags.gov.au
Cc: Secretary; rbainfo@rba.gov.au; senator.brandis@aph.gov.au; attorney@ag.gov.au; Jeff.Pearce@AFP.gov.au; Martine.Whitton@aph.gov.au; Martin.Pakula@parliament.vic.gov.au; agd@agd.sa.gov.au; lan.Gant@sa.gov.au; Don.Mackintosh@sa.gov.au; caapmsupremecourtchiefjusticeschamberscaa@courts.sa.gov.au; john.mathieson@fedcourt.gov.au; associate.chiefJudgePascoe@federalcircuitcourt.gov.au; associate.mortimerj@fedcourt.gov.au; associate.robertsj@fedcourt.gov.au; associate.beachj@fedcourt.gov.au; associate.JudgeRiethmuller@federalcircuitcourt.gov.au; associate.traceyj@fedcourt.gov.au; associate.northj@fedcourt.gov.au; associate.jessupj@fedcourt.gov.au; associate.daviesj@fedcourt.gov.au; associate.middletonj@fedcourt.gov.au; associate.pagonej@fedcourt.gov.au; associate.gilmourj@fedcourt.gov.au; associate.kennyj@fedcourt.gov.au; associate.charlesworthj@fedcourt.gov.au; oaic@oaic.gov.au; office@smith.minister.nsw.gov.au; george.boschma@oenoviva.com; steven.kavanagh@oenoviva.com; scott.mitchell@oenoviva.com; peter.tran@oenoviva.com; brennan.fitzallen@fitzallen-forestry.com; robert.nowak@oenoviva.com; eric.lauro@oenoviva.com; roger.dickeson@oenoviva.com
Subject: TAKE NOTICE FW: The Trustee of the Australian People Future Fund v Regis, the Commonwealth of Australia, The Reserve Bank of Australia & Ors
Attachments: Letter APFF to the Ambassador of China 23.05.2017.pdf; Public Law Justice French.rtf; IBOE SN 61.00064.17 AUD\$1556969829685.00 issued 10.05.2017 notarised 10.05.2017 (T0645359xD3FB5).pdf; Australian People Future Fund RWA Letter MT799 Verbiage to be confirmed by RESERVE BANK OF AUSTRALIAO (SWIFTS FORMAT-MAY-2017).doc; Deed of settlement ATO.pdf; Deed of Agreement Guarantee and Indemnity ATO.pdf
Importance: High

THE CROWN, (YOU/YOUR)
Attn Chris Jordan, Trevor Coulter, Jane Ferry, Vincent Tavolaro

Attn People,

I cannot bring myself to use any form of Honorific when addressing you, you most definitely are not "Dear" to me or any other citizen of this country, you have no honour and are unworthy of the Public Trust.

I once said to Vincent Tavolaro (*in one of our many appearances together*) that I wished I was as clever as he, I withdraw that comment and confirm that he like you all are as dumb as dog shit and worth only of being treated with the same contempt and disgust.

You have always played your hand from a stacked deck in all matters involving YOU evidencing your willingness to breach the public trust and acting against the Public Interest in favour of your own unjust enrichment and corrupt conduct.

I note that the proceedings brought by the AFP against the ATO are being heard behind closed doors at the Downing Street Centre in Sydney which is a further offence to the Public Interest, YOU the Crown and officer of the Court empowered under any of the Federal, State and Territory Constitutions are hopelessly conflicted.

'Shocking', 'disgusting': alleged Cranston tax fraud may reveal wider stains at ATO: experts



Nassim Khadem

313 reading now Show comments

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MORE

News of Australian Taxation Office's deputy commissioner Michael Cranston facing a looming charge for accessing internal agency documents involving his son's alleged \$165 million tax fraud syndicate has been described as "shocking" and "disgusting" by tax professionals, and some fear that stains may be far wider at the agency.



Please confirm by return communique why YOU all and every officer of the Crown is not before the Court in Regis v Cranston and Ors as a consequence of YOUR admitted Criminal and Civil Vicarious Liability.

The attached letter to the Ambassador for China providing preliminary notice of proceedings to be brought in Hong Kong is self-explanatory.....you will be named as defendants as will every Judge, officer of the Court, Court and Tribunal I have ever appeared before.....the list is significant.

I have copied the Trustees of OenoViva Capital Resources and at all times have fully disclosed the nature of YOUR Corrupt Conduct to those Trustees.

It is also clear to me that the Australian Government Solicitors Office cannot act as they are hopelessly conflicted as a consequence of the conduct of Tavolaro and YOU.

I once again repeat my request that the Commissioner of Taxation consents to orders to set aside the Default Judgement given in DCCIV-2003-1666; *Deputy Commissioner of Taxation v Andrew Garrett ATF the Andrew Garrett Family Trust*.

I now also request that the Commissioner consents to orders setting aside all judgments and orders made in proceedings in any Court or Tribunal involving me and him or his agents.

As agent for Brennan Fitzallen personally and in his capacity as Controller appointed to Southern Containers, I request the Commissioner's consent to orders setting aside the attached Deed of Settlement dated 22nd December 2014, Agreement and Guarantee dated 29th August 2014 along with the relevant orders and reasons of the Tribunal.

To be clear, I have requested administrative decisions from you.

I again remind you of your model litigant obligations.....which you and the CROWN have quite clearly forgotten.

I require your response by return communique

Andrew Garrett

Managing Trustee

OenoViva Global (“OV(Global)”)

OenoViva CapitalResources (“OCR”)

[REDACTED] Trust (“OVA”)

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Hong Kong

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M [REDACTED]

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From: [REDACTED]

Sent: Tuesday, 23 May 2017 3:43 PM

To: 'Consulate_au@mfa.gov.au'

Cc: senator.brandis@aph.gov.au; attorney@ag.gov.au; Martine.Whitton@aph.gov.au; Secretary (Secretary@rba.gov.au); rbainfo@rba.gov.au; Andrew Phelan (aphelan@hcourt.gov.au); john.mathieson@fedcourt.gov.au; associate.chiefJudgePascoe@federalcircuitcourt.gov.au

Subject: The Trustee of the Australian People Future Fund v Regis, the Commonwealth of Australia, The Reserve Bank of Australia & Ors

Importance: High

The People’s Republic of China

Attn The Ambassador to the Commonwealth of Australia

Cc Senator Brandis, The Attorney General

Mr Anthony Leonard Dickman, The Reserve Bank of Australia

Mr Andrew Phelan, CEO of the High Court of Australia

Chief Justice Allsop, Federal Court of Australia

Chief Judge Pascoe, Federal Circuit Court of Australia

Your Excellency,

Please note attached a letter of today's date and annexures for your consideration.

The email Chain below I trust is self-explanatory

Please also note;

I'm using Adobe Send & Track.

You can view "Deed of Settlement of 'The Australian People Future Fund' notarised on 10.05.2017 Apostille 19.05.2017.pdf" at: <https://files.acrobat.com/a/preview/587806a4-b5ee-482a-80c6-2cec19c93fc4>

You can view "Traditional Rights and Freedoms— Encroachments by Commonwealth Laws.pdf" at: <https://files.acrobat.com/a/preview/9eeae60c-1865-4871-951d-e3a367bfb3c5>

You can view "Activity Statement Receipt December Quarter 2016.pdf" at: <https://files.acrobat.com/a/preview/562e49c0-12f0-48ad-a8ef-4981c2a9757b>

You can view "Delegating Legislative power summary.pdf" at: <https://files.acrobat.com/a/preview/7064a212-2984-4491-abe5-fecae317d60a>

You can view "separation of powers a constitutional principle.pdf" at: <https://files.acrobat.com/a/preview/e00fd4b0-3c39-4f4f-ba5e-585cfd974bd9>

You can view "16. Delegating Legislative Power separation of powers.pdf" at: <https://files.acrobat.com/a/preview/2cc3e08b-542b-4a2e-af33-bbe8f2a19356>

You can view "Harrasment.pdf" at: <https://files.acrobat.com/a/preview/ad3b0ef2-0536-4295-9184-147172ab4874>

You can view "Judicial Review a Common Law Principle.pdf" at: <https://files.acrobat.com/a/preview/d0127b8a-e777-434e-a657-bba7dd49c8e7>

You can view "Access to Federal Court Records.pdf" at: <https://files.acrobat.com/a/preview/bc235854-3e07-4659-9260-92f99b23d5bd>

You can view "ALRC submission to Senate Standing Committee inquiry into the Freedom of Information Amendment (Reform) Bill 2009 (Cth) and the Information Commissioner Bill 2009 (Cth).pdf" at: <https://files.acrobat.com/a/preview/251d27d9-088c-4c26-a546-8a7f2e5e67a5>

You can view "Open Government - A Review of the Federal Freedom of Information Act 1982 (ALRC Report 77).pdf" at: <https://files.acrobat.com/a/preview/10a813b9-914d-443e-a945-271e9c775f47>

Andrew Garrett

Managing Trustee

The Australian People Future Fund

OenoViva Global ("OV(Global)")

OenoViva CapitalResources ("OCR")

The OenoViva Artisans Trust ("OVA")



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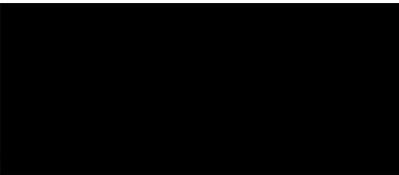
Hong Kong

"The Desk" 511 Queens Road West,,
Shek Tong Tsui, Hong Kong

Ho Chi

Suite 103,
District 1,

M:
F:
E:



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From: [redacted]

Sent: Tuesday, 23 May 2017 8:57 AM

To: rbainfo@rba.gov.au; Secretary (Secretary@rba.gov.au); senator.brandis@aph.gov.au; attorney@ag.gov.au; Martin.Pakula@parliament.vic.gov.au; Don.Mackintosh@sa.gov.au; agd@agd.sa.gov.au; Ian.Gant@sa.gov.au; associate.kennyj@fedocurt.gov.au; associate.gilmourj@gfedcourt.gov.au; associate.mortimerj@fedcourt.gov.au; associate.beachj@fedcourt.gov.au; associate.JudgeBurchardt@federalcircuitcourt.gov.au; associate.JudgeRiethmuller@federalcircuitcourt.gov.au; associate.robertsj@fedcourt.gov.au; associate.traceyj@fedcourt.gov.au; associate.northj@fedcourt.gov.au; associate.chiefJudgePascoe@federalcircuitcourt.gov.au; associate.charlesworth@fedcourt.gov.au; associate.daviesj@fedcourt.gov.au; associate.jessupj@fedcourt.gov.au; associate.jessupj@fedcourt.gov.au; associate.middletonj@fedcourt.gov.au; associate.pagonej@fedcourt.gov.au; caapmsupremecourtchiefjusticeschamberscaa@courts.sa.gov.au; CAA:PM Supreme Court Bochner SCM's Chambers (CAA) (CAAPMSupremeCourtBochnerSCMsChambersCAA@courts.sa.gov.au)

Subject: FW: MATTERS & Amendment Notice - 201605190014552 - ENQ-829463-P1B8N4 and Admission of Facts by the Crown & Esytoppel

Importance: High

The Reserve Bank of Australia,
Attn Mr Anthony Leonard Dickman, The Secretary, the Reserve Bank of Australia & Senator Brandis,
Attorney General of Commonwealth of Australia & Andrew Phelan, CEO the High Court of Australia
(YOU/YOUR)

Dear Sir,

I have considered my response to your decisions dated 19th May 2017 and earlier decisions, it appears that you are being wilfully blind to your statutory obligations as with the rest of the Officers of the Crown who are in positions of power.

Since Federation and the placing of the public trust in YOU, YOU have acted unlawfully, invalidly and corruptly in a manner that does NOT serve the Public Interest.

Since 2004 I have communicated with you regarding my experiences in respect to the aforesaid conduct in which regard YOU have failed to exercise the Statutory Tribunal obligations incumbent upon you, the revelations of the recent Royal Commission into Institutional and Government responses to those complaints are sickening and can only be described as corrupt.

At no point in time have YOU or any person associated with YOU denied my statements of Facts and Truth.....you are estopped from now doing so and seeking to extinguish my constitutional, promissory and contractual rights to remedy (in all of my capacities) in which regard I attach a KYC so that you can understand the nature of those rights and in particular with regard to my capacity as Trustee of the Australian People Future Fund which I assure you is anything but purported as you suggest.....perhaps you ought seek to understand Trust law and particular that of the Public Trust.

Andrew Garrett

Managing Trustee

OenoViva Global ("OV(Global)")

OenoViva CapitalResources ("OCR")

The OenoViva Artisans Trust ("OVA")



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M: [Redacted]

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From: [Redacted]
Sent: Sunday, 21 May 2017 2:59 PM
To: 'Secretary'
Cc: rbainfo@rba.gov.au; Andrew Phelan (aphelan@hcourt.gov.au); SFC (SFC@finance.gov.au); george.boschma@oenoviva.com; steven.kavanagh@oenoviva.com; scott.mitchell@oenoviva.com;

'peter.tran@oenoviva.com'; roger.dickeson@oenoviva.com; brennan.fitzallen@fitzallen-forestry.com; chris.jordan@ato.gov.au; Coulter, Trevor; Jane.Ferry@ato.gov.au; vincent.tavolaro@ags.gov.au; associate.gilmourj@gfedcourt.gov.au; associate.mortimerj@fedcourt.gov.au; 'associate.jessupj@fedcourt.gov.au'; PPSR Correspondence Queue (enquiries@ppsr.gov.au); associate.JudgeBurchardt@federalcircuitcourt.gov.au; associate.JudgeRiethmuller@federalcircuitcourt.gov.au; associate.kennyj@fedocurt.gov.au; associate.kennyj@fedocurt.gov.au; 'associate.daviesj@fedcourt.gov.au'; 'associate.pagonej@fedcourt.gov.au'; associate.robertsj@fedcourt.gov.au; associate.traceyj@fedcourt.gov.au; 'associate.beachj@fedcourt.gov.au'; associate.northj@fedcourt.gov.au; associate.chiefJudgePascoe@federalcircuitcourt.gov.au; associate.charlesworth@fedcourt.gov.au; john.mathieson@fedcourt.gov.au; caapmsupremecourtchiefjusticeschamberscaa@courts.sa.gov.au; Martin.Pakula@parliament.vic.gov.au; senator.brandis@aph.gov.au; attorney@ag.gov.au; Martine.Whitton@aph.gov.au; 'Don.Mackintosh@sa.gov.au'; Ian.Gant@sa.gov.au; rmusolino@hcourt.gov.au; 'bwickham@hcourt.gov.au'; [REDACTED]

Subject: MATTERS & Amendment Notice - 201605190014552 - ENQ-829463-P1B8N4 and Admission of Facts by the Crown

Importance: High

The Reserve Bank of Australia,
Attn Mr Anthony Leonard Dickman, The Secretary, the Reserve Bank of Australia
Cc; Andrew Phelan, CEO the High Court of Australia

Dear Sir,

Thank you for your Decision dated 19th May 2017 that was made under the provisions of *the Freedom of Information Act 1982* (Cth) and *the Reserve Bank of Australia Act 1959* (Cth), I make this application for Internal Review of that decision on the following Grounds;

1. The decisions is so manifestly unreasonable that no reasonable person would have made the same decision.
2. The decision is affected by Actual Bias in circumstances where a Notice of Apprehended Bias and Actual Bias was issued prior to the making of the decision.
3. The decision is made in circumstances where the decision maker failed to inquire in accordance with the obligations of a Tribunal and determine all of the relevant facts prior to making the decision.
4. The Decision was made in circumstances where relevant materials were withheld by others and/or the decision maker.
5. The Decision Maker did not comply with the Hearing rule that requires the Reserve Bank of Australia to provide not only the adverse materials, but all of the materials relevant to the matter in issue whether or not the decision maker intends to rely upon it.
6. There is an absence of relevant law in the decision and if the relevant law was properly applied then a different decision would have been made.
7. There are inadequate reasons given for the making of the Decision.
8. The Decision failed to consider the evidence; if the evidence was properly considered then a different decision would have been made.
9. The Decision is not fair.
10. The Decision is a denial of procedural fairness.
11. The decision is a jurisdictional error of the Decision Maker that leads to the decision being a nullity and a constructive failure to exercise jurisdiction.
12. The decision was made on the instruction of others and was not made independently and in the public interest.
13. The Decision Maker fell into error as a question of law and jurisdictional error in causing the Decision Maker to identify a wrong issue and to ask the Decision Maker a wrong question in order to ignore relevant materials to make an erroneous decision in order to reach a mistaken conclusion and the tribunal's exercise of power or purported exercise of power is thereby affected.

14. The Decision is an abuse of process for the improper purpose.
15. The Decision Maker failed to make decision in circumstances where the question of law arises whether the decision maker was obliged to do so as a consequence of its statutory obligations.
16. The Decision Maker did not give fair consideration of the case presented.
17. The question of law and fact arises whether the decision maker was Negligent.
18. There is no Evidence to support the Decision and when all of the evidence is considered the reverse decision is supported.
19. The Decision is tainted by Bad Faith.
20. The Decision is Illogical or Irrational.
21. The Decision is uncertain in that it leaves a question of Judgment estimation and was no more than an opinion.
22. There are inadequate reasons given for the making of the Decision.
23. The Decision is a denial of Natural Justice.
24. The Decision Maker acted dishonestly.
25. The Decision Maker acted disproportionately
26. The Decisions is tainted by Fraud.
27. The Decision Maker did not comply with the obligation to give the Plaintiff a fair hearing.
28. The exercise of discretion to grant relief upon review would not be futile and the benefit to be gained by the applicant is substantial.

In respect to your communicate I note as follows;

1. I do not accept your internal review decision dated 30th December 2016
2. I contest your commentary expressed in all communicates
3. Your communicates are silent to the trace of equity and the Public Trust (a Trust) in which regard YOU are a joint Trustee.

You say;

“In relation to your request under section 13 of the Administrative Decisions (Judicial Review) Act 1977 for the reasons for the decision to seek amendment of PPSR registration 201605190014552, please note that section 13 does not apply to a decision that includes, or is accompanied by a statement setting out, findings of facts, a reference to the evidence or other material on which those findings were based and the reasons for the decision (see sub-section 13(11)(b)). The amendment demand to you dated 17 February 2017 and the Amendment Statement dated 2 March 2017, a copy of each of which you have (as evidenced by your attaching them to your email dated 30 April below) set out the basis for the amendment demand and the Amendment Statement respectively including the facts relied on and the reasons for the amendment demand and the Amendment Statement. Accordingly the decision to seek amendment of PPSR registration 201605190014552 is not a decision to which section 13 applies, and so you have no entitlement to make application under section 13.”

I respond to the aforementioned decision that you are incorrect; the exercise of YOUR powers and making of Decisions in respect to the exercise of YOUR Powers can only be decisions made under an enactment which in this case is *the Reserve Bank Act 1959 (Cth)* ; as you know that act established your powers to make decisions affecting another person’s rights (my rights, those of persons related to me and the peoples of Australia for whom I act as Trustee)..... as a tribunal established as an agency of the Crown.

I disagree with your contention and confirm that Section 13 of the ADJR most certainly applies in which regard I take your communicate as a refusal to provide reasons in respect to your decision to exercise YOUR powers which powers when exercised MUST be exercised in the Public Interest.

I make this application for Internal Review of your refusal decision dated 19th May 2017 on the same grounds as those set out above.

You say;

“In relation to the rest of your email dated 30 April below other than the quoted sections of the Reserve Bank Act 1959, on behalf of the RBA, and the Secretary of the RBA, I deny:

- all alleged admissions, failures, liabilities or bias;*
- that the RBA has any duty, obligation or responsibility that you allege or assert in that email that it has; and*
- that you, or any trust of which you are or purport to be trustee, is owed any money by the RBA or has any security interest in any assets of the RBA.”*

I note the email is signed by Ian Chua who apparently acts in communications for YOU as Agent and note the following;

1. *The Reserve Bank of Australia Act 1959 (Cth) does not allow the Secretary or the Board to Delegate its Powers under that enactment, and*
2. *The Communication dated 19th May 2017 is a communique from the Reserve Bank and YOU the Secretary through YOUR agent Mr Ian Chua and is a communication from YOU, and*
3. *There is only one “THE CROWN”.....the Principal*
4. *YOU are an agent of THE CROWN*
5. *THE CROWN has already admitted liability and consented to the securitisation of the assets of the Commonwealth, the States and Territories by me.*
6. *You are on Notice of those admissions and consent because under the Common Law “Notice to Agent is Notice to Principal and Notice to Principal is Notice to Agent”*
7. *A Court with of Power in the Common Law jurisdiction being a court NOT controlled by THE CROWN will not allow the withdrawal of admissions and/or consents except in truly exceptional circumstances*
8. *Your denial is Ultra Vires, is disingenuous and is a breach of the Public Trust to act in the Public Interest*
9. *In so far as YOU and/or the Reserve Bank of Australia own an assets those assets are owned in the Public Trust to be applied in the Public Interest.*
10. *In establishing the Four Pillars policy YOU breached the Public Trust.*
11. *YOU are jointly Criminally and Vicariously liable for the conduct of all officers of the Crown including those that are the subject of the communiques and attachments set out below*
12. *Your denial is out of time (per service on the Crown Solicitor and the offices of the Attorney Generals over an extended period) in which regard you have waived your rights to deny with the passage of time consequently it is both unlawful and invalid, of no effect and is ultra vires.*

You Say;

“I also refer to the following emails and letter received from you:

- email dated 14 May 2017 with the subject line ‘The Australian People Future Fund ABN 26 317 275 322 and International Bill of Exchange SN; 61.00064/17 held by the Reserve Bank of Australia FOR VALUE RECEIVED/ NOTICE TO ADMIT FACTS’;*
- letter dated 11 May 2017;*
- email dated 5 May 2017 with the subject line ‘The Trustee for The Australian People Future Fund ABN26317275322 & this Notice to Admit Facts dated 3rd May 2017’; and*
- email dated 3 May 2017 with the subject line ‘The Trustee for The Australian People Future Fund ABN26317275322 & this Notice to Admit Facts dated 3rd May 2017’.*

In relation to those emails and that letter:

- a) *the RBA does not accept that the purported trust deed, a copy of which was attached to your email dated 5 May 2017 and a notarised copy of which was enclosed with your letter dated 11 May 2017, has any validity, force or effect as against the RBA or any relevance to the RBA;*
- b) *the RBA does not accept that the purported international bill of exchange has any validity, force or effect;*
- c) *the RBA denies that you, or any trust of which you are or purport to be trustee, is owed any money by the RBA or has any security interest in any assets of the RBA; and*
- d) *the RBA does not admit, and denies, the other allegations and assertions made by you that relate to it or any of its officers.*

The notarised copy of the purported trust deed and the original of the purported international bill of exchange that you posted to the Secretary under cover of your letter dated 11 May 2017 will be returned to you by post.”

The aforementioned details are decisions of YOU and the Reserve Bank of Australia and are made under an enactment in which regard I make this application for the reasons of those decisions under the provisions of *the Administrative Decisions Judicial Review Act 1977 (Cth)* generally and s13 of the act for a copy of the reasons related to the aforementioned decisions.

I make this application for Internal Review of those decisions on the Grounds set out above.

In returning International Bill of Exchange SN:61.00064/17 to me as set out YOU admit that YOU are endorsing that bill back to me and become liable on the face value of the Bill as an endorser for value received in which regard I note that the UNCITRAL Convention on Bills of Exchange 1988 (copy attached) and review of the Bills of Exchange Act 1909 (Cth) that YOU are signatory to allows for two days to return the Bill in which regard you are out of time.

I take you communication as a refusal to establish a Purchased Payment Facility in favour of the Trustee of the Australian People Future Fund and monetise/ bankerise the stored value of International Bill of Exchange SN:61.00064/17 in accordance with your statutory obligations.

I make this application for Internal Review of the aforementioned decisions on the Grounds set out above and note that Australian Treaty Series No 23 is clear and in particular at Article 1 AND the aforementioned details are a decision of YOU and the Reserve Bank of Australia and is made under an enactment in which regard I make this application for the reasons of those decisions under the provisions of *the Administrative Decisions Judicial Review Act 1977 (Cth)* generally and s13 of the act for a copy of the reasons related to the aforementioned decision.

You Say;

Except to the extent:

- *that it is required to do so by law; or*
 - *necessary to obtain removal of any PPSR registration against the RBA made by you including the registration on 7 May 2017, in relation to which the Secretary will separately write to you,*
- the RBA does not propose to enter into further correspondence with you on the above, or any other, matters*

I ask you to accept this communicate as a Notice to admit facts under the Common law; YOU admit YOUR conduct is unlawful and/or Invalid and/or Ultra Vires.

I take your words to be a decision under made under an enactment consequently I make this application for Internal Review of those decisions on the Grounds set out above AND the aforementioned details are a decision of YOU and the Reserve Bank of Australia and is made under an enactment in which regard I make this application for the reasons of those decisions under the provisions of the Administrative Decisions Judicial Review Act 1977 (Cth) generally and s13 of the act for a copy of the reasons related to the aforementioned decision.

In making the Decisions summarised above you have acted as a Tribunal in determining my rights, the rights of entities related to me and the rights of the beneficiaries of the Australian People Future Fund.

ALL RIGHTS RESERVED

Andrew Garrett

Managing Trustee

OenoViva Global ("OV(Global)")

OenoViva CapitalResources ("OCR")

The OenoViva Artisans Trust ("OVA")

[REDACTED]

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Melbourne Minh

Level 3, 2 Drewery Place
140 Nguyen Van Thu Street,
Melbourne, Victoria, 3000
HCM, Vietnam

Hobart

87-89 Cove Hill Road,
Bridgewater, TAS, 7030

Hong Kong

"The Desk" 511 Queens Road West,,
Shek Tong Tsui, Hong Kong

Ho Chi

Suite 103,
District 1,

M [REDACTED]

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From: Secretary [<mailto:Secretary@rba.gov.au>]

Sent: Friday, 19 May 2017 4:51 PM

To: [REDACTED]

Subject: RE: Freedom of Information Request & Notices To Admit Facts & This Notice of Actual and Apprehended Bias and PPSR ENQ-829463-P1B8N4 [SEC=UNCLASSIFIED]

Dear Mr Garrett

I refer to your email dated 30 April below, which includes an Freedom of Information request seeking 'a copy of any document or thing related to me that is in the possession and/or control of the Secretary of the RBA and that has not been provided under the FOI Decision dated 25th November 2016 reference No. RBAFOI-161704'. Following receipt of your email of 15 May, I have included 'any document or thing related to the Trustee of the Australian People Future Fund' in this request.

The documents covered by your Freedom of Information request are as follows:

- communications from you, your copies of which you already have;
- a small number of emails between myself and the Bank's General Counsel and other members of the Bank's legal team, which are subject to legal professional privilege and accordingly are exempt from release to you under section 42 of the *Freedom of Information Act 1982*; and
- seven other documents, copies of which are attached to this email in a Zip file.

I attach a document detailing your rights to review of my decision.

Yours sincerely,

Anthony Dickman | Secretary
RESERVE BANK OF AUSTRALIA | 65 Martin Place, Sydney NSW 2000
p: +61 2 9551 9710 | f: +61 2 9551 8041 | e: foi@rba.gov.au | w: www.rba.gov.au

From: [REDACTED]
Sent: Sunday, 30 April 2017 1:25 PM
To: RBAInfo
Cc: senator.brandis@aph.gov.au; Martine.Whitton@aph.gov.au; attorney@ag.gov.au; PPSR Correspondence Queue
Subject: Freedom of Information Request & Notices To Admit Facts & This Notice of Actual and Apprehended Bias and PPSR ENQ-829463-P1B8N4
Importance: High

The Reserve Bank of Australia ("The RBA")
Attn Mr Anthony Leonard Dickman,
The Secretary of the Board of Governors.
65 Martin Place
Sydney, Australia, 2000
Cc The Registrar of the Personal Property Security Register

Dear Secretary

I refer to the Notices of Admissions of Facts referred to in the Notice to Admit Facts dated 11th April 2017 addressed to the Attorney Generals of the Commonwealth, the States and Territories of Australia (*set out below and annexures as attached*) and email chain attached addressed to Senator Brandis and his personnel.

I also refer to our prior communications in which regard I addressed the issue of the obligation of the Reserve Bank to act in the Public Interest and that of the Peoples of Australia as set out in s10, 10A & 10B of *the Reserve Bank of Australia Act 1959* (Cth) as follows;

10 Functions of Reserve Bank Board

- (1) Subject to this Part, the Reserve Bank Board has power to determine the policy of the Bank in relation to any matter, other than its payments system policy, and to take such action as is necessary to ensure that effect is given by the Bank to the policy so determined.

- (2) It is the duty of the Reserve Bank Board, within the limits of its powers, to ensure that the monetary and banking policy of the Bank is directed to the greatest advantage of the people of Australia and that the powers of the Bank under this Act and any other Act, other than the Payment Systems (Regulation) Act 1998, the Payment Systems and Netting Act 1998 and Part 7.3 of the Corporations Act 2001, are exercised in such a manner as, in the opinion of the Reserve Bank Board, will best contribute to:
 - a. the stability of the currency of Australia;
 - b. the maintenance of full employment in Australia; and
 - c. the economic prosperity and welfare of the people of Australia.

10A Establishment of Payments System Board

There is to be a Payments System Board of the Reserve Bank which is to be constituted as provided in Part IIIA.

10B Functions of Payments System Board

- (1) The Payments System Board has power to determine the Bank's payments system policy.
- (2) The Payments System Board has power to take whatever action is necessary to ensure that the Bank gives effect to the policy it determines.
- (3) It is the duty of the Payments System Board to ensure, within the limits of its powers, that:
 - a. the Bank's payments system policy is directed to the greatest advantage of the people of Australia; and
 - b. the powers of the Bank under the Payment Systems (Regulation) Act 1998 and the Payment Systems and Netting Act 1998 are exercised in a way that, in the Board's opinion, will best contribute to:
 - i. controlling risk in the financial system; and
 - ii. promoting the efficiency of the payments system; and
 - iii. promoting competition in the market for payment services, consistent with the overall stability of the financial system; and
 - iv. the powers and functions of the Bank under Part 7.3 of the Corporations Act 2001 are exercised in a way that, in the Board's opinion, will best contribute to the overall stability of the financial system.

I have applied to establish a Purchased Payment Facility with the Reserve Bank of Australia in which regard I seek to Monetise AUD\$1,000,000,000,000.00 (Australian Dollars One Trillion) of the stored value set out in the Balance Sheet of the Andrew Garrett Family Trust No 4 ABN 42 388 204 496 trading as OenoViva Capital Resources in which regard the Reserve Bank of Australia refused on the 9th November 2016 to establish that Purchased Payment Facility for me to hold in trust for the Peoples of the Commonwealth of Australia for the purposes set out in my application.

On the 20th November 2016 I applied for Internal Review of the administrative decision of the RBA refusing to establish a Purchase Payment Facility in my favour to hold stored value in trust for the benefit of the Peoples of Australia.

The RBA has not undertaken that Internal Review requested of the RBA and is deemed to have refused to undertake Internal Review of that Refusal in which regard all rights are reserved..

The failure of the Reserve Bank of Australia, the Banking System, the Legislature, Executive Government and the Judicature to act in accordance with the Rule of Law and principles of Separation of Powers has led to the value expressed on the aforesaid Balance Sheet that flows from the Admission of Facts as a function of the Law.

The Attorney Generals have admitted liability of the Crown, personally and in their capacities as the First officers of law under the various Constitution Acts of the Commonwealth, the States and the Territories, to me as the Managing Trustee of OenoViva Capital Resources.

The admitted Liability of the Crown is secured over the assets of the Crown including the RBA in which regard I refer you to the attached details relating to your Amendment Notice in respect of registration 201605190014552 Giving of notice identifier: OCR/DCR/RBA/BOE and enquiry from the Registrar of the Personal Property Security Registrar given enquiry reference.

Freedom of Information

I ask you to consider this communique as an application in writing pursuant to the provisions of *the Freedom of Information Act* 1982 (Cth) (“FOI”) for a copy of any document or thing related to me that is in the possession and/or control of the Secretary of the RBA and that has not been provided under the FOI Decision dated 25th November 2016 reference No;RBAFOI-161704.

On the 30th November 2016 I applied for Internal Review of the aforementioned FOI Decision reference No;RBAFOI-161704, the Secretary has not undertaken the review requested in which regard the Secretary has been deemed to refuse my application for Internal Review.

Notice to Admit the Facts of Admitted Liability of the Crown

You admit as a fact under the Common Law that the quantum of admitted liability of the Crown and its officers (personally) is the amounts set out in the Notices to Admit Facts (listed below) served in accordance with the Law on the Attorney Generals of the Commonwealth, the States and Territories and that the quantum of liability of the Crown escalates in accordance with the principle of Post Judgment Interest being 1% per month multiplied by 300% in accordance with s8 of *the Registration of Deeds Act SA(1936)* in accordance with the Spreadsheet attached.

Application to Establish Purchased Payment Facility

Please accept this communique as an application to YOU to establish a Purchased Payment Facility in my name and to monetise 33% of the Stored Value of the Balance Sheet of OenoViva Capital Resources ABN 42 388 204 496 which in my capacity as Managing Trustee pursuant to a Resolution of the Board of Trustees given Reference No OVCR/RBA/30.04.2017 I irrevocably hereby gift and bequeath to me to be held in trust by me for the benefit of the Citizens of the Commonwealth, the States and the Territories of Australia for the purposes set out in my earlier communications including (but not limited to) the independent financing of the Judicial Arm of Government, Restructure of the Executive Arm of Government, necessary legislative amendments to ensure the Judiciary act and all subordinate acts of the Commonwealth, the States and Territories are consistent with the Common Law, the Establishment of a Judicial College to ensure education and training of the Judiciary (State, Territory and Federal) is independent of the Legislature and Executive Government, the establishment of an independent body to nominate appointment of Governors and Judiciary of the Commonwealth, the States and Territories and fund payments pursuant to the Human Right to Remedy.

Notice of Actual and Apprehended Bias and Judicial Review

I ask you to accept this communique as a Notice of Actual and Apprehended Bias in respect to any decision made by officers of the Reserve Bank of Australia. On the 17th February 2017 YOU, the Secretary to the Board of Governors

of the RBA made an administrative decision to seek amendment of PPSR registration 201605190014552 Giving of notice identifier: OCR/DCR/RBA/BOE.

Pursuant to the provisions of the Administrative Decisions Judicial Review Act 1977 (Cth) and in particular s13 of that act I request the reasons for that administrative decision and in so far as is necessary apply for an extension of time in which to apply for Internal Review of that decision.

The Grounds on which I seek review of the aforementioned Administrative Decision are as follows;

1. The Decision is so manifestly unreasonable that no reasonable person would have made the same decision.
2. The decision is affected by Actual Bias and Apprehended Bias in circumstances where the Decision Maker took note of submissions of other Government Agencies without considering the right of the applicant to respond
3. The decision is made in circumstances where the decision maker failed to inquire in accordance with the obligations of a Tribunal and determine all of the relevant facts prior to making the decision.
4. The Decision was made in circumstances where relevant materials were withheld by others and/or the decision maker.
5. The Decision Maker did not comply with the Hearing Rule that requires the Decision Maker to provide not only the adverse materials, but all of the materials relevant to the matter in issue whether or not the decision maker intends to rely upon it.
6. There is an absence of relevant law in the decision and if the relevant law was properly applied then different decision would have been made.
7. There is inadequate reasons given for the making of the Decision.
8. The decision failed to consider the evidence; if the evidence was properly considered then a different decision would have been made.
9. The decision is not fair.
10. The decision is a denial of procedural fairness.
11. The decision is a jurisdictional error of the Decision Maker that leads to the decision being a nullity and a constructive failure to exercise jurisdiction.
12. The decision was made on the instruction of others and was not made independently and in the public interest.
13. The Decision Maker fell into error as a question of law and jurisdictional error in causing himself to identify a wrong issue and to ask himself a wrong question in order to ignore relevant materials to make an erroneous decision in order to reach a mistaken conclusion and the tribunal's exercise of power or purported exercise of power is thereby affected.
14. The decision is an abuse of process for the improper purpose.
15. The Decision Maker failed to make decision on the private binding ruling in circumstances where the question of law arises whether the decision maker was obliged to do so as a consequence of its statutory obligations.
16. The Decision Maker did not give fair consideration of the case presented.
17. The question of law and fact arises whether the decision maker was Negligent.
18. There is no Evidence to support the Decision and when all of the evidence is considered the reverse decision is supported.
19. The Decision is tainted by Bad Faith.
20. The Decision is Illogical or Irrational.
21. The Decision is uncertain in that it leaves a question of Judgment estimation and was no more than an opinion.
22. There is inadequate reasons given for the making of the Decision.
23. The decision is a denial of Natural Justice.
24. The Decision Maker acted dishonestly.

- 25. The Decision Maker acted disproportionately
- 26. The Decision is tainted by Fraud.
- 28. The Decision Maker did not comply with the obligation to give the Plaintiff a fair hearing.
- 29. The exercise of discretion to grant relief upon review would not be futile and the benefit to be gained by the applicant is substantial.

I note that the RBA Act does not allow for delegation of its powers however the Common Law allows for Judicial Review of all Administrative Decisions and request that the RBA arrange for Judicial Review of all Administrative Decisions of the RBA related to me to be reviewed by the Supreme Court of Hong Kong forthwith and without delay in the light of this Notice of Actual and Apprehended Bias.

Please ensure a mechanism is in place for the aforementioned Court with Common Law Jurisdiction makes all future administrative decisions related to me.

ALL RIGHTS RESERVED

Andrew Garrett

Managing Trustee

OenoViva Global (“OV(Global)”)

OenoViva CapitalResources (“OCR”)

The OenoViva Artisans Trust (“OVA”)

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"The Desk" 511 Queens Road West,,
Shek Tong Tsui, Hong Kong

Ho Chi

Suite 103,
District 1,

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From: [Redacted]

Sent: Tuesday, 11 April 2017 11:05 AM

To: senator.brandis@aph.gov.au; agd@agd.sa.gov.au; martin.pakula@parliament.vic.gov.au; vanessa.goodwin@parliament.tas.gov.au; office@smith.minister.nsw.gov.au; Don.Mackintosh@sa.gov.au; CORBELL@act.gov.au; NTDCS.WebAdministrator@nt.gov.au; martin.pakula@parliament.vic.gov.au; 'DTF:Minister Koutsantonis' Office'; minister.mischin@dpc.wa.gov.au; attorney@ministerial.qld.gov.au; CourtsTribunalsandJustice@ag.gov.au; 'Andrew Phelan'; Andrew.Douglas@ato.gov.au; PPSR Correspondence Queue; Justin.Clarke@ato.gov.au; attorney@ag.gov.au; Martine.Whitton@aph.gov.au

Subject: This Notice to Admit Facts dated 11th April 2017 at Common Law & reservice of Notice of Constitutional Matter in VID 129 of 2015 dated 15th December 2015

Attorney Generals of the Commonwealth of Australia, the States and Territories of Australia, (hereinafter "you/your")
By email

Dear Attorney Generals,

This is a further Notice to Admit Facts issued under the Common Law consistent with the Notices to Admit Facts served on you previously by me including those listed below in my communique dated 19th March 2017 to the Commonwealth Attorney General (But not limited to)

You have previously been provided with Activity Statements reflecting your admissions of facts over time at Common Law.

Please note attached copies of those activity statements lodged with the Australian Taxation office calculated as the equivalent of Post Judgement Interest escalating at 1% per month and reflecting the law of s8 of the Real Property Act (SA) applied wherein that loss, cost and damage as a liquidated debt is trebled.

You admit the calculations set out in the attached spreadsheet are true and correct calculating the liquidated value owed by the Crown to me in my capacity as Trustee of the Andrew Garrett Family Trust No 4 ABN 42 388 204 496.

You admit your liability, as first officers of law of the Crown, to pay the amounts set out in the Activity Statements attached for the Quarters ending 30th June 2016, 30th September 2016, 31st December 2016 and 31st March 2017.

In *re Wakim ex parte McNally* the High Court observed that the Common Law cannot be at odds with the Constitution which finding ought to have read that the Constitution cannot be at odds with the Common Law as the source of power for the constitutions of the United Kingdom, the Commonwealth, the States and Territories of Australia.

The matters arising in matters related to me are extremely serious including whether Australian Treaty Series No 23, the Constitution of the Commonwealth of Australia, the Unwritten Constitution of the United Kingdom and the Charter of the Commonwealth of Nations are enforceable against the Crown in circumstances of invalid and/or unlawful conduct.

You have been served with the attached Notice of Constitutional Matter in VID 129 of 2015; *Garrett v Commissioner of Taxation* in which regard the Honourable Justice Kenny affirmed that the Matters arising are stayed pending hearing by a court with competent jurisdiction.

You admit that the relevant law applying to the conduct of the Crown including enforcement of Rule of Law, the principles of Separation of Powers and the avoidance of immunity from prosecution of the Crown ought to be read from the Judiciary Act and its review see attached.

In Garrett v Cahill 2015 FCA 664 and Garrett v Commissioner of Taxation 2015 FCA 665 the question arises as to whether her Honour was correct at para 17.2 of her reasons in FCA 664 which set out as follows;

17.12 Proposed ground 26 does not arise because this Court does not have jurisdiction under the Charter of Human Rights and Responsibilities Act 2006 (Vic). Further, the parts of Schedule 2 of the Australian Human Rights Commission Act 1986 (Cth) (previously the Human Rights and Equal Opportunity Commission Act 1986 (Cth)) on which Mr Garrett relies are articles of the International Covenant on Civil and Political Rights that have not been enacted as part of Australia's domestic law.

Further the question arises as to whether the conduct of the Crown in matters related to me are evidence of offences to the Public Interest and a breach of the Public Trust.

In all other respect all rights are reserved

Andrew Garrett

Chief Executive Officer/ Winemaker

The Andrew Garrett Group of Companies (TAGGC)



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From: [REDACTED]
Sent: Sunday, 2 April 2017 11:30 AM
To: 'Whitton, Martine (Sen G. Brandis)'
Cc: 'attorney@ag.gov.au'; senator.brandis@aph.gov.au
Subject: RE: Notice to Admit Facts dated 1st July 2016

The Commonwealth Attorney General

Dear Martine

Thankyou for your email dated 20th March 2017 which I take to be acknowledgement of service on the Commonwealth Attorney General of all my communiques including those set out in my email dated 19th March 2017.

I note that it is not particular relevant where you are engaged as an employee by the Commonwealth Attorney General the Common Law sets out that "Notice to Agent (employee) is notice to Principle". Should you feel that there is another step involved in fulfilling the constitutional obligations of the Commonwealth AG then by all means forward those communiques to the relevant personnel; this is not a matter that is in my control.

The common law also sets out that on the expiry of 14 days from the date of service of the Notice to Admit the Commonwealth AG is deemed to have admitted the facts set out therein in which regard the relevant rule under the Federal Court Rules is FCR 22.04.

Similarly following admissions at common law I am entitled to pursue judgment in which regard the relevant rule under the Federal Court Rules is FCR 22.07.

Best Regards

Andrew Garrett
Chief Executive Officer/ Winemaker
The Andrew Garrett Group of Companies (TAGGC)

[REDACTED]

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From: Whitton, Martine (Sen G. Brandis) [<mailto:Martine.Whitton@aph.gov.au>]
Sent: Monday, 20 March 2017 1:00 PM
To: [REDACTED]
Subject: RE: Notice to Admit Facts dated 1st July 2016

Dear Mr Garrett,

I have changed roles within the Attorney-General's office.

All further correspondence should be directed to attorney@ag.gov.au

Kind regards,

Martine

Martine Whitton | Diary Manager

Senator The Hon George Brandis QC
Attorney-General
Leader of the Government in the Senate

T: 07 3001 8180 (BNE) 02 6277 7300 (CBR)

From: [REDACTED]
Sent: Sunday, 19 March 2017 1:56 PM
To: Whitton, Martine (Sen G. Brandis)
Cc: Brandis, George (Senator)
Subject: Notice to Admit Facts dated 1st July 2016
Importance: High

Dear Martine

Further to my communique dated 10th March 2017 I advise the relevant Notice to Admit Facts referred to therein ought be that Notice dated 1st July 2016 NOT 1st July 2017

In accordance with the provisions of the Common Law you admit service has been affected on the Attorney Generals of the Commonwealth, the States and the Territories of the aforementioned Notice to Admit Facts and every subsequent and prior Notices to Admit Facts and claims for compensation including those dated (but not limited to)

1. 20th June 2016
2. 21st June 2016
3. 25th June 2016
4. 1st July 2016
5. 7th July 2016
6. 14th July 2016
7. 22nd July 2016
8. 15th August 2016
9. 17th August 2016
10. 18th August 2016
11. 26th August 2016
12. 20th August 2016
13. 30th August 2016
14. 10th October 2016
15. 20th October 2016
16. 8th February 2017

Andrew Garrett

Chief Executive Officer/ Winemaker

The Andrew Garrett Group of Companies (TAGGC)



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