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| **When** | Wednesday 26 October 2022, 12.30-1.30pm AEDT |
| **Where** | Dual delivery: Law Staffroom (UOW bldg 67, level 2) and Webex <https://uow.webex.com/uow/j.php?MTID=m2bfac14ee620f84fd6d8b36163919dc6> |
| **Speakers** | Dr Niamh Kinchin and Dr Ryan Kernaghan, UOW |
| **Title** | "A Ghostly Presence": Dead Letters and the *Australian Constitution* |
| **Abstract** | An essential element of constitutionalism is understanding the history of a constitution. Rather than examining past events in isolation, a consideration of context that *develops* and *lives*,rather than *stagnates* and *dies*on a constitution’s original meaning, is important. That history and context provides stories that tell us as much about a nation’s identity as it does about a constitutional section, chapter or principle in isolation. So, we suggest that a constitutional narrative around the ‘dead letter’ is about the beginning and the middle, rather than just the ends at which we find ourselves.  A ‘dead letter’ is a constitutional provision that has become obscure or redundant. Constitutional provisions become dead letters for various reasons, including legal interpretation, social influences and political factors. When constitutional provisions devolve into ‘dead letters’, they become *de facto* redundant without *de jure* constitutional change, and are largely forgotten. When this happens, we lose more than constitutional meaning, stories that form part of the narrative of nation-building are also lost. These are stories of judicial disagreements, social upheavals, global developments and political machinations. In the Australian context, the most famous ‘dead letter’ of the past five years – the citizenship saga surrounding s 44 – reflects the extent to which ‘dead letters’, despite ostensibly dormant, continuously warn of their potential to unsettle assumptions about a *Constitution* and its role in law and politics.  By analysing interpretations by the High Court, in addition to the *Australian Constitution*’s political, cultural, historical and international contexts, especially in light of human rights, we ask the question: is there life to be breathed into the redundant? To coin a phrase from Justice Stephen Gageler, constitutional ‘dead letters’ end up exerting a ‘ghostly presence’ in the *Constitution*. It is this ghostly presence and their rich stories, long forgotten and waiting to see the light of day again, that we seek to tell. |