

# Aboriginal and Torres Strait Islander human remains policy

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## 1. Title

Aboriginal and Torres Strait Islander human remains policy

## 2. Introduction

The National Museum of Australia (the Museum) is a major cultural institution charged with researching, collecting, preserving and exhibiting historical material of the Australian nation. The Museum focuses on the three interrelated areas of Aboriginal and Torres Strait Islander history and culture, Australia's history and society since European settlement in 1788 and the interaction of people with the environment.

Established in 1980, the Museum is a publicly funded institution governed as a statutory authority in the Commonwealth Arts portfolio. The Museum's building on Acton Peninsula, Canberra opened in March 2001.

## 3. Background

The National Museum of Australia recognises that human remains are significant to Aboriginal and Torres Strait Islander people.

The Museum has custody of Aboriginal and Torres Strait Islander human remains and associated documentation transferred from the former Australian Institute of Anatomy following its closure in 1984.

Under the published regulations of the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*, the Museum is identified as a Prescribed Authority [as per the Act's Section 21 (1) (c)], for the purposes of safe-keeping Aboriginal and Torres Strait Islander human remains, when the relevant Aboriginal or Torres Strait Islander community cannot be identified. The Museum is not a repository for Aboriginal and Torres Strait Islander human remains under any other legislation.

The Museum will not actively seek to collect Aboriginal and Torres Strait Islander human remains. However, the Museum will accept remains donated from other sources.

The Museum is occasionally engaged to manage the care and/or management of Aboriginal and Torres Strait Islander human remains on behalf of external agencies. Such remains are the legal property of the external agency. Notwithstanding any statements in this document, the terms and conditions for care and management of such remains are defined in the relevant agreement.

None of the Aboriginal and Torres Strait Islander human remains held by the Museum form part of the National Historical Collection.

### 3.1 Purpose

The purpose of this policy is to outline how the National Museum will care for and manage Aboriginal and Torres Strait Islander human remains.

### 3.2 Rationale

This policy guides the care, management and repatriation of human remains for which it has primary legal responsibility.

## 4. Principles or guidelines

### 4.1 Acquisition

The Museum shall not actively seek to acquire Aboriginal and Torres Strait Islander human remains, except in such cases as to remove them from private collections or general

circulation or under government legislation. In these circumstances, human remains will be acquired with the intention to return them to the relevant Indigenous community/custodians.

Where government legislation assigns the Museum a custodial responsibility for remains found in certain situations, the Museum will deal with them in accordance with Australian law and then apply the guidelines of this policy.

From time to time, the Museum may be engaged to manage the care of Indigenous human remains on behalf of external agencies. Such remains are the legal property of the external agency. Notwithstanding any statements in this policy, the terms and conditions for care and management of such remains are defined in the relevant agreement/contract.

#### **4.2 Housing of Aboriginal and Torres Strait Islander human remains**

Human remains shall be housed in a secured area separate from the general collections of Aboriginal and Torres Strait Islander material.

#### **4.3 Access to collections**

Access to the human remains keeping place must be approved by the Head, Aboriginal and Torres Strait Islander Program, or by the person fulfilling the functions of that office.

Upon request, Aboriginal and Torres Strait Islander people, or their appointees who have written community/custodian authority, may have access to human remains that appear to come from that community's area of responsibility and any associated documentation.

#### **4.4 Conduct in the human remains keeping place**

All persons entering the human remains keeping place shall conduct themselves in a respectful manner. Any persons conducting themselves in a disrespectful manner shall be required to leave the keeping place immediately.

#### **4.5 Display of Aboriginal and Torres Strait Islander human remains**

The Museum shall not place Aboriginal and Torres Strait Islander human remains in any display or make available human remains for display by another organisation unless authorised by the relevant community/custodians.

#### **4.6 Identification of communities/custodians**

The Museum shall conduct appropriate and diligent research to identify the correct communities/custodians responsible for Aboriginal and Torres Strait Islander human remains in its custody. It may be necessary for museums to employ a biological anthropologist or other consultants to assist in establishing the provenance of such remains.

Scientific examinations such as DNA testing or carbon dating will only be undertaken with the consent of the relevant community, where this is possible. No data should be made public without the consent of the relevant community in those cases.

This will include discussions with relevant community/custodians or their appointees in order to determine their wishes for the future of human remains from that their area. The Museum shall provide copies of all relevant documentation about the human remains to the community concerned.

#### **4.7 Holding human remains on behalf of communities**

The Museum shall hold ancestral remains on the behalf of communities/custodians upon request. Such remains placed in the Museum's care shall be governed by all relevant clauses of this policy. The community/custodians may have these remains returned to them at any time upon request. Such remains remain the property of the lodging community/custodians.

Any research undertaken on ancestral remains held on behalf of communities must have the prior consent of traditional custodians or those authorised by them.

All research will comply with recognised and appropriate ethical research guidelines.

#### 4.8 Associated materials

The Museum shall treat grave goods and casts of human remains in the same manner as human remains.

#### 4.9 Repatriation

The Museum will return human remains to appropriate communities on request subject to initial research as referred to in 4.6 Identification of communities/custodians.

The community/custodians from the group or area from which the ancestral remains originated shall be involved in deciding what will happen to repatriated remains.

The Museum shall not place conditions on communities with regard to ancestral remains that are repatriated.

#### 4.10 Advice on scientific value

The Museum shall advise communities/custodians about remains that it considers to have scientific value and advise on what resources are available for their preservation.

### 5. Definition of terms

#### **Aboriginal and Torres Strait Islander human remains**

All references to 'Aboriginal and Torres Strait Islander human remains' in this policy should be taken to refer to skeletal, tissue material, and samples of hair.

#### **Ancestral remains**

All references to 'Ancestral remains' in this policy should be taken to refer to Aboriginal and Torres Strait Islander human remains.

#### **National Historical Collection**

The collection of cultural material owned by or in the custody of the Museum and as defined by the *National Museum of Australia Act 1980*.

#### **Community**

Aboriginal and Torres Strait Islander people living in and identifying with a defined area who are accepted by the community as being a part of it. Community members may act as individuals or be part of an organisation accepted within that community, or both.

#### **Custodian**

A person entitled by Aboriginal tradition to make decisions for, or have custody of, Aboriginal and Torres Strait Islander human remains.

### 6. References

*Aboriginal and Torres Strait Islander Heritage Protection Act 1984*

*Return of Indigenous Cultural Property (RICP) Program National Principles*

*Church Archaeology Human Remains Working Group Report*, Council for the Care of Churches (Church of England), Cathedrals Fabric Commission (Church of England), English Heritage 2003

*Code of Ethics of the Australian Archaeological Association*, Australian Archaeological Association, December 2004

*Code of Ethics*, Australian Anthropological Society (no date)

*Continuous Cultures Ongoing Responsibilities: A Comprehensive Policy Document and Guidelines for Australian Museums Working with Aboriginal and Torres Strait Islander Cultural Heritage*, Museums Australia, 2004

*Guidelines for Ethical Research in Indigenous Studies*, Australian Institute of Aboriginal and Torres Strait Islander Studies, 2000

*National Statement on Ethical Conduct in Research Involving Humans*, National Health and Medical Research Council, 2004

*Report of the UK Working Group on Human Remains*, UK Department of Culture Media and Sport, 2003

*Transplantation and Anatomy Act 1978* (Australian Capital Territory)

## 7. Implementation

This policy shall be implemented through the office of Head, Aboriginal and Torres Strait Islander Program, or the officer fulfilling the functions of that position.

### 7.1 Coverage

Care of Aboriginal and Torres Strait Islander human remains.

### 7.2 Other related policies

Deaccessioning and disposal policy, 2011

Aboriginal and Torres Strait Islander secret/sacred and private material, 2011

Return of cultural objects policy, 2011

### 7.3 Superseded policies

This policy supersedes:

Former policy/ies title	Version number	Version date	Council approval date
Policy on Aboriginal and Torres Strait Islander human remains	1.0	Dec 1996	6 Dec 1996
Aboriginal and Torres Strait Islander human remains policy	2.0	Jun 2005	9 Jun 2005 (out of session)
Aboriginal and Torres Strait Islander human remains policy	2.1	Mar 2009	Mar 2009 (approved by Executive)

### 7.4 Monitoring

This policy will be reviewed in February 2014.