

Indigenous cultural rights and engagement policy

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1. Title

Indigenous cultural rights and engagement 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. Scope

In the course of its activities, the Museum undertakes a diverse range of engagements with Indigenous stakeholders.

The aim of this policy is to recognise that Indigenous stakeholders have rights in their cultural heritage, also known as Indigenous Cultural and Intellectual Property (ICIP) rights. This policy sets out the principles that guide how the Museum engages with Indigenous stakeholders about these rights in the range of the Museum's activities, including acquisitions, exhibitions, research, education and other programs.

3.1 Description

Indigenous Cultural and Intellectual Property (ICIP) refers to the rights of Indigenous peoples to access, control and maintain their cultural heritage, including traditional knowledge, traditional cultural expression and artefacts. It incorporates all aspects of knowledge (sciences, plant and animal knowledge, stories, designs and symbols, ritual knowledge), artefacts (arts, crafts, weapons, tools), performances (ceremonies, dance and song), human remains and includes the secret and sacred. These rights relate to world Indigenous peoples, which includes Aboriginal and Torres Strait Islander peoples.

The Museum's primary engagement with Aboriginal and Torres Strait Islander peoples and with Indigenous cultural material relates to the Museum's collections, exhibitions and programs.

Indigenous collections

The Museum holds a diverse range of Indigenous material in its collections, including historical records, artworks and artefacts, images, film and sound recordings and other objects. Our collections include material representative of Aboriginal and Torres Strait Islander cultures from around the time of colonial contact to more recent contemporary material. The Museum's collections also include material from other Indigenous peoples, including from Papua New Guinea and other Pacific Island nations. The Museum acquires Indigenous material through

donation, purchase and through transfer from Australian government agencies. The Museum also borrows material for the purposes of temporary display.

Indigenous displays

First Australians: Gallery of Aboriginal and Torres Strait Islander Peoples is a permanent gallery which displays and interprets historical and contemporary material relating to Aboriginal and Torres Strait Islander peoples and cultures. Indigenous peoples and cultural material are also represented in the Museum's other permanent galleries, and the Museum also regularly develops a range of temporary and travelling exhibitions with Indigenous themes.

Acknowledging Indigenous peoples' rights to their cultural heritage

Indigenous Cultural and Intellectual Property (ICIP) rights refer to the rights that Indigenous peoples have in their cultural heritage. Article 31 of the *United Nations Declaration on the Rights of Indigenous Peoples*, to which Australia is a signatory, affirms that:

Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.¹

The Museum recognises that the right to control ICIP incorporates both the tangible and intangible – the object and the knowledge, the artwork and the icons. These rights are perpetual and form a living heritage, reinterpreted by each new generation. ICIP is collectively owned by Indigenous peoples, families, communities and nations of the past, present and future.

The Museum recognises Indigenous peoples' rights in relation to cultural practice and repatriation of human remains and secret/sacred material. Article 12 of the *United Nations Declaration on the Rights of Indigenous Peoples* states:

Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with Indigenous peoples concerned.

The Museum is committed to returning, where sought, Indigenous human remains and secret/sacred objects to their communities and places of origin. The Museum is guided in this work by the principles set out in the Museums Australia document *Continuous Cultures, Ongoing Responsibilities*, and the following Museum policies:

¹ Article 31 of the Declaration, adopted by the General Assembly of the United Nations on 13 September 2007.

- Aboriginal and Torres Strait Islander human remains policy
- Aboriginal and Torres Strait Islander secret/sacred and private material policy
- Non-Australian Indigenous human remains policy.

3.2 Purpose

The Museum has developed principles, set out in part 4 of this policy, to guide its engagement with Indigenous peoples and their cultural heritage. Through its commitment to these principles, the Museum aims:

- (i) to recognise and respect Indigenous peoples' rights to access, maintain and control their cultural heritage
- (ii) to meaningfully engage with Indigenous peoples, their cultural heritage and its associated rights, including through appropriate interpretation of Aboriginal and Torres Strait Islander cultural heritage within the Museum
- (iii) to give public acknowledgement to the value of ICIP and to reinforce its support for the recognition of ICIP rights
- (iv) to establish a transparent feedback and complaints process regarding its engagement with Indigenous peoples and its dealings with ICIP.

4. Principles

Principle 1: Recognition and respect of Indigenous cultural rights

As one of its responsibilities as a custodian of significant Aboriginal and Torres Strait Islander cultural material, and other Indigenous cultural material, the National Museum of Australia recognises and respects the rights of Indigenous peoples in this material, in accordance with Articles 12 and 31 of the *United Nations Declaration on the Rights of Indigenous Peoples*.

Principle 2: Involving Indigenous stakeholders

In recognising ICIP rights, the Museum seeks to involve Indigenous stakeholders in the use of their cultural heritage by the Museum.

Principle 3: Consultation

Indigenous peoples have the right to be consulted about the use of their ICIP. When consulting with Aboriginal and Torres Strait Islander peoples or other Indigenous peoples about their cultural heritage, the Museum commits to ensuring that such consultation is respectful, informed, ethical and meaningful.

Principle 4: Informed consent

The Museum recognises the importance and value of engaging Indigenous stakeholders in the ongoing use of their ICIP. Where possible the Museum obtains the free, prior and informed consent of relevant Indigenous stakeholders before using or authorising the use of ICIP in relation to cultural material held by the Museum.

Principle 5: Interpretation, authenticity and integrity

The Museum supports the rights of Indigenous peoples to be involved in the interpretation of their culture. The Museum also seeks to ensure that its interpretations of Indigenous cultural material are respectful of the authenticity and integrity of that material.

Principle 6: Acknowledging cultural and customary laws for secret and sacred, privacy and representations of deceased people

The Museum acknowledges that some parts of Aboriginal and Torres Strait Islander culture are secret or sacred and/or not for general viewing. The Museum commits to never knowingly making available cultural material which it is aware is private or secret or sacred without the explicit consent of relevant Indigenous stakeholders. The Museum also commits to providing appropriate warnings concerning privacy or material associated with deceased persons in its exhibitions and other programs.

Principle 7: Acknowledgment

Where possible, the Museum commits to acknowledging Aboriginal and Torres Strait Islander peoples for the use of their ICIP. This includes individual acknowledgements, and where appropriate, community or family acknowledgement.

Principle 8: Sharing benefits

The Museum supports the right of Aboriginal and Torres Strait Islander peoples to benefit from the use of their cultural heritage.

Principle 9: Recognising, maintaining and strengthening Indigenous culture

The Museum recognises that Indigenous cultures are varied, thriving and constantly evolving. As a national cultural institution, the Museum recognises its role in ensuring that Aboriginal and Torres Strait Islander cultures are recognised, maintained and strengthened for future generations.

Principle 10: Recognition of ongoing rights

The Museum recognises that the rights of Indigenous peoples in regard to their cultural heritage are ongoing, and that the Museum has a duty to ensure it continues to engage with Indigenous stakeholders to implement and recognise these principles.

Principle 11: A timely, transparent and respectful process for responding to feedback

The Museum will endeavour to act in an open and transparent manner in its relationships and interactions with ICIP and Indigenous stakeholders. The Museum will respond to any enquiries, complaints or other feedback from Indigenous stakeholders about the Museum's use of their cultural material in a timely, transparent and respectful way.

5. Definition of terms

- **'Aboriginal and Torres Strait Islander peoples', 'Indigenous peoples', and 'Indigenous stakeholders'** in this policy are used in the following way:
 - **Indigenous peoples** refers to the world's Indigenous peoples, including Indigenous Australians, within the broader context of the *UN Declaration on the Rights of Indigenous Peoples*. Although the Museum's primary engagement with Indigenous peoples and cultures relate to Aboriginal and Torres Strait Islander peoples, the

Museum's collections also include material from other Indigenous peoples, including from Papua New Guinea and other Pacific Island nations.

- **Aboriginal and Torres Strait Islander peoples** is inclusive of a diversity of nations, languages, communities, cultural practices and spiritual beliefs. This term is used instead of the term 'Indigenous peoples' where the context or the intended policy commitment relates specifically to Indigenous Australians.
- **Indigenous stakeholder** refers to:
 - a) an Indigenous person
 - b) an Indigenous group or community
 - c) an Indigenous organisation

that has a direct link to the Museum broadly or to a specific project.

For example, Indigenous stakeholders could include (amongst others) artists exhibited by the Museum, their communities and families, the land councils of the region and/or any arts bodies representing the artists, and the Museum's Indigenous Reference Group.

- **Cultural material** refers to all objects, artefacts, artworks, films or any other tangible item that incorporates ICIP. For example, it may be a painting by a Gadigal artist, an historical weapon from the Pitjantjatjara community, or a basket woven by a group of women on Saibai Island.
- **ICIP** means Indigenous Cultural and Intellectual Property and refers to the rights of Indigenous peoples to access, control and maintain their cultural heritage, including traditional knowledge, traditional cultural expression and artefacts. It incorporates all aspects of knowledge (sciences, plant and animal knowledge, stories, designs and symbols, ritual knowledge), artefacts (arts, crafts, weapons, tools), performances (ceremonies, dance and song), human remains and includes the secret and sacred.
- **Secret/sacred ICIP** refers to any tangible and intangible ICIP that was or is traditionally subject to restrictions and/or protocols regarding access to those materials.

6. Definition of responsibilities

Director

The Director is responsible for deciding the Museum's position in relation to disputes, or other matters dealt with under the policy or principles, where an agreed position cannot be reached between stakeholders. The Director may seek the advice of the Indigenous Reference Group in appropriate circumstances.

Assistant Director, Collections, Content and Exhibitions

The Assistant Director, CC&E, is responsible for maintaining and implementing this policy and its associated principles within the Museum, and for ensuring feedback, enquiries and complaints are managed in accordance with this policy and its associated procedures.

Indigenous Reference Group

The Indigenous Reference Group is responsible for reviewing and providing advice and assistance to the Museum regarding the implementation and application of this policy and its associated procedures.

7. References

- *United Nations Declaration on the Rights of Indigenous Peoples* (2007)
- *Continuous Cultures, Ongoing Responsibilities: principles and guidelines for Australian museums working with Aboriginal and Torres Strait Islander cultural heritage* (Museums Australia, 2005)
- *Protocols for producing Indigenous Australian visual arts* (2nd edition, Australia Council, 2007)
- *Pathways and Protocols: a filmmaker's guide to working with Indigenous people, culture and concepts* (Screen Australia, 2009)
- *Indigenous Art Code* (2009)
- *Australian Indigenous Art Charter of Principles for Publicly Funded Collecting Institutions* (2009)

8. Implementation

This policy will be implemented through the application of the Indigenous cultural rights and engagement principles. The Museum will consult and provide regular reports to the Indigenous Reference Group on the operation of the Indigenous cultural rights and engagement principles.

8.1 Coverage

Museum staff will apply the Indigenous cultural rights and engagement principles to all dealings with Indigenous stakeholders, cultural material and ICIP rights.

8.2 Other related policies

- *Aboriginal and Torres Strait Islander human remains policy*
- *Aboriginal and Torres Strait Islander secret/sacred and private material policy*

- *Intellectual property policy*
- *Non-Australian Indigenous human remains policy .*

8.3 Exclusions

The Museum's policy and practice with regard to human remains and dealing with secret/sacred material is not detailed in this policy, but is set out under the following policies:

- *Aboriginal and Torres Strait Islander human remains policy*
- *Aboriginal and Torres Strait Islander secret/sacred and private material policy*
- *Non-Australian Indigenous human remains policy.*

8.4 Monitoring

This policy will be reviewed in March 2017.