

AUSTRALIAN MUSEUM FIRST NATIONS RESTRICTED COLLECTIONS & REPATRIATION POLICY

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1 Introduction

1.1 Acknowledgment

The Australian Museum acknowledges that it operates across the unceded lands, waters, and skies of many First Peoples. These lands have been cared for, protected, and loved since time immemorial. As Australia's first museum, we share the responsibility of advocating for country in ways that honour the sovereignty of the First Nations peoples of this land.

As the first museum in Australia, established in 1827, the AM is part of Australia's colonial history. We acknowledge the impact of historical beliefs and attitudes towards First Nations Peoples and the collecting of their Ancestral Remains. In more recent years, the AM has become a strong advocate for First Nations Peoples and cultures through the principle of self-determination. This policy places First Nations Peoples at the centre of decision-making about its Restricted Collections.

1.2 Purpose

This policy provides a framework for the culturally appropriate management of the AM Restricted Collections and the Repatriation of these collections to their communities of origin consistent with Article 12 of the *United Nations Declaration on the Rights of Indigenous Peoples* and *Australian Government Policy on Indigenous Repatriation 2016* (Cth), regulated by the Commonwealth Office for the Arts (OFTA).

This policy applies to all First Nations Restricted Collections, including Ancestral Remains and Secret/Sacred Objects that have entered the Museum's custodial care (whether formally accessioned or not).

1.3 Scope

This policy applies to the management and Repatriation of Restricted Collections by the Australian Museum. All employees (including permanent, temporary and casual employees), contractors, volunteers, and other persons engaged to undertake work on behalf of the AM, must comply with this policy.¹

1.4 Objectives

Objective 1: Supporting the moral, intellectual, and cultural rights of First Nations Peoples as the owners of their cultural knowledge, customs, traditions, and their material culture.

Objective 2: Acknowledging that First Nations Peoples have the right to control their cultural heritage and should be supported in decision-making processes regarding their own cultural practices, knowledge, and information-sharing.

Objective 3: Adhering to the *United Nations Declaration on the Rights of Indigenous Peoples* (2007), which was endorsed by the Australian Government in 2009. According to Article 12:

Indigenous peoples have the rights 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 control of their ceremonial objects; and the right to the repatriation of their human remains.

¹ NSW Government Public Service Commission (2023), *Cultural Capability Guide: Shaping an Inclusive Employee Experience for Aboriginal and Torres Strait Islander People* [https://www.psc.nsw.gov.au/assets/psc/documents/16319_NSW-PSC-Cultural-Capability-Guide-accessible.pdf].



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.

Objective 4: Contributing to reconciliation and honouring the AM's Reconciliation Action Plan. The Repatriation of Restricted Collections to their communities of origin is of paramount importance to First Nations Peoples. Repatriation is a crucial step towards practical reconciliation, and the AM continues to fully endorse a safe cultural process of returning its Restricted Collections to their communities of origin. The importance of returning Restricted Collections back to Country, to their rightful place, is reflected in the below quote:

*"For Aboriginal and Torres Strait Islander peoples, the return of ancestral remains back 'to country' is the first step towards recognising their dignity. It restores their rightful place as Elders, mothers, fathers, grandmothers, grandfathers, uncles, aunts, brothers and sisters. It acknowledges the wrong done to them and allows the ancestors to finally rest in peace in their homelands. It recognises the unbreakable bond, customary obligations and traditional practices between the living, the land and the dead."*²

2 Restricted Collections

2.1 Acquisition

- 2.1.1 The AM holds a significant number of Restricted Collections as a result of past collecting practices. The AM does not actively seek to acquire or collect Aboriginal and Torres Strait Islander Secret/Sacred Objects or Ancestral Remains. However, the AM may acquire such material to remove them from private collection or general circulation or as mandated under legislation.
- 2.1.2 Where the AM has been assigned a custodial responsibility for Secret/Sacred Objects or Ancestral Remains by state or federal legislation, the AM will deal with such material in accordance with the applicable legislative requirements and then apply the principles and guidelines of this policy.
- 2.1.3 The AM may also acquire NSW Ancestral Remains from overseas collecting institutions, but the AM will only accept those Ancestral Remains either:
 - (a) through a facilitated return from OFTA pursuant to a stewardship arrangement, guided by the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth) (**ATSIHP Act**); or
 - (b) on behalf of an Identified First Nations Community or Organisation in a custodial arrangement.

All relevant documentation associated with Ancestral Remains from the previous collecting institution must be provided to the AM at the time of transfer and the AM will incorporate all such documentation into its collection management system.

² Commonwealth Government Department of Communications and the Arts, *Australian Government Policy on Indigenous Repatriation*, 2016, p.4.



2.2 Storage and Handling

- 2.2.1 Until their return to Country, the AM will house the Restricted Collections within its private, secure and environmentally-controlled facilities pursuant to the AM's Collection Care and Conservation Policy.
- 2.2.2 Restricted Collections are stored separately from general Cultural Collections and are not displayed in any exhibition or gallery, nor permitted for external loans.
- 2.2.3 Material in the Men's and Women's Restricted Collections will be stored separately from one another and will only be seen and handled by male- or female-identifying staff respectively (subject to AM staff availability within the First Nations Division).
- Non-binary or gender-fluid staff may be allocated to handle the Restricted Collections. Where that is the case, the AM will endeavour to consult the relevant Traditional Owners of the Restricted Collections to which such staff have been allocated.
- In exceptional circumstances, the Director, First Nations may view any Restricted Collections material outside of the Men's / Women's boundary.
- 2.2.4 To facilitate Repatriation of the Restricted Collections, the AM's First Nations Division Repatriation team also undertakes research in respect of the provenance of Restricted Collections.
- 2.2.5 Once the AM has deaccessioned any Restricted Collections, the AM will maintain custodial care responsibilities for those relevant Restricted Collections until the Restricted Collection material can be returned to Country in accordance with this policy.
- 2.2.6 An inventory of the Restricted Collections will be maintained by the Senior Restricted Collections & Repatriation Officer, and any updates will be provided to OFTA.

2.3 Access to Restricted Collections or Information

- 2.3.1 AM respects the right of First Nations people to maintain their cultural practices relating to secret and sacred information and knowledge, and the privacy and confidentiality of aspects of First Nations people's personal and cultural affairs.

Access to Restricted Collections

- 2.3.2 Access to Restricted Collections is restricted. Members of the public are not permitted to access Restricted Collections. However, the AM will endeavour to provide First Nations Peoples with access to their cultural objects held in the AM's Restricted Collections in accordance with this policy.
- 2.3.3 Only the following staff within the AM may access the Restricted Collections:
- (a) the AM Repatriation Team;
 - (b) senior management in the First Nations Division; and
 - (c) AM Security.

Access to any staff other than those listed above requires the approval of the Director, First Nations.



2.3.4 First Nations Peoples wishing to access their Restricted Collections must provide to the AM's Senior Restricted Collections & Repatriation Officer:

- (a) their name, address and contact details;
- (b) if requesting access on behalf of another person or community, that person or community's name, contact details and their relationship to the person submitting the request; and
- (c) supporting documentation demonstrating a provenance connection to the Restricted Collections.

If the supporting documentation is considered sufficient, the Senior Restricted Collections & Repatriation Officer will approve the request for access. In some cases, requests for access may be escalated to the Director, First Nations. The AM may also seek further information or documentation, if required.

2.3.5 All persons, whether AM staff or First Nations Peoples, entering the Restricted Collections areas will be advised by the designated AM staff member of the appropriate and respectful conduct expected within those areas, and must comply with any directions given by AM Security.

2.3.6 Any person behaving disrespectfully may be directed to leave.

Access to Information about Restricted Collections or Repatriation

2.3.7 The AM will endeavour to provide First Nations Peoples with access to information about their cultural objects and their Ancestral Remains held in the AM's Restricted Collections in accordance with this policy.

2.3.8 First Nations Peoples seeking information about their cultural objects and Ancestral Remains must provide to the AM's Senior Restricted Collections & Repatriation Officer:

- (a) their name, address and contact details;
- (b) if requesting access on behalf of another person or community, that person or community's name, contact details and their relationship to the person submitting the request; and
- (c) supporting documentation demonstrating a provenance connection.

If the supporting documentation is considered sufficient, the Senior Restricted Collections & Repatriation Officer will approve the request for information. In some cases, requests for access may be escalated to the Director, First Nations. The AM may also seek further information or documentation, if required.

2.3.9 Information regarding:

- (a) the AM's Repatriation records or business; and
- (b) Restricted Collections that may not have an Identified First Nations Community or Organisation³

³ For example: if there is no identified provenance to family or community.



is restricted and can only be accessed with the prior written approval of the Director, First Nations in exceptional circumstances or if required by law.

2.3.10 Any requests to access information about Restricted Collections and/or the AM's Repatriation activities must follow the AM's ICIP Protocol and the *Government Information Public Access Act 2009* (NSW) (**GIPA Act**).

2.3.11 Information access requests received under the GIPA Act must be referred to the AM's GIPA Officer.⁴

2.4 Testing

2.4.1 Invasive testing⁵ of Restricted Collections is prohibited, unless the AM has received:

- (a) a written request from the Identified Aboriginal Community or Organisation for the type of testing to be carried out; and
- (b) the free, prior and informed consent of the relevant Identified Aboriginal Community or Organisation.

2.4.2 Where no relevant community can be identified, no consent can be given, therefore no invasive testing can occur under any circumstances.

2.4.3 Non-invasive testing⁶ may be conducted by the AM, provided:

- (a) it aids Repatriation; or
- (b) it provides important contextual information that may be required prior to initiating consultation; or
- (c) it is conducted in a culturally competent and safe way; or
- (d) to ensure the Restricted Collections are not harmful to the staff or community members who may be handling the material.

2.5 Removal and Transportation

2.5.1 Restricted Collections may only be removed from their storage areas for the purpose of Repatriation, for treatment by the AM Collections Care & Conservation (**CC&C**) staff when directed and approved by the Director, First Nations, or for testing or access by relevant First Nations Peoples in accordance with this Policy.

2.5.2 Transportation of Restricted Collections, whilst in custody of the AM, will be documented with transportation paperwork signed by the Director, First Nations, with these records filed in the AM's records management system.

⁴ In assessing whether information can be disclosed under the GIPA Act, it is to be presumed that there is an overriding public interest against disclosure if disclosure of the information could reasonably be expected to prejudice the conservation of any place or object of natural, cultural or heritage value, or reveal any information relating to Aboriginal or Torres Strait Islander traditional knowledge: GIPA Act, Schedule 1, section 5(b)

⁵ Examples of invasive testing include DNA testing, or isotope analysis which require some physical destruction of bone.

⁶ Examples of non-invasive testing include scanning with a portable X-ray fluorescent (pXRF) spectrometer to detect harmful elements like mercury, or a visual inspection by a qualified physical anthropologist.



3 Repatriation

3.1 What is Repatriation?

- 3.1.1 Repatriation is the process by which Secret / Sacred Objects and Ancestral Remains are returned to First Nations Peoples and Country. The purpose of repatriation is to promote healing and reconciliation for First Nations Peoples.
- 3.1.2 The AM supports the unconditional Repatriation of Restricted Collections.
- 3.1.3 Repatriation of Restricted Collections will be guided by the values embedded in current best practice repatriation guidelines⁷⁸, and will support the full repatriation pathway co-developed with the Identified First Nations Community.

3.2 Requests for Repatriation

- 3.2.1 Requests for Repatriation of Restricted Collections must be supported in writing by authorised representatives of the Identified First Nations Community or Organisation as at the date of the request.
- 3.2.2 The request must, at a minimum, include:
 - (a) the name, address, and contact details of the requestor;
 - (b) if submitting a request on behalf of another person or community, that person or community's name and contact details and their relationship to the person submitting the request; and
 - (c) supporting documentation demonstrating a provenance connection; and
 - (d) evidence demonstrating that the Repatriation request has been discussed and approved by the Identified First Nations Community or Organisation.
- 3.2.3 The AM will endeavour to action the request for Repatriation within twelve (12) months of receipt of the request. In the event that Repatriation is scheduled more than twelve (12) months after the date of the request, the AM may require new or additional supporting documentation from the relevant representatives of the Identified First Nations Community or Group prior to progressing the Repatriation.
- 3.2.4 Upon receipt of a written request for Repatriation in accordance with paragraph 3.2.1, the AM will validate the request and all supporting documentation, and will confirm community support for the requested Repatriation.

3.3 Consultation

- 3.3.1 The AM will consult with First Nations Peoples during the Repatriation process on the needs and requirements of the community, subject to AM resources. Such consultation is required to confirm support by relevant stakeholders and will aid the AM in its decision-making process.

⁷ *United Nations Declaration on the Rights of Indigenous Peoples*

⁸ See also Part II, Objective 3 in the *Australian Government Policy on Indigenous Repatriation* (Cth)



- 3.3.2 Where family links to a named deceased person in the Restricted Collections can be established, the Repatriation team will consult directly with any known descendants during the Repatriation process.
- 3.3.3 Multiple sources of consultation and confirmation are required to identify poorly provenanced Restricted Collections prior to Repatriation. These sources of information will be documented in the AM records management system for accountability.

3.4 Conflicting Claims

- 3.4.1 Where there are conflicting claims for the Repatriation of Restricted Collections, the AM will:
 - (a) inform the relevant parties of the conflict;
 - (b) encourage the parties to resolve the conflict; and
 - (c) investigate options for providing access to the Restricted Collections that is acceptable to all parties.
- 3.4.2 The AM will not finalise or approve a Repatriation request where a conflict exists until such time as the conflict is resolved.

3.5 Approval

- 3.5.1 Requests for Repatriation must be approved in writing as follows:
 - (a) in the case of Restricted Collections that have been accessioned into the AM Collections, by the Governor of NSW prior to Repatriation⁹; and
 - (b) internally at the AM, by the:
 - (i) AM Director of First Nations; and
 - (ii) AM Director & CEO; and
 - (iii) AM Trust Board.
- 3.5.2 Further or other approvals may be required depending on the applicable legislation or regulations under which the AM received the Restricted Collections, including any agreements or other arrangements (such custodial arrangements or stewardships).

4 Roles and Responsibilities

All AM staff are expected to act in a culturally competent manner to allow people to work together effectively in cross-cultural situations, and foster an environment in which First Nations Peoples feel culturally safe. For the AM's Repatriation Program, this can include cultural exchanges of gifts, and the importance of sharing food during meetings or events.

⁹ In accordance with sections 9 and 10 of the AM Trust Act.



The below table outlines specific roles and responsibilities within the AM:

Role	Responsibility
<p>AM Trust Board</p>	<ul style="list-style-type: none"> • Ensuring matters concerning AM's strategy and direction align with the AM's obligations under the Australian Museum Trust Act 1975; • Approving requests to deaccession Restricted Collections in preparation for Repatriation; • Approving Repatriation requests on the recommendation of the Director, First Nations, and the Director & CEO; • Making recommendations to the Governor of NSW (or other NSW Minister or Department, if relevant) to approve Repatriations of Restricted Collections¹⁰; and • Reading reports provided on the Repatriation and Restricted Collections Program provided every six months.
<p>Director & CEO</p>	<ul style="list-style-type: none"> • Communicating to the AM Trust Board and AM staff in relation to AM's Repatriation and Restricted Collections Program; • Ensuring compliance with internal and external policies, legislation and regulations relating to Restricted Collections and Repatriations; and • Approving requests to deaccession Restricted Collections in preparation for Repatriation; and • Approving Repatriation requests on the recommendation of the Director, First Nations.
<p>Director, First Nations</p>	<ul style="list-style-type: none"> • Administering this Policy; • Overseeing and managing the AM's Repatriation Program and the Restricted Collection & Repatriation team's activities; • Approving requests to deaccession Restricted Collections in preparation for Repatriation; • Approving Repatriation requests under this Policy; and • Is accountable to the Director & CEO.

¹⁰ The AM acknowledges that it has received Governor Margaret Beazley's approval for the deaccession and repatriation of its Restricted Collections, pursuant to the Minute Paper for the Executive Council dated 6 July 2022



<p style="text-align: center;">Senior Restricted Collections & Repatriation Officer, First Nations</p>	<ul style="list-style-type: none"> • Managing this Policy on a day-to-day basis; • Management of the Restricted Collections; • Managing relationships with state and commonwealth repatriation programs; • Assessing requests for information and access to Restricted Collections from First Nations Peoples under this Policy and escalating any issues to the Director, First Nations, as required; • Coordinating Repatriation of Restricted Collections in accordance with the objectives of the Identified First Nations Communities or Organisations; • Recommending Restricted Collections for Repatriation to the Director, First Nations, following receipt of a request for Repatriation; and • Is accountable to the Director, First Nations.
<p style="text-align: center;">AM Staff</p>	<ul style="list-style-type: none"> • Adhering to and respecting this Policy; and • Acting in a culturally competent and safe manner when dealing with matters considered by this Policy.

5 Compliance, Reporting and Enforcement

Time Period	Reporting Details
<p style="text-align: center;">Every 2 months</p>	<p>Management of this Policy and activities contemplated by it are reported to the AM Trust Board through the First Nations Division’s Divisional Report.</p>
<p style="text-align: center;">Every 6 months</p>	<p>First Nations Repatriation and Restricted Collections Program Report provided to and noted by the AM Trust Board.</p>
<p style="text-align: center;">Every 12 months</p>	<p>Report to the NSW Government through the Office of the NSW Minister for Arts as required.</p>
	<p>Report on Repatriation to the OFTA Repatriation Program Team.</p>
	<p>AM’s Annual Report.</p>

6 Definitions

AM Trust Board means the board responsible for governing the AM, consisting of eleven trustees appointed by the Governor of NSW, that may exercise and perform the powers, authorities, duties, and functions conferred or imposed on it by, or under, the *Australian Museum Trust Act 1975* (NSW).



Ancestral Remains means the whole or part of the body of an Aboriginal and/or Torres Strait Islander person, and can include, but is not limited to:

- (a) the whole or part of human skeletons, individual bones or fragments of bone and teeth, including any calcifications;
- (b) soft tissue including organs;
- (c) samples of hair and blood taken from individuals both deceased and living at the time of removal; and
- (d) Casts taken from any of these.

Any of the above items that have been incorporated with non-human materials to form an object, are not considered Ancestral Remains, and are instead classified as Secret/Sacred Objects, as the original intended purpose was for use in ceremony rather than burial. Ancestral Remains that are bound up with non-human material to form an object, are considered part of that object, and will not be separated.

This term is used interchangeably with “**Ancestors**”.

Casts means objects made by shaping material, primarily (though not always) from the body of a recently deceased person or modelled over a living person into a mould.

Country means land, waterways, sea and sky in an area and includes the associated law, custom, language, material sustenance associated with a particular group of Aboriginal or Torres Strait Islander people who belong to that area.

Cultural Collections means Aboriginal and Torres Strait Islander Cultural Collections, Aboriginal Archaeology Collection, Pasifika Collections, and World Collections (collections from outside of Australia and the Pacific) held by and at the AM.

Elders means Aboriginal or Torres Strait Islander people who are recognised as custodians of knowledge and law, and have authority to speak on behalf of their families and Country. Recognition and authority come from the persons own community and cannot be self-identified or appointed.

First Nations Peoples, as they relate to this policy, means someone of Aboriginal and/or Torres Strait Islander descent, as part of the First Peoples of the continent now known as Australia, who identifies as Aboriginal and/or Torres Strait Islander and is accepted as such by the community in which they live or have lived.

This term may be used interchangeably with “**First Peoples**”.

“Peoples” is described in the plural (can be used in lower-case or capitals) in line with the *UN Declaration on the Rights of Indigenous Peoples* (2007) to recognise the diversity of Indigenous peoples



Identified First Nations Community or Organisation means the relevant Aboriginal or Torres Strait Islander community or organisation connected to an Ancestral or Restricted object by provenance, and represent Traditional Owners, custodians or relevant authorised peoples with appropriate cultural heritage knowledge and with “*the trust of their community, knowledge and understanding of their culture and the permission to speak about it*”¹¹.

Provenance means the place of origin or earliest known history of Restricted Collection material.

Repatriation means the return of Ancestral Remains, and/or associated burial goods, and/or Secret/Sacred Objects to the community of origin, including all notes and data associated with the disturbance, acquisition, and research of this material.

Restricted Collections means the collection of Aboriginal and Torres Strait Islander Ancestral Remains and objects of a Secret/Sacred nature held by and at the AM. These collections are managed by First Nations Peoples, are separate from the general collections stores and have controlled, strict access requirements.

Secret/Sacred Objects means objects that are secret or sacred to First Nations Peoples and therefore have access restrictions placed upon them based on knowledge recognised in First Nations custom and ceremony (as established by Traditional Owners).

Traditional Owners means First Nations (Aboriginal and/or Torres Strait Islander) persons who are a member of a family or clan group that is recognised as originating from a particular area. They hold knowledge about traditions, observances, customs, or beliefs associated with that area; and have responsibility and customary obligations for significant Aboriginal places and with objects from the area.

This term may be used interchangeably with “**Traditional Custodians**”.

Unconditional Repatriation is the transfer of custodianship of Ancestral Remains or Secret Sacred Objects where no conditions have been imposed on any party involved in the transfer.

7 Key Related Documentation

7.1 Legislation

- Australian Museum Trust Act 1975 (NSW) (**AM Trust Act**).
- National Parks and Wildlife Act 1974 (NSW) (**NPW Act**)
- Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cth) (**ATSIHP Act**)
- Coroners Act 2009 (NSW)
- Native Title Act 1993 (Cth)
- Aboriginal Land Rights Act 1983 (NSW)

7.2 Policies and Supporting Documentation

- Australian Institute of Aboriginal and Torres Strait Islander Studies (**AIATSIS**), *Code of Ethics for Aboriginal and Torres Strait Islander Research*, 2020.

¹¹ DECCW Aboriginal cultural heritage consultation requirements for proponents 2010: <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Aboriginal-cultural-heritage/aboriginal-cultural-heritage-consultation-requirements-for-proponents-2010-090781.pdf>



- AM, Cultural Collections Policy, 2024.
- AM, Indigenous Cultural and Intellectual Property (ICIP) Protocol, 2019.
- AM, Risk Appetite Statement, 2024
- Australian Museums and Galleries Association (**AMaGA**), First Peoples: A Roadmap for Enhancing Indigenous Engagement in Museums and Galleries, 2021.
- Commonwealth Government, Australian Government Policy on Indigenous Repatriation, 2016.
- United Nations, United Nations Declaration on the Rights of Indigenous Peoples, 2007 (**UNDRIP**).