

# Management and Repatriation of Ancestral Remains and Burial Goods Policy

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## 1. Context

The Board of the South Australian Museum is caring for thousands of ancestral remains collected from as early as the late 1800s. More than three-quarters of the ancestral remains held by the Board are from Aboriginal people who were originally buried in South Australia prior to or possibly in the early days of European colonisation, within 100 kilometres of the Greater Adelaide area.

These people did not consent to donate their bodies to science. Medical officers, ethnologists, anthropologists and others removed many of the ancestral remains from their original burial locations through expedition, excavation or inadvertent discovery.

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The belief systems and expectations of Aboriginal Traditional Owners call for the culturally appropriate and safe return of displaced ancestors back to Country so that spirits can settle and contemporary Aboriginal communities can honour long-standing Aboriginal traditions.

## 2. Purpose

This policy, which replaces the *South Australian Museum Policy on Human Skeletal Remains Collection 1987*, sets out the processes and procedures for managing and repatriating ancestral remains and associated burial goods acquired, held, taken on loan or received via exchange by the Board and its precursor entities. This includes ancestral remains and burial goods not listed on the Board's registers of anthropology or archaeology or ethnology.

## 3. Scope

This policy applies to Museum staff, honorary research associates, visiting fellows, students, volunteers, contractors, external researchers and Aboriginal and Torres Strait Islander community members seeking to gain access to or conduct research about ancestral remains held by the Board.

## 4. Principles

This policy aims to reflect Aboriginal tradition and authority by placing Aboriginal communities at the centre of decision making about Aboriginal ancestral remains, including decisions about scientific testing.

This policy is consistent with the *Australian Government Policy on Indigenous Repatriation*<sup>1</sup> and with the *South Australian Aboriginal Heritage Act 1988*.

The Board adopts the principles set under the *United Nations Declaration on the Rights of Indigenous Peoples*, which says in part:

*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*<sup>2</sup>.

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<sup>1</sup> *Australian Government Policy on Indigenous Repatriation*, Published 16<sup>th</sup> September 2016. Department of Communications and the Arts (<https://www.arts.gov.au/documents/australian-government-policy-indigenous-repatriation>) accessed 15/02/2018

<sup>2</sup> United Nations Declaration on the Rights of Indigenous Peoples, Article 12

## 5. Policy Statement

### 5.1. Hold, Accession and Deaccession

- The Board will only hold ancestral remains and burial goods:
  - at the request of the relevant Aboriginal representative body or international cultural group and with the intention of returning them to the appropriate body or group.
  - at the request of the State Forensic Pathologist or delegate; where the remains are of poor or limited provenance and have been determined by the State Coroner as Aboriginal.
  - on behalf of another institution, at the request of that institution, while working with the State Coroner to determine whether remains are Aboriginal ancestral remains. Where they are not, the remains will be returned to that institution.
  - at the request of the Australian Government; for ancestral remains returned from overseas but with only a broad regional provenance in South Australia.
- The Board will only hold ancestral remains and burial goods if they can be housed securely and cared for respectfully, and must take all reasonable measures to protect them.
- The Museum's Head of Humanities is responsible for managing requests to hold ancestral remains.
- Ancestral remains and burial goods will not be accessioned into the Museum's collections or loaned out.
- Wherever the Board has formally deaccessioned ancestral remains, it will continue to care for those remains, and this policy will continue to apply, until the agreed repatriation process and return to Country has been completed.
- The Board will document mutually agreed arrangements, consistent with this policy, for the care of Aboriginal ancestral remains and burial goods in conjunction with the relevant Aboriginal representation body.

### 5.2. Keeping Place

- All ancestral remains will be kept in a culturally appropriate and secure Keeping Place that is separate from general collections and includes a respectful space for community members' visits.
- The Senior Collection Manager – Humanities and World Cultures will ensure associated collection management plans are implemented and regularly reviewed and seek advice from the Aboriginal Advisory Committee on the collection management plan for Aboriginal ancestral remains.

### 5.3. Access to the Keeping Place

- Access will be restricted to key Museum staff approved by the Head of Humanities, Aboriginal individuals and their representative bodies, and maintenance contractors under supervision.
- Access will be managed by the Senior Collection Manager – Humanities and World Cultures, who will keep detailed records.

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- All access will be recorded by name, associated organisation, and date and time of entry and exit.
- Only items that are part of an active repatriation process may be removed from the Keeping Place and only for the purposes of the agreed repatriation process.
- The Head of Humanities, or delegate, is responsible for approving the removal of any ancestral remains or burial goods and only for the purposes of the agreed repatriation process.

### 5.4. Conduct in the Keeping Place

- All persons entering the Keeping Place shall be inducted into the appropriate and respectful conduct expected. Any person acting disrespectfully may be instructed to leave immediately.
- Traditional owners may conduct appropriate ceremonies within the Keeping Place. Appropriate arrangements will be made for smoking ceremonies.

### 5.5. Display

- The Board will not display (or lend for display) any Australian Aboriginal ancestral remains or Aboriginal burial goods.
- Modified remains that include Aboriginal ancestral remains (e.g. hair belts attached to shell objects) may be displayed in a cultural context at the request, or with the permission, of the relevant Aboriginal representative body.
- The Head of Humanities will seek the views of the relevant representative bodies, including the host Aboriginal representative body, as to the appropriateness of a culturally contextualised display (or loan for display) of ancestral remains and burial goods from overseas communities.
- The Head of Humanities will manage requests for the removal of ancestral remains, modified remains and burial goods from public display expeditiously, with respect and sensitivity.

### 5.6. Responsible Research

- The Board supports the *Australian Government Policy on Indigenous Repatriation*.
- The Board acknowledges the historical attitudes towards Aboriginal people and the treatment and study of their ancestral remains and will ensure all ancestral remains are treated with respect and not as specimens of scientific or historic interest.
- The Board will not carry out or approve the conduct of **invasive research**<sup>3</sup> on any ancestral remains, modified remains or burial goods in its care.

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<sup>3</sup> The Board recognises that research of ancestral remains may assist to confirm useful facts or impart new knowledge. However, the Australian Government Policy on Indigenous Repatriation says that invasive physical research on Aboriginal ancestral remains, such as the sampling of teeth, should not be undertaken. The *Aboriginal Heritage Act 1988* (Heritage Act) makes it an offence to disturb or interfere with Aboriginal remains without the authorisation of the Minister. Under the Heritage Act, Aboriginal hair samples may also be considered Aboriginal heritage and are protected. For these reasons, any Aboriginal representative body seeking research that applies destructive analysis of Aboriginal ancestral remains in the Board's care should request repatriation of the relevant ancestral remains and seek the relevant Ministerial authorisations.

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- When requested to do so by the relevant Aboriginal representative body, the Board may carry out or approve **non-invasive research** on Aboriginal ancestral remains and Aboriginal burial goods provided this research serves a primary purpose towards repatriation and is conducted in a culturally competent and safe way.
- When supported by the relevant representative body, the Board may carry out or approve culturally competent, **non-invasive research** on ancestral remains and burial goods originating from overseas and modified remains.
- A representative body making a request to the Board for approval of non-invasive research must demonstrate it has ascertained and represents the views of the relevant traditional owners.
- All researchers involved in Board-approved non-invasive research must demonstrate compliance with relevant legislative obligations, including those under the Aboriginal Heritage Act 1988.
- The Museum's Aboriginal Advisory Committee is responsible for reviewing all proposals for access to ancestral remains, modified remains and burial goods for research purposes and will provide advice to the Board on such proposals, prior to the Board's consideration.

### 5.7. Ancestral Remains without Provenance

- The Board will care for ancestral remains without provenance in a safe and secure area of the Keeping Place. All elements of this policy shall apply equally to the ancestral remains without provenance.
- The Board will maintain a watching brief on the national discussion about Aboriginal ancestral remains without provenance and contribute to consultation on the issue based on advice from the Aboriginal Advisory Committee.

### 5.8. Requests for Repatriation

- The Board is responsible for considering requests for repatriation of ancestral remains and burial goods in an open and transparent manner.
- The Board will consider a request for repatriation as follows:

#### Domestic

- From an Aboriginal representative body, when it is demonstrated that the representatives have the authority to submit a request on behalf of that community. Where there is more than one group of applicants, the representatives submitting the request should demonstrate the full support of all the applicant groups.
- From an interstate government or agency, when it is made on behalf of an identified Aboriginal community which has cultural affiliations with the ancestral remains and/or burial goods in question or it is clear the government/agency is working with the relevant community to repatriate the ancestral remains/burial goods.
- The Board may proactively approach an Aboriginal representative body to discuss a potential repatriation process.

### International

- From an international community, when it is made through the relevant national government or national agency. Where the applicants do not make their request through their relevant national government or agency, the Board will take account of the reasons why.

### Known People

- The Board will consult with the relevant Aboriginal representative body, national government or national agency in responding to requests for repatriation of the ancestral remains of known people.
- When the Board approves a repatriation request, the ancestral remains and/or burial goods will be formally deaccessioned where necessary. Remains will stay in the Keeping Place and this policy will continue to apply until the agreed repatriation process is completed.
- The Board will provide the relevant Aboriginal representative body, interstate government/agency or international applicant with information<sup>4</sup> it has available with regard to the repatriated ancestral remains and/or burial goods.

### 5.9. Hair Samples of Known Aboriginal People

- The Board acknowledges the unique collection of human hair samples in its care attributed to known individuals, the complex ethical questions surrounding the historical collection of this hair, and propositions that the hair samples be used for purposes that may affect the broader Aboriginal community in the future.
- The Board will view the question of the value of the hair samples as one to be determined by Aboriginal people in accordance with the traditions, customs, observances and beliefs ascribed by Aboriginal tradition.
- Before a request to access a hair sample is considered, the Board will require evidence of consultation with the relevant Aboriginal representative body, the fully informed consent of the relevant individual (or if they have passed away, their direct descendants), Ministerial authorisation under the *Aboriginal Heritage Act 1988* and research ethics approval.

### 5.10. Inventory and Audit

- An up-to-date inventory of the Keeping Place will be maintained electronically on the Museum's primary collection management database system.
- The inventory will form the basis of an annual ancestral remains and burial goods repatriation report to the Board by the Head of Humanities and may be provided to the Commonwealth upon request.

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<sup>4</sup> Museum records associated with ancestral remains are managed under the South Australian Museum's *Access to Personal Information Policy and Procedures*.

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- Access to the inventory will be restricted to the Senior Collection Manager – Humanities and World Cultures and other staff approved by the Head of Humanities.
- Auditing of the inventory will be consistent with the Museum’s Collections Policy and Procedure and the relevant collection management plan.

### 5.11. National Indigenous Repatriation Policy and Program

- The Museum will continue to apply the national policy protocols identified in the *Australian Government Policy on Indigenous Repatriation 2016*.
- The Museum participates in the Australian Government’s Domestic Indigenous Repatriation Program.

## 6. Approval and Review

This Policy will be reviewed every two (2) years by the Museum Board, with advice from the Aboriginal Advisory Committee.

Approval and Review	Details
Approval Authority	South Australian Museum Board
Advisory Committee to Approval Authority	Aboriginal Advisory Committee
Administrator	
Approval Date	13 December 2018
Next Review Date	13 December 2020

Approved Amendment Date	Amendment Details

## 7. Related Documents

*South Australian Museum Act 1976*

*Aboriginal Heritage Act 1988*

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*Australian Government Policy on Indigenous Repatriation (2016)*

*SA Museum Destructive Analysis Policy (2016)*

*SA Museum Collection Policy and Procedures (2009-2014)*

*SA Museum's Access to Personal Information Policy and Procedures.*

## 8. Definitions

**Aboriginal Advisory Committee:** means an advisory committee established by the Board under section 9 of the *South Australian Museum Act 1976*.

**Aboriginal burial goods:** are 'Burial Goods' as defined by this policy and are also 'Aboriginal objects' as defined by the *Aboriginal Heritage Act 1988*.

**Aboriginal remains:** as defined by the *Aboriginal Heritage Act 1988*.

**Aboriginal representative body:** means a Recognised Aboriginal Representative Body as defined by the *Aboriginal Heritage Act 1988*, or a Registered Native Title Body Corporate defined by the *Native Title Act 1993 (Cth)* or where neither are established, an incorporated Aboriginal organisation constituted to manage Aboriginal heritage in respect of a specified area of land or specified Aboriginal remains.

**Aboriginal tradition:** as defined by the *Aboriginal Heritage Act 1988*.

**Accession:** as defined by SA Museum Collections Policy and Procedure.

**Ancestral remains:** include the whole or part of human skeletons, individual bones or fragments of bone and teeth; soft tissue including organs; samples of hair taken from individuals both deceased and living at the time of the removal; and casts taken from any of these. Ancestral remains does not include modified remains.

**Board:** means the Museum Board under the *South Australian Museum Act 1976*.

**Burial goods:** are objects that as part of the death rite or ceremony of a culture are reasonably believed to have been entombed with individual ancestral remains either at the time of death or later.

**Casts:** are objects made by shaping material into a mould, primarily from osteological ancestral remains, the body of a recently deceased person or modelled over a living person.

**De-accession:** a formal process of permanently removing an item from the Museum's collection as defined by SA Museum *Collections Policy and Procedure*.

**Destructive analysis:** means any procedure that destroys or alters all or a portion of ancestral remains or burial goods.

**Keeping Place:** means a physical facility managed by the Board for the purposes of this policy.



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**Modified remains:** are objects which incorporate human hair or bodily material which is not obviously recognisable as being human hair or human bodily material.

**Museum:** means the South Australian Museum under the *South Australian Museum Act 1976*.

**Repatriation:** means the unconditional return of ancestral remains and associated burial goods to Country of origin and includes all notes and data associated with the disturbance of the ancestral remains.

**Repatriation process:** means a repatriation program funded under the Australian Government's Indigenous Repatriation Policy or a Museum program endorsed by the Board.

**Representative body:** other than an Aboriginal representative body, is a peak body recognised by the Board as authorised to represent the relevant international community.

**Traditional Owners:** as defined by the *Aboriginal Heritage Act 1988*.