# Museum Victoria Policy Statement

# Repatriation of Indigenous Cultural Property Policy

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| Policy Register Number | DOC/16/7841 |
| Date of Board Approval | 25 August 2016 |
| Responsibility | Head, Humanities |
| Review Cycle | Three-yearly |

## 1 Policy Objective/Intent

The purpose of this policy is to establish clear principles for the repatriation of Ancestral Remains, Grave Goods, Secret–Sacred Objects and other cultural property. This policy affirms Museum Victoria’s commitment to community consultation to establish Traditional Ownership and ensure appropriate care for Ancestral Remains, Grave Goods and Secret–Sacred Objects in Museum Victoria’s collections.

## 2 Policy Statement

Museum Victoria’s repatriation of Indigenous cultural property is guided by international, national and state agreements, policies and legislation including the United Nations Declaration on the Rights of Indigenous Peoples. Museum Victoria is committed to the repatriation of Ancestral Remains, Grave Goods and Secret–Sacred Objects to their communities of origin. Museum Victoria acknowledges that the removal of Ancestral Remains, Grave Goods and Secret–Sacred Objects by museums, universities and private collectors in past centuries was culturally inappropriate and that their return helps promote healing and reconciliation for Indigenous peoples. The museum will continue to work proactively with Indigenous peoples to return Ancestral Remains, Grave Goods and Secret–Sacred Objects to their Traditional Owners.

## 3 Key Policy Principles

3.1 Museum Victoria will comply with all relevant legislation, conventions and statutory obligations relating to the repatriation of cultural property.

3.2 Museum Victoria will repatriate Ancestral Remains, Grave Goods and Secret–Sacred Objects to Traditional Owners.

3.3 In addition to the repatriation of Ancestral Remains, Grave Goods and Secret–Sacred Objects, Museum Victoria will consider requests for the repatriation of other cultural property to Traditional Owners. Each case will be considered on its merits, taking into account:

* Museum Victoria’s legal title to the object
* whether the object would have been considered inalienable by the Traditional Owners at the time the object was removed
* the legal and ethical rights of the claimant, and the rights and opinions of other potential claimants
* prevailing industry best practice and ethics.

3.4 Indigenous cultural property embodied in films, images, manuscripts and sound recordings would normally be returned in the form of copies of the cultural property, although requests for repatriation of the item will be considered.

3.5 Upon receipt of a written request for repatriation, Museum Victoria will consult with communities to determine the rightful Traditional Owners. This consultation will include informing other potential interested parties of the active request. In the event of any conflicting claims, the museum will inform relevant parties of the conflicting claims and encourage parties to negotiate and reach a mutually acceptable solution. Where appropriate, the museum will endeavour to assist in the resolution of those claims. The museum may defer decisions regarding repatriation until the parties have reached a resolution.

3.6 Museum Victoria will provide all available information on the collections to relevant Indigenous communities and Traditional Owners.

3.7 Where the provenance of Ancestral Remains is not recorded, Museum Victoria will work collaboratively with relevant community representatives and organisations and relevant government agencies to facilitate the development of solutions that enable culturally appropriate repatriation.

3.8 Museum Victoria will not actively acquire Ancestral Remains, although it will continue to accept transfer from other sources, in fulfilment of relevant legislation and programs, and to assist in the repatriation of those Ancestral Remains to Traditional Owners.

3.9 Identification of Secret–Sacred Objects will be undertaken through consultation and collaboration with the appropriate Traditional Owners and researchers endorsed by Traditional Owners.

3.10 All Ancestral Remains and Secret–Sacred Objects will be stored in dedicated secure stores, and access to the cultural property and associated information will be restricted in accordance with relevant cultural protocols.

3.11 Museum Victoria recognises that Traditional Owners may desire that the museum retains custodianship of Secret–Sacred Objects, either at a Museum Victoria collection store, or in an appropriate collection organisation on or near the country of Traditional Owners. The museum will endeavour to facilitate arrangements with the other collection organisation.

3.12 The Museums Board of Victoria has the authority to repatriate cultural property through a formal process of Deaccessioning from the collections. Before making a decision, the Board will seek the endorsement of its Aboriginal Cultural Heritage Advisory Committee and advice from other stakeholders as appropriate.

3.13 Once the Board has approved repatriation, Museum Victoria will maintain care and custody of the deaccessioned property until the Traditional Owners are ready to receive the property.

3.14 Museum Victoria works collaboratively with other collecting institutions, government agencies and Traditional Owners so as to facilitate national and international repatriation programs. To fulfil this obligation, the museum may share information about Indigenous cultural property with other institutions and agencies.

3.15 Museum Victoria will retain complete documentation of all repatriation decisions and associated processes.

3.16 Where requests for repatriation relate to items on loan to Museum Victoria, we will facilitate discussions between the relevant parties. In doing so, Museum Victoria will uphold the terms of any agreement with the lender, and any agreement or statutory provision to which the loan is subject.

## 4 Key Definitions

4.1 ‘Ancestral Remains’ are human remains that demonstrably have a shared group identity with an existing Indigenous peoples. Ancestral remains does not include an object made from human hair or from any other bodily material that is not readily recognisable as being bodily material.

4.2 ‘Deaccession’ is to formally remove an item from the State collections and relinquish legal title, following approval to do so by the Museums Board of Victoria.

4.3 ‘Grave Goods’ are objects clearly associated with the burial of particular Ancestral Remains; also known as funerary objects.

4.4 ‘Indigenous Cultural Heritage’, for Museum Victoria purposes, includes artefacts, images, archives, traditional knowledge, language and forms of cultural expression in the cultural and scientific collections that form elements of the State collections and collections on loan to the Museum.

4.5 ‘Repatriation’ is the unconditional return of Indigenous Cultural Heritage to Traditional Owners.

4.6 ‘Secret–Sacred Objects’ refers to restricted ceremonial items of contemporary religious and ceremonial significance to Indigenous peoples.

4.7 ‘Traditional Owners’ are the people entitled by custom and tradition to be recognised as the rightful owners.

## 5 Related Policies

* Archives Policy
* Collection Access, Loans and Use Policy
* Collection Care and Preservation Policy
* Collection Deaccession Policy
* Collection Development Policy
* Collection Provenance and Legal Title Enquiries and Claims Policy
* Indigenous Cultural Heritage Policy
* Information and Records Management Policy
* Privacy Policy
* Records Management and Archives Policy
* Research Policy

## 6 Associated Documents, Guidelines and Procedures

**6.1 Museum Victoria Documents**

* Collection Deaccession Procedure
* Collection Plans 2013–18
* Collection Provenance and Legal Title Enquiries and Claims Procedure
* Collection Repatriation Procedure

**6.2 External Documents**

* Australian Best Practice Guide to Collecting Cultural Material, Commonwealth of Australia, 2014
* Australian Government Indigenous Repatriation Policy
* Code of Ethics for Museums, International Council of Museums (ICOM), 2013
* Code of Ethics, Museums Australia, 1999
* Continuing Cultures Ongoing Responsibilities: Principles and guidelines for Australian museums working with Aboriginal and Torres Strait Islander cultural heritage, Museums Australia, 2005
* Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, United Nations, 1970
* Declaration on the Rights of Indigenous Peoples, United Nations, 2007
* UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions

## 7 Legislation

* *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*
* *Aboriginal Heritage Act 2006* (Vic.)
* *Charter of Human Rights and Responsibilities Act 2006* (Vic.)
* *Museums Act 1983* (Vic.)
* *Native American Graves Protection and Repatriation Act 1990* (USA)
* *Native Title Act 1993*
* *Protection of Cultural Objects on Loan Act 2013*
* *Protection of Cultural Objects on Loan Regulation 2014*
* *Protection of Movable Cultural Heritage Act 1986*
* *Public Records Act 1973* (Vic.)