

SCREENSOUND AUSTRALIA
THE NATIONAL SCREEN AND SOUND ARCHIVE

INDIGENOUS MATERIALS POLICY

This Indigenous Materials Policy is one of a series of complementary policies that cover access and public programs, collection development, distributed national collection, indigenous materials, international, preservation and professional standards. Further context for these policies and the practical implications for their implementation can be gained through studying our three-year Strategic Plan, which is reviewed and published annually.

This document should be read in conjunction with the Archive's Introduction to Policy Documents.

PREAMBLE

ScreenSound Australia, the National Screen and Sound Archive has a major role in preserving and transmitting the national memory in audiovisual form and therefore in contributing to communication and reconciliation between Indigenous and non-Indigenous Australians.

The Archive respects the rights of Indigenous owners of tradition and those depicted in relation to the ownership of cultural materials. While the Archive recognises current legal and traditional rights of ownership over Indigenous materials, it also recognises that historically there is a complex blend of relationships and negotiations which resulted in the recording of Indigenous culture and the accumulation of Indigenous materials. These processes have not always been handled with due acknowledgement of traditional ownership and recognition of cultural sensitivities.

In this context, the Archive has developed the following policy in relation to its goals, responsibilities, staffing, collections and client community. It will be proactive in seeking to address:

- (a) the moral and practical issues related to Indigenous peoples as the owners of their knowledge;
- (b) questions of preservation and access to audiovisual material documenting Aboriginal and Torres Strait Islander peoples and cultures;
- (c) matters of education, training and professional integrity in the handling of such materials;
- (d) appropriate recognition of Indigenous peoples and their cultures within the operation and management of the Archive;
- (e) integrated employment options within the Archive for Indigenous people; and

- (f) repatriation opportunities and remote community liaison regarding Indigenous materials and issues.

To assist in explanation of the Policy a Glossary of Related Terms is attached.

1. CONTEXT

An estimated 30,000 or 7% of the films, recordings and programs held by the Archive include depictions of Indigenous peoples, culture and experience presented from a variety of perspectives and historical attitudes. The Archive has a responsibility to ensure that the Collection is as far as possible comprehensive, inclusive and reflective of all perspectives and works collaboratively with other audiovisual collections (Australian Institute of Aboriginal and Torres Strait Islander Studies, Strehlow Research Centre, Film Australia, state libraries etc) to fulfil this goal. It recognises that the Collection includes material sensitive to particular Indigenous communities and which needs to be handled with special care.

In developing and managing such material in its Collection, the Archive will follow good professional practice. In particular, it will:

- (a) ensure formal mechanisms to include an informed Indigenous viewpoint are always available to management and Council;
- (b) encourage Indigenous participation in the development, implementation, monitoring and review of relevant policies;
- (c) negotiate with relevant Indigenous communities and representative bodies regarding the development and management of Indigenous components of the National Collection;
- (d) keep the Collection under progressive review to identify all holdings with Indigenous content to confirm and record current legal, intellectual and community interests;
- (e) consult, through relevant government agencies and Indigenous communities, concerning the content of material held at the Archive, and seek advice on appropriate access and handling policies;
- (f) promote the existence and availability of the Collection, where appropriate, and provide clients with an explanation for any conditions governing access. These issues may include strict permissions to be gained from an identified Indigenous community prior to any access to visual or sound materials; and
- (g) support and promote an independent Indigenous Reference Group to provide informed advice and recommendations for ongoing policy development and the implementation of appropriate archival actions and services. Membership of this Group will include Indigenous representatives and other qualified people who have Indigenous expertise.

2. LEGISLATION AND INDIGENOUS INTELLECTUAL PROPERTY ISSUES

The interests of the producers of audiovisual materials are protected by copyright law, but the interests of those whose culture is described often are not. The Archive acknowledges that legislation does not currently recognise that cultural groups may be traditional owners of, or have a heritage or cultural interest in, material that relates to that cultural group, even though that group may not hold copyright. The Archive believes, however, that it has a role in contributing to the debate on how to recognise the rights of the peoples of association with the material, and in seeking ways to do this. Therefore, the Archive will:

- (a) work cooperatively with related collecting bodies (archives, museums, libraries) to share information on initiatives involving management and use of cultural documentation;
- (b) contribute actively to appropriate government initiatives related to Indigenous issues;
- (c) develop awareness within the Archive of the issues relating to the cultural and property rights of Indigenous peoples and consult with government bodies investigating such issues and with appropriate Indigenous peoples on the application of those rights;
- (d) develop ways, through appropriate consultation, to promote safekeeping of Indigenous cultural and intellectual property from uses not authorised by the relevant peoples of association;
- (e) ensure that the context and integrity of the material is clearly understood to avoid misinterpretation of content;
- (f) negotiate with Indigenous communities when it has been independently established that materials held by the Archive have been taken wrongly from the control of such communities or created by theft or deception. This negotiation may include options to return material to the specific community; to provide copies of the material to the community for reference and consultation, or to commit to the Archive's continued preservation of that material with continued reference to the relevant community;
- (g) consult on the identification of secret and sacred materials and the development of suitable management practices with the most appropriate representatives of the particular Indigenous communities involved and with the copyright owners, if any, of such material; and
- (h) assist Indigenous communities in planning, providing and maintaining suitable keeping places for audiovisual materials.

3. ACCESS AND USE OF INDIGENOUS MATERIALS

The Archive is committed to the provision of equitable access to the national audiovisual collection. Access to the National Collection at the Archive is provided on request and is governed by copyright and in some cases by verified identification of specific cultural sensitivities. The term 'access' relates to the physical process of identifying and auditioning material as opposed to 'use' which may result from access and which entails the active incorporation of that material into an event, production etc. Forms of access to and use of Indigenous materials include:

- (a) research: private or commercial access where, due to the volume of material held at ScreenSound Australia, the researcher may or may not be fully informed in advance about content;
- (a) screenings and audiovisual presentations to Indigenous communities;
- (b) screenings and audiovisual presentations to the general public, eg cinema societies or public release cinema;
- (c) broadcast via radio or television transmission; and
- (d) use of complete items or extracts in new productions such as documentaries, etc.

In relation to Indigenous content, sensitivities have greatest force when the materials accessed include recordings and/or depictions of secret and/or sacred business recorded with or without permission. In the past, some Aboriginal peoples have given secret information to respected researchers, not realising that the information would be published and made available to the general public. In such circumstances an item need not be readily available to everyone simply by virtue of its prior publication and may require specific permission from the relevant peoples of association.

Also the public screening, broadcast, or use of some Indigenous materials in contemporary productions may cause distress to members of Indigenous communities without their necessarily being secret or sacred. This can be due to the lack of appropriate context or to the misrepresentation of locations, open (unrestricted) ceremonies or practices, or it may relate to depictions of deceased people. In accordance with the Archive's Access and Public Programs Policy, the Archive has a responsibility to preserve and make accessible Australia's audiovisual heritage but must also respond appropriately to such culturally sensitive materials. In practical terms this means that access and use of such material may require:

- (a) a specific disclaimer or warning prior to broadcast or other public dissemination based on contextual information provided by the Archive;
- (b) provision of context and sourcing information for the material within a production;
- (c) contact with a specific Indigenous community as a courtesy; and
- (d) acknowledgement of a specific Indigenous community as a courtesy.

To encourage an awareness of the Indigenous heritage material held in the Archive for both the Indigenous community and the wider community, and to indicate the Archive's commitment to recognition of cultural rights and responsibilities, it will, as appropriate and practicable:

- (a) develop through negotiation the means to make its resources, facilities and services accessible, relevant and visible to Indigenous peoples. For example the Archive will

advise specific Indigenous communities of relevant footage in the National Collection for both information and future management;

- (b) encourage accessibility by actively fostering positive relationships between the Archive and Indigenous communities. This may be done by outreach programs in cooperation with Indigenous communities, repatriation of relevant materials and the establishment of a consistent and genuine consultation process, regarding appropriate recognition of traditional ownership issues;
- (c) develop strategies that allow the Archive to explain any conditions governing access to clients, including in some circumstances recognition of cultural claims as well as purely copyright claims;
- (d) respond to the issue of sensitive holdings where access may need to be restricted or subject to particular conditions;
- (e) ensure that relevant staff fully understand, and are able to apply, the access conditions involved, and that sensitive material is handled only by appropriate staff. Management systems will be designed to prevent inappropriate handling; and
- (f) respond appropriately to any request from an Indigenous community for copies of material of specific relevance to the community for its use and retention.

4. DESCRIPTION AND CLASSIFICATION OF MATERIALS

Subject headings, classification systems and terminology used in indexing are designed to provide easy access to materials in libraries, archives and information services. ScreenSound Australia is responsible for the preservation, accessioning, physical management and provision of access to the national audiovisual collection. To improve access to information about Indigenous holdings in the National Collection, the Archive will:

- (a) develop subject headings, guidelines and forms of intellectual description which are sensitive to Indigenous peoples and which promote effective identification and retrieval;
- (b) consult with its independent Indigenous Reference Group and others to help identify sensitive materials that may need special access restrictions or further clarification prior to release for any purpose;
- (c) initiate consultation with Indigenous communities regarding material that has been identified as relevant to that community;
- (d) ensure that all online public catalogue references clearly identify restricted materials and provide a straightforward means for clients to understand the nature of those restrictions; and
- (e) identify effective labelling, storage and security mechanisms that allow for ready location of all Indigenous items and clear direction as to appropriate handling, access and use.

5. STAFFING, EDUCATION AND TRAINING FOR PROFESSIONAL PRACTICE

The inclusion of Indigenous peoples within organisations can change organisational culture for the benefit of all. The Archive is committed to the principles of Equal Employment Opportunity and consistent with these will:

- 5.1 Aim to reflect the composition and cultural diversity of the client/community population in its staffing profile.
- 5.2 Be proactive in developing employment, career development and promotional pathways for Indigenous peoples in all aspects of the Archive's work. In doing so, we aim to take account of prior learning and/or qualifications in other fields.
- 5.3 Involve members of the Indigenous community in the selection of staff, when appropriate.
- 5.4 Ensure that Indigenous staff members receive appropriate training for the work of the position in which they have been employed, and have access to support strategies such as mentoring, and study and cultural leave.
- 5.5 Engage actively with other cultural collecting organisations to seek to develop a comprehensive approach to employment of Indigenous staff across the cultural span.
- 5.6 Provide cross-cultural training courses for Archive staff.
- 5.7 Provide advice and examples of professional practice in access services, cataloguing, acquisition, collection management and other areas, on matters of concern to Indigenous peoples.
- 5.8 As appropriate, involve Indigenous peoples in both design and delivery of programs and seek advice and contribution from relevant Indigenous representatives in the recognition and appropriate use of traditional Indigenous language in Archive records.

FOOTNOTE: This draft policy has been developed by the Archive's Council through consultation with its independent Indigenous Reference Group, relevant organisations and by reference to some existing publications, including *Previous Possessions*, *New Obligations* (Council of Australian Museum Associations) and *Indigenous Protocols for Libraries, Archives and Information Services* (published by the Australian Library and Information Association for the Indigenous Library and Information Resource Network). Feedback and comment that will help in the refinement of this document are warmly welcomed.

INDIGENOUS MATERIALS POLICY

GLOSSARY OF RELATED TERMS

ACCESS AND RIGHTS RELATED TERMS

Access – Open	Archive collection material which has no restrictions and which may be made readily available for general exhibition purposes though on or off-site viewing.
Access - Restricted	Applies to Archive collection material which has secret, offensive or sensitive content and which is only available for audition, screening or reproduction after appropriate clearances have been received from copyright and /or traditional owners.
Appropriate access	Access to audiovisual materials and related documentation based on confirmed level of copyright, and negotiations with traditional ownership/peoples of association required to ensure that legal and cultural interests are covered.
Business	The term used in Indigenous context to refer to matters of private, community or sacred significance.
Indigenous Cultural and Intellectual Property Rights	Refers to Indigenous Australians' rights to their heritage. Heritage consists of the intangible and tangible aspects of the whole body of cultural practices, resources and knowledge systems developed, nurtured and refined by Indigenous people and passed on by them as part of expressing their cultural identity. <i>Janke, Terri. Our Culture: Our Future. Report on Australian Indigenous Cultural and Intellectual Property Rights (1998)</i>
Moral rights	The right to be named as creator and the right for the work to keep its integrity (Indigenous Arts and Copyright August 1999 p.18). Moral rights link to copyright and presently apply in Australia under the <i>Copyright Amendment (Moral Rights) Act 2000</i> which came in to effect on 21 December 2000. The Act introduces comprehensive moral rights protection in Australia for authors of literary, dramatic, musical and artistic works and film-makers (producers, directors and screenwriters). See also Traditional Ownership.
Peoples of association	Indigenous people with traditional rights to material content, and Indigenous people depicted and/or related to persons depicted in audiovisual material.
Public domain	The term 'public domain' is a colloquial expression for material in which copyright has expired.
Research	Private, educational or commercial investigation into Archive holdings to identify material and content which may subsequently be requested for further audition, reference or incorporation into publication, production or private archives.
Sacred	Relates to spiritual, religious and/or Ancestral beliefs and practices regardless of whether they are secret, or restricted, in any way or not. Note that certain rituals which are sacred, are open to everyone (including outsiders by invitation).

Secret	<p>Refers to information that under customary law is made available only to the initiated; or information that can only be seen by men or women or particular people within the culture.</p> <p>Janke, Terri. <i>Our Culture: Our Future. Report on Australian Indigenous Cultural and Intellectual Property Rights (1998)</i></p>
Sensitive materials	<p>Material with content which may or may not be secret or sacred but which may be considered derogatory or invasive of the privacy of Indigenous people, and would cause offence to Indigenous individuals or communities in particular.</p>
Traditional ownership	<p>Concerns the rights of an Indigenous community, family or individual to maintain control over intellectual, cultural, spiritual and physical property by virtue of customary law.</p> <p>Not subject to legislation in the way that copyright and moral rights are in Australia. This is particularly the case with audiovisual recordings of traditional Indigenous communities. Traditional ownership involves an ethical dimension to these rights, meaning that they may be broader than the specific legal definition of moral rights. Ownership of the content of such audiovisual recordings may remain the intellectual property of the person(s) who have been recorded or who have authorised the performance, or their descendents. In such cases the Archive strives to document this information sensitively, accurately and responsibly, and when providing access to and/or use of the material, to respond to the requirements of the Indigenous community, family or individual (Traditional owner).</p> <p>Based on the IASA Cataloguing Rules 4.0.5</p>
Use	<p>Active incorporation of material held by the Archive into an event, production, publication or presentation. Use is always subject to the confirmation of prior clearance from identified rights holders.</p>

ACQUISITION RELATED TERMS

Deposit	<p>Collection material placed on 'deposit' with the Archive for safe keeping. Unlike material that is purchased or donated, the physical item on deposit remains the property of the source until such time as the source may transfer ownership to another person community or organisation.</p>
Distributed National Collection (DNC)	<p>The Distributed National Collection is the concept of a cooperative network approach to identifying and managing audiovisual collections across Australia. Its foundations are based on attempts to rationalise collections, eliminate unnecessary duplication and make the National Collection more accessible to a larger proportion of Australians.</p>
Donation	<p>Collection material that is gifted without charge to the Archive, so that the physical item becomes the property of the organisation. The content of the item may still be subject to copyright, and/or may require the agreement/clearance of the traditional owners before access to and/or use of it may occur.</p>

Purchase	Collection material that is financially acquired by the Archive, so that the physical item becomes the property of the organisation. The content of the item may still be subject to copyright, and/or may require the agreement/clearance of the traditional owners before access to and/or use of it may occur.
Repatriation	The concept of return of materials to relevant Indigenous communities as either copies (content) or originals (physical items). Repatriation may also sometimes mean that the physical location of the item remains unchanged but the recognised status of ownership changes (eg Ownership may transfer from an organisation or collector to an Indigenous community, while the item itself remains in the same location, such as a designated collecting institution, for safe keeping and good storage).

CATALOGUING AND CONTROL RELATED TERMS

Classification	<ol style="list-style-type: none"> 1. classification through the use of subject headings to identify and readily retrieve collection materials; 2. classification of level of restriction OR classification of material as either 'Restricted' or 'Open' (AIATSIS) OR classification of material as 'General [use]', 'Restricted' or 'Confidential' (KHT Recording Conditions Agreement); 3. classification applied to material broadcast or screened such as audience level (G; PG; MA; etc.) and type of content (Violence, Coarse Language, etc.).
Disclaimer	Introductory text or announcement at the beginning of a film, video, sound recording or television or radio broadcast, or given as accompanying text in the presentation of documentation items. For materials with Indigenous content a disclaimer may be, as a minimum, a warning that Indigenous persons depicted may have since passed away.
Internal data only	Specified fields in the MAVIS data base which may not be viewed on the Archive's website Online Catalogue. These include Internal notes; Source and method of acquisition, etc. and are not available for general public consultation. Any record which displays in the Online Catalogue will not include information held in the Internal Data only fields.
'Not For Public' flag	In the Archive's MAVIS database, the 'Not For Public' flag is switched on to block a full data record from display in the Archive's website Online Catalogue. This option is fully reversible should a record's classification change.