



**AIATSIS**

# **Collection Access and Use Policy**

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## Acronyms and Definitions

Acronym	Definition
Access	Access means reading, viewing or listening to material in the AIATSIS collection onsite at AIATSIS, online or at a site authorised by AIATSIS. Access does not mean copying, quoting or publishing such material.
AIATSIS	Australian Institute of Aboriginal and Torres Strait Islander Studies
AIATSIS Act	<i>Australian Institute of Aboriginal and Torres Strait Islander Studies Act 1989</i>
ATSILIRN	Aboriginal and Torres Strait Islander Library Information and Resource Network
Copyright / Copyright Act	Copyright Act refers to the <i>Copyright Act 1968 (Cth)</i> , including all subsequent revisions, updates and associated regulations, or any legislation which supersedes or replaces that Act.
Council	Council means the AIATSIS Council. AIATSIS is governed by a Council of nine members. Four are elected by AIATSIS members, while five are appointed by the Minister for Indigenous Australians and must be Aboriginal or Torres Strait Islander people.
Cultural Safety	Cultural Safety means ensuring that an environment is safe for all people and is free from assault, challenge or denial of an individual's identity, their knowledges, who they are, their lived experiences, and what they need. Cultural Safety is about shared respect, shared meaning, shared knowledge and shared experience of learning, living and working together with dignity and true listening (Eckermann, Dowd & Martin, et al. 1994, cited in Williams 1999).
Depositor	Depositor means a person or group who has deposited material at AIATSIS to ensure its ongoing preservation and accessibility, but who has not transferred ownership of that material to AIATSIS.
Deposit Agreement	Deposit Agreement means a contract between AIATSIS and a Depositor to specify how material or a collection of material may be accessed and used.

Donor	Donor means the person or group who has donated material to AIATSIS through a Deed of Gift, Cultural Gift or Transfer of Ownership. Copyright ownership remains with the donor unless copyright is transferred as well.
Grantee	Grantee means a researcher funded by AIAS or AIATSIS to undertake a research project. Grantees were required to deposit their research materials and research results with the AIAS / AIATSIS in accordance with the grant agreement.
ICIP	Indigenous Cultural Intellectual Property (ICIP) means all aspects of Aboriginal and Torres Strait Islander peoples' cultural products, expressions, knowledge and heritage, whether tangible or intangible, and whether such cultural heritage is recognised as property in law. Examples of intangible ICIP include, but are not limited to, songs, dances, languages, stories, ecological knowledge and cultural knowledge. Examples of tangible ICIP include, but are not limited to human remains, artworks and artefacts.
Moral Rights	<p>Moral Rights protect the personal rights of the creators (including contributors) of works. This includes literary works, artistic works and performances. Moral Rights are personal rights, meaning they can only belong to a person and not to a government, business, corporation or other entity. Moral rights can be waived by consent, but cannot be assigned.</p> <p>After the creator's death, moral rights may be administered by the creator's legal or personal representative.</p>
Sensitive Content	Sensitive Content means materials in the AIATSIS collection that are defamatory, personal in nature, or culturally restricted because they contain secret or sacred material, or they are restricted to a particular gender, family or group by Lore.
Use	Use means copying (even for private research or study), quotation and/or publication of material from the AIATSIS collection.

## 1. Context

The Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) is Australia's only national institution focused exclusively on the diverse history, cultures and heritage of Aboriginal and Torres Strait Islander Australia.

AIATSIS is an Australian Government statutory authority established under the Public Governance, Performance and Accountability Act 2013, sits within the portfolio of the Department of Prime Minister and Cabinet with the current Minister for Indigenous Australians.

AIATSIS operates under the Australian Institute of Aboriginal and Torres Strait Islander Studies Act 1989 (Cth) (the AIATSIS Act) and the AIATSIS Amendment Act 2016. The AIATSIS Council has a majority Indigenous membership and provides strategic direction and oversight across all AIATSIS operations.

Amendments to the AIATSIS Act in 2016 recognised the national importance of the AIATSIS collection to Indigenous knowledge and heritage. Additionally, it strengthened the framework that governs our management and engagement with the AIATSIS collection and informs the basis for this Policy.

The Collection Access and Family History Program within the Partnerships and Engagement Group administers access and use of the AIATSIS collection.

## 2. Purpose and Scope

The purpose of this policy is to outline the principles that are taken into consideration when determining appropriate access and use of material held in the AIATSIS collection.

## 3. Policy Statement

A primary legislative function of AIATSIS is:

*To develop, preserve and provide access to a national collection of Aboriginal and Torres Strait Islander culture and heritage.<sup>2</sup>*

AIATSIS recognises the deep significance of the collection to Aboriginal and Torres Strait Islander peoples and the broader community and, is committed to facilitating appropriate access to and use of the collection.

AIATSIS has a responsibility to ensure management and access and use of the collection is culturally informed and respectful and meets legislative requirements. AIATSIS administers the collection in accordance with the Copyright Act 1968 and

recognises and protects the ongoing communal nature of Indigenous Cultural and Intellectual Property (ICIP) rights<sup>1</sup>.

## 4. Policy Benefits

Implementation of this policy will:

- Ensure appropriate administration of access and use of the AIATSIS collection.
- Supports access and use of the AIATSIS collection for internal and external clients.
- Improve opportunities for showcasing the collection the national collection of Aboriginal and Torres Strait Islander culture and heritage.

## 5. Policy Principles

There are several principles and/or rights that are taken into consideration prior to granting access and/or use to AIATSIS collection material. These include, but are not limited to:

- Copyright and copyright law
- Moral rights
- Performers rights
- Depositor or donor agreements
- Grantee agreements
- Indigenous Cultural Intellectual Property Rights
- Sensitive content and cultural safety
- Privacy
- Risk (including cultural, reputational, financial)

## 6. Applicability

This policy applies to all requests by internal and external clients to access and use the AIATSIS collection, which includes but is not limited to art and object,

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<sup>1</sup> Indigenous Cultural and Intellectual Property (ICIP) refers to Indigenous peoples' rights to their cultural heritage based on the fundamental right to self-determination. Cultural heritage includes all aspects of cultural practices, traditional knowledge, resources and knowledge systems developed by Indigenous people as part of their Indigenous identity.

photographic, audio, moving image, manuscript, and print and published collection materials.

An overview of the procedural aspects of accessing and using the collection is published on the AIATSIS website: <https://aiatsis.gov.au/collection/using-collection>

## 7. Legislation and Best Practice Framework

This Collection Access and Use Policy is underpinned by legislation, common law, case law and best practice protocols.

### 7.1 Legal Frameworks

- [Australian Institute of Aboriginal and Torres Strait Islander Studies Act 1989 \(Cth\)](#)
- [Copyright Act 1968 \(Cth\)](#)
- [Australian Public Service Act 1999 \(Cth\)](#)
- [Freedom of Information Act 1982 \(Cth\)](#)
- [Privacy Act 1988 \(Cth\)](#)
- Contract law
- Defamation law
- Law of confidential information
- Personal property law

### 7.2 Best practice guidelines, policy and international standards

The following guidelines, policies and standards guide AIATSIS when administering access and use of the collection.

- [United Nations Declaration on the Rights of Indigenous Peoples](#), which includes principles of free, prior and informed consent (FPIC) and the right of Indigenous peoples to their ICP.
- [Tandanya Declaration](#)
- [Commonwealth Digital Service Standards](#)
- [ATSILIRN Protocols for Libraries, Archives and Information Services](#) (Aboriginal and Torres Strait Islander Library, Information and Resource Network Inc.)
- [Australian Museums and Galleries Association. First Peoples: A Roadmap for Enhancing Indigenous Engagement in Museum and Galleries](#)

- [AIATSIS Code of ethics for Aboriginal and Torres Strait Islander Research](#)
- [Australian Government National Cultural Policy, Revive: a place for every story, a story for every place](#)

## **8. Breaches of the Policy**

AIATSIS has an obligation to report, record and investigate breaches of Commonwealth legislation, rules and AIATSIS policies.

## **9. Contact**

Any queries relating to this policy should be referred to the Director Collection Access and Family History [CollectionEnquiry@aiatsis.gov.au](mailto:CollectionEnquiry@aiatsis.gov.au)

## **10. Issue and Review**

Issue date: 20/06/2023

Next review: This policy will be reviewed every 3 years or as required.

## **11. Implementation**

This policy comes into effect from the issue date.