

more developmental!  
ref. to activity

doCip Terry O' Shane - *Consulted* (13)

WGIP P3/OCB. AUS/5

CURRENT CIRCUMSTANCES CONCERNING THE CUSTODY OF STATE COLLECTIONS OF ABORIGINAL CULTURAL PROPERTY

\* Human Remains + Duties of State?

[The National Museum of Australia, the Australian Institute of Aboriginal Studies, and the seven principal state museums are in custody of substantial collections of Aboriginal and Islander cultural property or property in which Aborigines and Islanders have a legitimate interest. This property comprises some 120,000 cultural objects (possessing an estimated market value of \$400 million), sometimes large collections of Aboriginal remains held for scientific purposes, archaeological material, genealogies, photographs, archival documents, anthropological field notes, sound recordings of languages and songs, and thousands of metres of ethnographic film. Some of these items detail much personal information and are of inestimable importance to individuals and their communities.] The circumstances of these collections can be summarised as follows:

- 1) Their concentration into a small number of large, centralised, public collections located in the nation's capital cities often thousands of kilometres away from their communities of origin, and frequently across state borders.
- 2) Such collections are the possession of the Crown in right of the Commonwealth and the respective states, except in certain isolated circumstances whereby the custodial institutions are acting as trustees on behalf of particular individuals or communities in regard to certain items.
- 3) The ownership and control of these public collections of Aboriginal cultural property are vested in boards or councils created in legislation as statutory authorities to administer their various institutions. These public institutions are also under the administration of particular government departments, usually concerned with the arts, and with ultimate responsibility resting with a Minister.
- 4) No requirement in any museum legislation for Aboriginal management of Aboriginal cultural property. No requirement in legislation means no power. That some museums have Aboriginal advisory bodies and Aboriginal members of the governing bodies is of little consequence and amounts to tokenism.
- 5) The day to day management of these collections of Aboriginal cultural property is carried out by anthropologists and archaeologists in their capacity as public servants engaged under and subject to the various provisions of the relevant Public Service Acts.

- 6) A history of appalling neglect of this Aboriginal cultural property owing to successive government failures to provide adequate resources for their proper curation
- 7) A general failure by even the most basic means to inform the respective Aboriginal and Islander communities of the collections they hold from those communities. This is particularly evident across state boundaries.
- 8) Institutional practice guided by philosophy and aims of Science due to a history of Aboriginal cultural property being acquired by, and held in natural history museums. This situation is incompatible with Aboriginal and Islander moral, social, cultural and political interests.
- 9) A poor record of employment of Aboriginal people in spite of the appropriateness and opportunities involved with the management of their cultural property.
- 10) Aboriginal communities, particularly in urban and rural areas, totally without any representative collections of their own cultural heritage.
- 11) A lack of cultural facilities in Aboriginal communities to enable the celebration, enjoyment and development of their cultures.

*Infringe law \**

[This situation constitutes discrimination on a massive scale.] Govern-  
ments in Australia are in breach of Article 1 of the International  
Convention on the Elimination of All Forms of Racial Discrimination  
[by allowing a situation to exist "which has the purpose or effect of  
nullifying or impairing the recognition, enjoyment, or exercise, on  
an equal footing" with other Australians of our human right and fund-  
amental freedom to enjoy and exercise our rights over our own cultural  
heritage and property.]

#### TERMS OF OUR SUBMISSION

In recognition that

- Aboriginal sovereignty also extends to our cultural heritage and property; and that
- Aboriginal and Islander communities have the same rights as any other peoples to protect, foster and enjoy their cultural heritage and property, to be responsible for the cultural education of their members, and to share their cultures with others on their own terms as

a natural right and in accordance with International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

and in order that

- Aboriginal and Islander communities may fully benefit from their cultural resources; and for
- Aboriginal and Islander communities to fully contribute to the cultural life of the nation; and in order for
- governments in Australia to honour their obligations as signatories of the above named Convention and Covenants,

we submit that

- 1) Ownership of all state collections of Aboriginal and Islander cultural property be vested with communities of origin,
- 2) A network of Aboriginal and Islander cultural centres at state, regional and local levels be established and in which the collection of Cultural property can be relocated in accordance with each community's wishes
- 3) Governments legislate for the creation of Aboriginal and Islander statutory cultural authorities, empowered to assume overall responsibility for Aboriginal and Islander cultural affairs,
  - members of such authorities to comprise the duly elected representative of each Aboriginal community within the state,
  - members to be appointed by the Governor on the recommendations of the communities,
  - funds adequate for the creation of the network of cultural centres, protection and restoration of sites, curation of cultural property, return of cultural property (both within Australia and from overseas), cultural employment, and for administration of the authority and its facilities be provided and guaranteed at a rate fixed against state revenue,
  - provide recourse to independent arbitration to curb Ministerial discretionary powers and to settle disputes.
- 4) A national Aboriginal and Islander cultural authority be set up. This authority will be responsible for the administration of the Aboriginal and Torres Strait Islander Heritage Protection Act, oversee the Institute of Aboriginal and Torres Strait Islander Studies, and assume the functions in relation to Aboriginal heritage currently performed by the Australian Heritage Commission and the

Australia Council. Ownership of the Aboriginal and Islander component of the National Ethnographic Collection shall vest with the authority, which will also assume responsibility for the Gallery of Aboriginal Australia of the National Museum of Australia. The Movable Cultural Property Act and the Australian Heritage Commission Act should be amended to take account of the Aboriginal authority and its functions.

- 5) the Report of the Working Party on the Protection of Aboriginal Folklore (Department of Home Affairs and Environment, 1981) should be re-examined and a commitment made to establish an Aboriginal Folklore Act. This would be administered by the proposed national Aboriginal cultural authority.

We pray that you will heed these recommendations and restore to us what is rightfully ours.