Final Report
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Australian Indigenous Digital Collections: First generation issues
Acknowledgement

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Authors
Prof N M Nakata
Ms V Nakata
Dr A Byrne
Ms J McKeough
Ms G Gardiner
Mr J Gibson

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## CONTENTS

Acknowledgement .......................................................... ii
Introduction .................................................................. 1
Description of Project .................................................. 3
Limitations .................................................................. 3
A. The digitisation process and organisational contexts .... 4
B. Digitisation of Indigenous materials: Legal and sensitivity issues 
   Indigenous-Western tensions underlying practice ........... 8
   Developing a risk management approach ...................... 12
C. Implications of legal and sensitivity issues for the overall digitisation process 16
D. Implications of legal and sensitivity issues for technical conversion and ongoing management of Indigenous collections 19
   Standards ................................................................ 20
   Cataloguing and Metadata issues ............................... 20
   Useful standards documents .................................... 21
E. Developing rationales for prioritising Indigenous materials 22
F. Indigenous priorities and digitisation policy .................. 24
Conclusion .................................................................. 25
References .................................................................. 26
Introduction

Over the last decade or so, digital technologies have presented collecting organisations with opportunities to enhance public and external access to collections and a means to preserve rare or fragile items without restricting public access. These opportunities have presented challenges to a sector reliant on a constrained public purse and with broad responsibilities and legislative mandates in the provision of knowledge and information services to all Australians. These developments have also occurred over the same period that Indigenous people have begun to assert their ownership and access interests in cultural collections. In this period, Protocols have emerged to raise awareness of Indigenous concerns, and to guide professionals in the handling and treatment of Indigenous materials and in the provision of Indigenous library services.

The focus in this report on the preliminary work in the digitisation process is perhaps a result of early effort generally being given over to addressing technical standards, formats and processes. Technical conversion and ongoing systems management of digital collections have over time become fairly well documented and subsumed into the routine of broader library systems and functions. However, awareness of the importance of the early preparation process for collections’ integrity and organisational efficiencies has increased as digitisation practice evolves from experimental or exploratory stages to form a growing component of information provision services in libraries. And where preparation early in the process is not responsive to Indigenous concerns about the handling of and access to Indigenous materials, then systems and processes are also unlikely to support appropriate development, management, and access to Indigenous digital collections. This in turn has broader implications for meeting Indigenous community needs and expectations of library and information services.

Consistent standards and processes in organisational and management aspects of the digitisation process contributes to efficiencies, sustainability, inter-operability and ultimately the usefulness of digital collections and helps to avoid duplication of effort within and across the digitisation activities of institutions. This is important in the context of the competing demands that libraries face. Institutions’ priorities for digitisation of collections have been progressed largely in step with funding opportunities. In reality this has meant incremental progress supplemented by broader, externally funded networked projects such as Picture Australia or Australian Newspaper Digitisation. Digitisation of Indigenous materials has also largely proceeded in these ways namely, on proportional

1 The use of the term Indigenous in this report relates specifically to the Australian Indigenous community of Aboriginal and Torres Strait Islander people.
or incidental bases within the broader digitisation goals of an institution or through specific national initiatives associated with recommendations of the *Bringing Them Home* Report\(^5\) or the development of relevant Indigenous library services.

While there is some confidence and progress around technical standards relating to the conversion of materials to digital forms\(^5\) there is still uncertainty when dealing with other fundamentals viz., how to traverse the public access and use of materials within the context of intellectual property and copyright regimes, and how to respond to the needs and concerns that Indigenous people express about materials that relate to them. This was highlighted in the 2004 review of the *ATSILIRN (Aboriginal and Torres Strait Islander Libraries and Information Resource Network) Protocols for Libraries, Archives and Information Services*.\(^6\) The protocols had been available for a decade and no assessment had been made of their usefulness or impact. Many participants in that review expressed or confirmed a need for an additional section to give guidance on the digitisation of Indigenous materials. It was clear from these comments by professionals and confirmed by a subsequent exploration of relevant literature and an evaluation of the Northern Territory Library’s model for Library and Knowledge Centres\(^7\), that digitisation of Indigenous materials posed some complex issues for organisations. These complexities emerged in addition to the routine challenges being dealt within an area of evolving practice, and became the basis for a major meeting of decision-makers from across the library sector in a national colloquium in December 2004 at the State Library of New South Wales\(^8\).

The particular issues associated with the digitisation of Indigenous materials have raised a range of questions for professional practice. For example, to what degree do ‘generic’ practices and processes need to be adapted to establish, for appropriate public use, Indigenous knowledge materials in digital collections? How will institutions deal with materials in ways that safeguard Indigenous peoples’ interests? What is it that can be relied upon to inform best practice in this area? Will accepted practice deal satisfactorily with materials already in the public domain but which hold contested Indigenous intellectual property interests? How will orphan works be dealt with? What will inform consistent and fair processes when copyright expires and traditional knowledge information comes into the public domain? How will diverse or conflicting views within the Indigenous community be negotiated by institutions? How can institutions be certain that they are meeting the expectations of Indigenous communities? The 2006 National Summit organised by the Collection Council of Australia to consider a framework for digital collections in Australia prioritised the need for consistent standards and protocols for digital collections across the collecting sector.\(^9\) However, the priority for specific standards, practices and protocols for Indigenous digital collections is still to gain traction in this process. This led us to pursue a collaborative project with three state institutions: The State Library of New South Wales, Northern Territory Library & State Library Queensland.
Description of Project

The purpose of this collaborative project was to provide a preliminary investigation of the practical issues being grappled with by institutions when digitising materials generally, and when digitising Indigenous materials. The aim was to gather a variety of institutional experience, both with general approaches to digitisation and the fit within these of Indigenous Australian materials, in order to highlight the issues and to describe some approaches to dealing with Indigenous materials in the digitisation process. The identification of difficult or unresolved issues provides opportunities for further exploration of these issues to assist the development of protocols for dealing with them. To this end the project has also drawn on other sources in the literature to discuss some of these challenges.

An understanding of the current practices and significant issues was sought. Institutional documents were collected and key personnel were interviewed in relation to digitisation processes and issues, and then with a particular focus on Indigenous materials. Interviews were open-ended and guided by the descriptions of practices and issues raised by various personnel involved in different aspects of the digitisation process. The views of Indigenous professionals were included in this process, whether they were directly involved in the digitisation workflow or not. This enabled inclusion of Indigenous library and information services issues and community perspectives as understood by Indigenous information professionals.

Beyond this project, the end goal is best practice guidelines for developing and managing Australian Indigenous digital collections. An additional aim is to extend the collaboration into another project to focus nationally and across cultural institutions that collect and hold Indigenous materials to learn more about how disparate collections and repositories can facilitate access to a single point in an Indigenous Australian community. The intent for these projects is to identify potential standards and protocols that can best progress (a) consistent and efficient practices with Indigenous materials in public collecting institutions in Australia as well as (b) engagements with Indigenous communities.

Limitations

The focus in this report is on the preliminary considerations that shape the early process. Both in our review of the literature, including existing digitisation guidelines, and in our discussions with professionals in the three institutions, it is the preliminary work required to decide ‘what’ materials can or need to be digitised that is critical to organising efficient workflows, systems, procedures and processes for developing manageable and useful digital collections. As well, it is in this early phase that decisions are made about Indigenous materials.

Field visits elicited much information about the general digitisation practices and challenges and this informs this report because these issues are as relevant to Indigenous materials as any other. However, this report is less concerned with description of practice. It primarily concentrates on discussion of the significant issues that were raised with regard to Indigenous materials - where
departure from normal practices is indicated - and around the issues reported to concern the Indigenous community but which are challenging to accommodate amidst all the other demands on collecting institutions.

It needs to be noted that any descriptions of institutional practice should not be interpreted as representative or comprehensive descriptions of digitisation practice in those institutions. Any descriptions are presented as examples of issues or practice and are selective and partial to Indigenous concerns. Descriptions are also partial in the sense that much of the information we gathered in our field studies related to pictorial digitisation or exhibition projects. These are only two types of materials from the range of digitisation work being pursued in the institutions we visited but they do constitute the main areas where digitisation of Indigenous materials has occurred. They were highlighted in our discussions with participating professionals because they illustrated some of the distinct challenges associated with the digitisation of Indigenous materials.

In the Northern Territory, the issues associated with digitisation in Libraries & Knowledge Centres (LKCs) are particularly complex. Full understanding requires knowledge of the background and context of LKCs and of conditions in remote Indigenous communities that we cannot do justice to in this report. However, LKC professionals are close to the issues that concern both Indigenous communities and the collecting sector. Their insights and experience about the practical complexities that emerge in Indigenous/Western intersections are included where they have relevance to digitisation practice in Indigenous contexts generally and where it helps to explicate the issues in more depth for others in the library and collecting sector. However, LKC-specific issues are not addressed in this report.

It also needs to be noted that there has not been any pursuit on the researchers’ part to make any evaluative or comparative judgements about institutional practices, beyond presenting some positive and negative consequences of particular approaches to problem-solving. Selectivity by researchers has been guided by widely identified Indigenous concerns about protection of and access to Indigenous materials in public libraries and archives and online.

A. The digitisation process and organisational contexts

While the three institutions we visited are progressing in similar ways and share common practices, variations in practice and progress occur in response to the specific organisational contexts. These include for instance mission statements, mandates, goals and collection development, access and digitisation policies. As well, the size of institutions can affect the breadth and level of expertise and skills of staff and the organisation of roles and responsibilities across different operational areas of the library, which has bearing on the distribution of decision-making relating to the digitisation process. How the digitisation process is designed is also shaped by the need for economic efficiencies, in-house capacities, and the existing technology infrastructure, including equipment for digitisation,
software and platforms for management of digital collections and their dependencies on other institutional systems. Importantly, the nature or significance of materials in an institution’s collections, the copyright issues associated with particular items, user expectations, and the digitisation activities of materials by other institutions all influences the extent and rate of digitisation. These contextual aspects also vary according to funding opportunities or constraints. Across these variables, many challenging issues arise and many big and small decisions have to be made to produce workable solutions and manageable procedures and processes. In addition to these, Indigenous community demands or expectations with regard to access to services and handling of Indigenous materials, as well as the nature and significance of an institution’s Indigenous collections, shape the decision-making processes in varying ways across institutions.

Across all three institutions, primary responsibility for the content and coordination of digitisation programmes rested with heritage or original materials sections within collections management areas. There were variations in the finer details of the process, depending on the presence and location of specialists within organisational structures. For example, there were variations between institutions as to where those with the responsibility for cataloguing and creation of metadata were located (within the heritage/original materials sections or within resource and discovery sections). Likewise oversight of technical standards varied according to how institutions carved the domain between resource discovery, IT, or specialised photographic sections and on the extent or economics of in-house technical capacities. As well, the physical location of different sections of the library influenced the organisation of the process. For example, the Northern Territory Library was physically located in two sites and had developed a process to accommodate movement of materials between the two. There were also variations with regard to Indigenous community concerns over the handling of materials.

What institutions had in common was the need to coordinate and streamline activity across sections. The consequences of selecting a particular item or collection of items for digitisation require consideration for the subsequent stages in the digitisation process viz., technical conversion and ongoing management. A range of considerations need to be addressed to ensure that any item can meet policy and collection development criteria, as well as the technical criteria, and be managed through the existing systems and platforms.

Depending on the organisational specificities, this introduces a degree of fluidity into the selection process as consultation across the organisation moves back and forth as requirements and demands associated with any particular collection or item are weighed up or reviewed. For example, preliminary input to assist decision-making at the selection stage might involve specialists in the areas of: collection development; preservation; format (maps, manuscripts, pictorial, film etc); copyright or intellectual property; Indigenous knowledge/collections/community; cataloguers, metadata and library and digital systems; online exhibition managers (for thematic exhibitions or educational collections etc).
There were also variations within institutions with regard to how the preliminary input process worked depending on the type of digitising being undertaken, for example, routine digitisation according to annual production rates, compared to the development of a thematic exhibition, compared to a one-off decision to digitise a fragile item in demand and so on. On the whole, the larger and less routine the project, the more consultation is required across a range of specialists in the organisation. In turn, the more consultation is required, then the greater the coordination of time and effort, and the greater the need for efficient and sequenced processes.

For example, the State Library of New South Wales (SLNSW) has undertaken a number of sponsored digital exhibition projects, which have included Indigenous materials. Experience has indicated that gathering a team of experts in the early stages of scoping a project and selection of items avoids wasting a lot of preliminary work. However, there is a trade-off in terms of using the team approach and in terms of draining people’s time that requires some management. Careful design of the workflow that identifies who and when particular people are consulted and the sequence of decision-making helps to streamline and avoid inefficiencies in time. This applied to selection of materials generally, not just to selection of Indigenous materials. This also applied to other aspects within the process, for example, the precise points in the sequence where review or checks on decisions were necessary, the precise points where quality assurance checks needed to be made and so on. As a result of growing experience in exhibition projects, SLNSW, were refining and documenting in detail, a digitisation workflow design to facilitate the most efficient use of time and effort across a range of specialist professionals. The end result of the digitisation workflow design process is to be its translation into a work-flow in-house software system, TeamTrack.

In contrast, an example in the same institution of digitisation of a single item in high demand illustrates a much simpler decision-making process. A portrait of an Aboriginal woman, significant to the local Aboriginal La Perouse community and also in demand for publication purposes by researchers, was digitised to save time and effort in reproducing it over and again for publication purposes and for preservation to prevent over-handling of the original, rather than for enhanced public access. The decision to digitise was able to be taken by the specialist responsible for granting publication permissions in conjunction with the Indigenous Services librarian who understood community interest in the portrait.

The Northern Territory Library (NTL) operates under different imperatives. It is a relatively small State library, with smaller numbers of staff who must be generalists with wide-ranging specialist knowledge or vice versa. NTL has also recently invested in the development of Libraries and Knowledge Centres (LKCs) in remote Indigenous communities, as part of their public libraries’ mission to improve Indigenous knowledge and information services. LKC activity is specialised work undertaken by a separately identified section within NTL and currently directed towards a number of remote Indigenous communities. The Heritage section focuses on the heritage of all Territorians, which includes Indigenous Territorians who constitute approximately 30% of the overall population. Both the Heritage section of NTL and LKCs have been digitising materials independently and both are
assisted in some aspects of the process by the Innovation & Access (IT & resource discovery) section of NTL. Experience has indicated that better coordination of Indigenous digitisation activity is facilitated by bringing together key personnel from each section. To this end NTL has instituted an Indigenous Heritage Team drawing membership from across these sections. The overall objective is ‘to project manage the selection, collection and access issues relating to Indigenous materials, taking into account intellectual property and copyright issues.’ This extends to issues associated with digitised resources.

NTL, as a smaller organisation, has also had to identify the need for checks and balances to manage the risks associated with singular professional judgements being made in relation to digitising Indigenous materials. The need for more clearly articulated Indigenous digitisation priorities had been identified as a way of addressing this. NTL were reviewing these aspects of the process and the Indigenous Heritage team was also viewed as a mechanism for managing digitisation priorities.

At the State Library of Queensland (SLQ), selection for digitisation is done within the Heritage Collections section. With Indigenous materials, selection/decision-making is undertaken by or with Aboriginal and Torres Strait Islander staff and is done in accordance with the SLQ’s Collection Development Policy and the SLQ Protocols for Aboriginal and Torres Strait Islander Collections. When the Queensland image database was established, Indigenous staff selected content for digitisation and the images were initially vetted by the Indigenous Advisory Committee (IAC) of the SLQ Library Board. The State Library committed to the development of protocols regarding the selection and digitisation of content. Although building Indigenous collections is a policy priority, and by default a digitisation priority, the development of appropriate permissions in accordance with the SLQ Protocols has taken precedence. The Indigenous Images Cultural Clearance project is finalising the development of appropriate and workable processes for gaining community permission clearances for Indigenous materials. As well, SLQ has a dedicated section of Indigenous Library Services (ILS) with staff in Cairns and Brisbane. This section is focussed on Indigenous client needs and services, policy development, and rolling out services to Indigenous Knowledge Centres (IKCs) in regional/remote communities. Like NTL, both ILS and Heritage Collections are looking at ways to work more closely together. Currently, ILS members sit on steering committees across SLQ in digitisation, collection, copyright and heritage collections areas. This helps to maintain Indigenous priorities and concerns on the core agendas.

The State Library of New South Wales (SLNSW) has two Indigenous librarians who provide reference points for decision-making associated with Indigenous materials. Any digitisation working group to be convened could include one of these Indigenous services librarians.

This broader issue of coordination and streamlining of processes across the institution and across the whole digitising process, from selection through conversion to ongoing management of collections was a general issue for all. The issues related to Indigenous materials had to be layered in and across this general process.
B. Digitisation of Indigenous materials: Legal and sensitivity issues

In all three institutions, the central issue that emerged in the digitisation of Indigenous materials were the issues around copyright and cultural sensitivities. Digitisation amplifies Indigenous and institutional concerns about legal and cultural sensitivities because there is the potential for much wider public access and increased chances for unauthorised or inappropriate viewing, reproduction, and misuse of sensitive cultural material.

**Indigenous-Western tensions underlying practice**

The need for differentiated practice for Indigenous materials emerges primarily around the tensions between Indigenous and Western notions of ownership and access conditions of knowledge. The issues for Indigenous materials are important to Indigenous people and require some understanding. There is a growing literature and changing positions in the area that institutions need to keep abreast of if best practice is to be constructed out of an Indigenous-Western dialogue.\(^{13}\)

In brief, there are clear points of difference between Western principles that underpin copyright and the principles that underpin Indigenous intellectual and cultural property rights and the regimes for management of these. Terri Janke\(^{14}\) has set these out in a useful table form.\(^{15}\)

<table>
<thead>
<tr>
<th>NON-INDIGENOUS LAW</th>
<th>INDIGENOUS CUSTOMARY LAW</th>
</tr>
</thead>
<tbody>
<tr>
<td>* Emphasis on material form.</td>
<td>* Generally orally transmitted.</td>
</tr>
<tr>
<td>* Limited in time e.g. copyright for 70 years after the death of the artist; patent rights are 20 years.</td>
<td>* Emphasis on preservation and maintenance of culture.</td>
</tr>
<tr>
<td>* Individually based - created by individuals.</td>
<td>* Socially based - created through the generations via the transmission process.</td>
</tr>
<tr>
<td>* Intellectual property rights are owned by individual creators or their employers and research companies.</td>
<td>* Communally owned but often custodians are authorised to use and disseminate.</td>
</tr>
<tr>
<td>* Intellectual property can be freely transmitted and assigned - usually for economic returns - for a set time, in any medium and in any territory.</td>
<td>* Generally not transferable but transmission, if allowed, is based on a series of cultural qualifications.</td>
</tr>
<tr>
<td>* Intellectual property rights holders can decide how or by whom the information can be transmitted, transferred or assigned.</td>
<td>* There are often restrictions on how transmission can occur, particularly in relation to sacred or secret material.</td>
</tr>
</tbody>
</table>
Intellectual property rights are generally compartmentalised into categories such as tangible, intangible, arts and cultural expression.

* An holistic approach, by which all aspects of cultural heritage are inter-related.

<table>
<thead>
<tr>
<th>Emphasis on economic rights.</th>
<th>* Emphasis on preservation and maintenance of culture.</th>
</tr>
</thead>
<tbody>
<tr>
<td>* No special protection of sacred secret material or gender restrictions.</td>
<td>* Specific laws on gender and sacred secret material.</td>
</tr>
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However, how to deal with these points of difference in practice is not so clear and produces tensions that require engagement but which are not able to be fully resolved in the literature.

The collecting sector experiences these tensions as ‘ethical’ demands on practice for which there is no appropriate legal framework or requirement and no established processes in the traditions of their profession. This produces uncertainty in practice and oftentimes ambivalence about dealing with Indigenous cultural materials.

Indigenous people experience these tensions as the evidence of past and continuing colonial privilege over representations of Indigenous societies and people. In response, Indigenous people are increasingly motivated to challenge the legitimacy of ownership, access and control over Indigenous intellectual property and cultural interests in these materials. However, Indigenous processes for managing Indigenous interests in these intersections are still not settled. This now ‘mutually-invested’ field of practice is, like digitisation practice, an evolving one.

Institutions are being called upon to adjust practice in two principal ways. The first is through the restriction of access to cultural materials which, under copyright (or out of copyright), are freely available in the public domain under the Australian Copyright Act 1968 (Cth). Second, institutions are also called upon to facilitate access to cultural materials for Indigenous uses, when the conditions for use which apply under the Australian Copyright Act 1968 (Cth) exclude and deny Indigenous interests in their own cultural heritage. Current legal mechanisms for mediating Indigenous – Western copyright interests include judicial recognition of the tension between the copyright system and customary law, a flexible approach to the award of damages to recognise communal rights in cases of infringement of copyright and the recognition of moral rights in copyright material. Non-legal mechanisms include protocols and guidelines which reference identified Indigenous concerns. To mediate tensions at points of difference requires either consultation with Indigenous knowledge custodians or cultural authorities to assess the appropriateness of material for public access. Or, it requires seeking permission from a non-Indigenous copyright holder to alter the terms and conditions for use for communities seeking to exert some control or management over their cultural heritage materials.
Most documented forms of Indigenous knowledge and historical materials invest intellectual property rights in the non-Indigenous authors and producers of those materials. In some cases, the Indigenous content in materials documents what is the trans-generational (and collective) intellectual effort of Indigenous groups passed down through time. Colonial intrusion has disrupted the oral tradition of inter-generational transmission or in some cases has allowed inappropriate public circulation of documented tradition. Thus some materials in institutional collections are relatively inaccessible, and others inappropriately accessible.

There is also much material in libraries that is of interest to Indigenous Australian groups which is unpublished (e.g. diaries, research) with copyright held in perpetuity. Because there are often difficulties in finding copyright holders to gain permissions, institutions that want to digitise, to enhance Indigenous access, risk infringements of copyright. As well, some copyright holders have been known to deny Indigenous people access to their materials. Some copyright holders, quite ethically, qualify copyright clearances with strict conditions of use, which have implications for institutions left to manage these conditions.

To add another dimension to these issues, Indigenous people also claim in perpetuity intellectual ownership of cultural heritage, both in intangible and tangible forms, and in collective rather than individual rights, as part of an ongoing oral knowledge tradition. As Indigenous communities lay claim to remotely accessible or repatriated digital copies of cultural materials, especially through the emergent practice of localised database compilations as supported in NTL’s LKC model, they also risk copyright infringement. This is particularly the case with regard to managing reproduction rights associated with materials that they have permission (clearance from the copyright holder) to ingest into local databases, but which they still do not ‘own’. Although the ownership of the databases resides with a specific community through the local governing body, the materials within the databases are still subject to any rights conditions imposed by copyright owners or law. As well, the different rights that are vested in different forms of materials (print, photos, film, audio, multimedia, compilations etc) also complicate the pathways to permission and copyright clearances for both sides.

Added to the copyright difficulties are the difficulties institutions have in either locating the authorised Indigenous custodians of knowledge or obtaining written permission to provide public domain access to materials related to particular Indigenous people/communities. Verbal permission is often more easily obtained but is more easily challenged. There are oftentimes cost implications in this process, for the minimal degree of legal certainty obtained. Paradoxically the fair dealing provisions of the Copyright Act can actually work against the interests of the custodians of knowledge in allowing reproduction of copyright material for research, study, criticism, review and reporting the news (among other purposes) overriding both property rights but certainly also the interests of affected communities or individuals.

These challenges cannot be ignored on either side. The ethical imperative of rebalancing relationships between Indigenous Australians and the practices of Australian collecting institutions emerges from
the historical imbalance of Indigenous-settler relations. Indigenous questions of access, ownership and control of Indigenous knowledge/cultural materials residing in institutions are fundamentally political contests that challenge the colonial relations which legitimated the study and the collection of documentation of Indigenous people and societies, while excluding their interests.\(^23\) The political (and legal) contest in these complex intersections is currently being defused through the moral and ethical rationales expressed in protocols and guidelines, both nationally and internationally.\(^24\)

Protocols are useful because Western legal frameworks cannot yet accommodate Indigenous intellectual property interests rooted in a different system of knowledge management. Moral rights are one legislative approach to dealing with this disjuncture.\(^25\) Moral rights can be assigned to others who are not the copyright owner and so can be used to recognise Indigenous rights within the content of materials. These ‘rights’ include the right of attribution of authorship, rights not to have authorship falsely attributed, and the right of integrity of authorship. (For example, Indigenous people can claim that non-Indigenous authorship of a traditional story is a false attribution of the source of the story, if it does not also attribute to the appropriate traditional source. Or they can claim that a particular use of a traditional painting is derogatory or misuse etc.). Moral rights, as enshrined in current legislation, still inhere in individual notions of authorship rather than collective ones and so do not resolve a range of questions that arise with regard to traditional cultural expressions.

Ethical practice, encouraged via the use of Protocols, also underpins professional and Indigenous concerns about cultural sensitivity. Sensitivity issues for Indigenous people can occur in relation to:

- the offensive nature of materials, particularly historical materials, that represent or depict Indigenous people in a derogatory manner (images and language);
- the public dissemination of materials that are of a secret/sacred nature and which under Indigenous customary law should have access restrictions applied;
- concerns related to sorry (mourning) business, which in some parts of Aboriginal Australia require images/names of the deceased to be removed from the public domain for a period of time.
- Privacy concerns around the identification of individuals in records and photos

Although not always legal issues from the Western perspective, issues of sensitivity certainly are deeply ethical issues for professional practice. Indigenous people want access to these materials to understand colonial experiences, but whether to, or how to re-present such material for access is a major ethical concern. While institutions can gate-keep, through reference desk procedures, to avoid inappropriate access to sensitive Indigenous materials on-site, dealing with these concerns in the digital domain is more fraught. Restrictions of access via various blocking strategies or the provision of pass-word access after some sort of vetting process is technologically possible. The implications for the digitisation preparation process and workload are considerable and beyond the current capacities of institutions.
In legal terms, then, developing ethical professional practice in these intersections is currently about managing a range of risks associated with breaches of both Indigenous customary and Western intellectual property ‘rights’, including moral rights. Jane Anderson paints the intricacies of working out mutually acceptable (and workable) practices in this intersection as learning to do a ‘dance around copyright’.26 It is however quite a difficult dance, for all parties, and there is temptation to ‘dance on by’ rather than work out and document how to step through these tensions and points of disjuncture.

**Developing a risk management approach**

As a general digitisation principle, all three institutions quite understandably prioritise for digitisation the items which do not require complex negotiations for permission to digitise. At the top of copyright criteria are items out of copyright or items for which institutions own the copyright. While this is logical and practical, it does not always work in the interest of Indigenous concerns.

To meet Indigenous expectations, institutions are being asked to assess the intellectual property (IP) status of Indigenous materials on criteria wider than copyright status. Two primary legal/ethical questions are raised and have to be given consideration: What significance or value does this item/collection have for members of the Indigenous community? What Indigenous cultural and intellectual property rights are vested in an item or collection? These questions signal a consideration of an Indigenous priority or need ahead of institutional concerns about copyright.

We recognise there are other elements to be considered in any institutional digitisation IP policy and practice development.27 But for the purposes of Indigenous materials’ IP issues, we concentrate here on risk-management aspects. Risk management can be considered along a continuum: from total avoidance of any contest between copyright and Indigenous interests (by withholding materials from digitisation) to one more open to the risk of breaching both legal and cultural principles, with the risk to be managed through sets of disclaimers, warnings, and mechanisms for withdrawal of materials that legitimate parties do contest. The ‘business as usual’ and complete disregard for Indigenous interests is happily not endorsed by the library profession.

Our field visits confirmed that institutions and Indigenous positions vary along this continuum for managing risks. Institutions are committed to responding in specific ways to Indigenous views, and variously authorised through Indigenous professionals, Indigenous liaison-community officers, Indigenous councils and organisations, knowledge custodians, and designated advisory mechanisms, such as the Indigenous Advisory Committee now known as the Indigenous Advisory Group of the Library Board of SLQ. There are also various approaches to risk-management. For example, SLQ, in respecting Indigenous expectations initially, had limited access to digitised materials (and ceased ongoing digitisation of Indigenous materials) until mutually satisfactory processes were worked out. By their own definition, they took a ‘risk-averse approach’ and had been guided in this by the Indigenous Advisory Committee of the SLQ Board.
NTL and SLNSW had taken on a ‘risk-management approach’ in order to promote enhanced access and had developed some strategies for managing challenges. The main strategies included: using Indigenous professional knowledge and community contacts, gaining written permission where possible, gaining verbal permission where possible when written permission could not be obtained, publicly acknowledging the Indigenous interests in materials, asking for further information on materials with insufficient information, testing the Indigenous reaction to digitised materials through preliminary viewings, and, most importantly, having a ‘take-down’ strategy for any materials that produced a negative response from a member of the public. In both institutions the ‘take-down’ strategy was yet to be formalised as part of policy or process documentation.

What was common across the different approaches in institutions was awareness of the need for consistent processes. In LKCs, the issues had already been identified through an evaluation process and were recognised as extremely challenging. However, it is in these Centres and others like them, that the generation of practices for managing these intersections at the community end are likely to develop to inform wider practice. The issues of LKCs are a future case study area and not given a primary focus here.

It is important to emphasise that institutions could say ‘what we do’ and ‘what we avoid’. But institutions also stated that developing best practice would require sorting out and documenting consistent, workable processes that could both satisfy Indigenous demands and expectations and also satisfy legal requirements for ‘due diligence’ tests. All three institutions were either working toward sorting out these processes or had identified the need for them. There was openness about the ‘gaps’ in current practice in relation to both these, and some requests for assistance in what is a difficult area.

It had been learnt through experience by all institutions that IP issues had to be addressed early in the digitisation process. Time/cost implications of sorting out copyright, permissions, and any terms of access and use have to be considered as part of the selection process, as does any technical implications associated with rights management. However, we were reminded by one Indigenous professional that the ‘permissions’ process was not always problematic or time-consuming.

Whatever the approach taken to risk by institutions, the questions to be considered in any practical guidelines are:

- what processes will promote the most enhanced public access for the minimum of risk of legal infringement,
- what processes will be acceptable for the Indigenous community
- what processes will meet ‘due diligence’ requirements for institutions in this shared space of legal and cultural interpretation

Two positions need highlighting when determining a course of action: whose interests are at stake, and what is the risk being managed.
We have made a start to sort out the issues and to explore approaches to manoeuvre around the copyright issues in order to ensure Indigenous interests are upheld. This may help provide the sort of framework organisations could use to determine approaches in a range of cases. So, for example, we can take a practice such as ‘avoidance of orphan works’, or a problem such as ‘item is significant but cultural custodians cannot be determined’, or a question about ‘derivative works’, and present briefly what that means from an Indigenous perspective, the professional perspective, and some best practice approaches to resolving the issues.

We think it useful to then state alongside what level of legal and cultural protection is being afforded via any approach. It has to be conceded that resolution is likely to be quite imperfect. In this case, both Indigenous stakeholders and institutions need to understand the risks and weigh up each other’s level of risk.

It is also critical to understand what particular approaches mean for the digitisation process. That is,

- What does it mean for the technical conversion of materials and the ongoing management of them in repositories or online?
- And therefore what descriptive and relevant information has to be captured?
- And when and by what means and where in the process does this information have to be captured and recorded.

In addition, the implications for managing complaints about infringements have to be built into any risk management approach. Questions for the process might include:

- what has to be documented;
- what has to have formal agreement or broad agreement;
- what information has to be gathered about what is high risk material likely to offend or attract litigation;
- what information has to be publicly displayed; and
- what process has to be able to be demonstrated and made transparent to reduce legal risks and so on?

This is a way of rationalising, identifying, and instituting processes for managing the risks associated with any exceptions for Indigenous materials in the absence of, or ahead of, any appropriate legal provision in legislation.

Setting this out as a practical guide should also help the dialogue between Indigenous and institutional stakeholders because it clarifies the positions of both and situates the compromise in a way that promotes better understanding of all that is at stake. This space must be mutually-intelligible and a common language needs to develop. So developing a consistent practice is useful in this regard given that practice will necessarily have to operate on a case-by-case basis.
To encourage development of such an approach and to guide practice in this area, some professionals drew attention to the need for some supporting materials, perhaps in the way of information sheets. These might well include:

- Broad principles for due diligence for orphan works containing Indigenous materials
- Ways to deal with *in perpetuity* copyright when it inhibits Indigenous access
- Creative Commons and non-exclusive rights issues and approaches for Indigenous materials
- Constructing a take-down policy that works as a process
- Examples of statements and disclaimers for various things
- Examples of the sorts of information that need to be gathered at the point of acquisition or deposit of Indigenous materials or at the initial selection point
- Examples of what information to include in headers and footers of digital files and the benefits of working towards that as best practice
- Examples of what and how to include the existence of some items for searching purposes but not for viewing online
- Lists of what not to digitise, for example, sacred ceremonial material, sexually explicit and other medical images
- Summaries of the issues in Indigenous-Western knowledge management intersections that explain the Indigenous perspective, e.g. Indigenous notions of *in perpetuity* collective rights that adhere to inter-generational transmission of oral knowledge tradition.

It was suggested by an Indigenous professional that broad strategies to resolve ownership issues at the digitisation policy level should be settled upon to inform digitisation protocols, guidelines and processes. It was also suggested that future Indigenous digitisation processes need to consider access restrictions as a matter of course, for example, password access for some materials following some sort of clearance process, such as that required for researchers. This would enhance access for remote users but overcome the hurdle associated with public access and privacy or sensitivity issues.

Another cluster of issues that were raised by professionals suggests that flexible frameworks for practice rather than tight prescriptions are needed. These issues included the recognition of the many different situations which arose, and the challenges that had to be worked around on a case-by-case basis, and that different professionals often developed preferred ways of dealing with particular issues. And as well, that Indigenous views of the issues also could change over time, or from place to place, or from item to item. For these reasons, it is likely to be more useful to present examples of problems reported by institutions and in the literature, and various approaches by institutions and others to solving them.

It is clear that the profession needs guidelines in this area. The LKCs of NTL reported the usefulness of Emily Hudson’s work and the potential of Jane Anderson’s work if it were publicly accessible. The development of a simple framework/table form (see Table 1) that addresses the major issues has
been identified as a key element, and as a way to ease the amount of work and angst involved in dealing with contested or ambiguous ownership and access issues.

C. Implications of legal and sensitivity issues for the overall digitisation process

Although differentiated practice is seen by the profession to pivot on the legal and sensitivity issues, our conversations in the three institutions also drew attention to the challenges associated with incorporating these requirements into the overall digitisation process.

That is, the thorn in the side of established practice is not just the onerous burden of gaining permissions and clearances to satisfy legal compliance and Indigenous interests. Attending to the legal and cultural sensitivities issues impacts on all aspects of the decision-making process from:

- selection,
- through copyright and Indigenous clearances,
- to decisions about what has to be captured in cataloguing and metadata for accurate descriptions, for enhanced access, use and reproductions that also protect Indigenous interests, and for ongoing management and administration, and
- what it means for time and costs.

This is the case for all materials. But because there are different and sometimes conflicting interests at stake with regard to Indigenous materials, a careful approach is required to layer in Indigenous issues.

So professionals have to sort out, early in the digitisation process, the flags, prompts or pop-ups that identify Indigenous materials and which then direct professionals to supplementary information or checklists that ensure appropriate practice is followed.

These flags and pop-ups have to be inserted in or related to the standard forms, processes, and workflow design of the digitisation decision-making sequence so that a routine approach to Indigenous materials can be streamlined to work within the overall digitisation process. For example, System Requirements Specifications for NTL’s Our Story version 2 database contains features such as these and similar features could be considered for use in their Territory Stories digital repository also.31

This has to be done in a way that protects legal and Indigenous interests, which implies there has to be enough documentation of process to demonstrate due diligence in relation to risks.

So for example, at the selection point for digitisation, a pop-up in generic selection criteria should ask the question: Does the item under consideration hold significance/value for an Indigenous group/community or contain Indigenous knowledge? This should refer professionals on to a list of further considerations or checks, which prioritise Indigenous interests, rather than place the item lower in the priority order on account of any copyright or other issues:
• Does this item/collection fit within Indigenous priorities identified in digitisation or collections development policies?
• Does this item/collection contain Indigenous cultural and intellectual property interests?
• Is there information attached to this item/collection?
• Does this item/collection require consultation with Indigenous professionals, community members, others?
• Does the significance of this item/collection to an Indigenous group warrant extra time/costs in gaining permissions and managing access and use?
• Does the item/collection lend itself to digital repatriation to the source community?

This would turn professionals back to look up a deposit form or, where there is no deposit form, to an additional process for gathering and recording the information required. Information gathering is important given that much Indigenous material is in heritage collections which may or may not be catalogued and/or do not have an electronic record. In turn, that information would signal the need for further enhancement of standard forms along the process, for example, in the copyright criteria or copyright clearance checklist, in the short and long records for cataloguing and metadata, including for web accessibility.

So, whether information is being collected at the deposit stage (which is the process for contemporary acquisitions) or whether this information needs to be generated for materials already in collections before a final selection decision can be made, another check list is required that sets out what sort of information is required about future access and use conditions, including digital access:

• who holds copyright
• who is the relevant cultural reference point, including inter-generational reference points, for Indigenous customary rights, and
• other information for identification and description of the materials so metadata can be developed to ensure appropriate access and risk management.

Although it is now current practice in the institutions we visited to collect information at the time of acquisition and deposit, some exemplars on what breadth of information facilitates best practice with regard to Indigenous materials would still be useful to enhance the information gathering process.

In sum, however this is approached the management strategy for Indigenous materials across the digitisation process requires some staging. Firstly, it needs to indicate what information should be captured at the point of deposit or at the point of initial selection for digitisation. What should be reflected in the short/long record and in the technical conversion process for example? What needs to be attached to the digital file? What needs to be reflected on web pages, or on downloads and print-outs and so on?

Secondly, the management strategy must also identify where more micro-sets of processes are needed along the digitisation process, who is involved in the process, and what the details of those additional processes are. For example:
• What and where are the prompts for Indigenous materials in the selection process and in the copyright criteria or checklist (if these are used for other materials)?
• When in the process do permissions clearances need to be sought?
• Who is first point of contact, who is involved in final decision-making in relation to an item?
• At what point and through what process is cataloguing, metadata, resource discovery to be captured, checked, reviewed etc?
• Are there any specific issues for quality assurance processes for Indigenous materials?
• What is the take-down policy and process?
• What are the high risk areas that are avoided from the outset?
• What is the process and point for Indigenous community negotiations?
• Are there different processes for different formats?
• What aspects of the process needs to be formally documented, recorded, or publicly displayed to constitute due diligence? And so on.

Institutions that were managing risk identified ‘take-down policy’ as a good example where the micro-process needs to be clear. It is easy to take-down materials and name that as a risk-management practice. But it requires more work to build consistent practice that will also contribute to a due diligence approach. For example, what is the process to be followed for take down of materials should there be complaints? A range of issues were raised about this:

• Are they to disappear altogether or would the Indigenous community and the integrity of collections be better served by blocking out and inserting an appropriate message, for example, as AIATSIS does?
• What if the item is still publicly accessible in other places, such as on Picture Australia for example? NTL gave an example of this situation. The Ti Tree senior men requested a ceremonial image be removed from the NTL website but the record was retained in Picture Australia.
• And what process should follow any take-down to assess if items should stay down or if the request was unreasonable?
• How is the time frame for putting back up materials associated with ‘sorry business’ to be managed?
• And again, what do all these issues mean for the creation of metadata and at the technical conversion stage?
• And most importantly, what needs to be documented as a demonstrable due diligence process to defend any challenges, whether they are unreasonable or justified challenges?

Being able to point to a documented process is an important part of being able to demonstrate that due diligence has occurred. Whether institutions were ‘risk-averse’ or ‘risk-managers’, they had all identified the need for clearly identified processes to manage Indigenous materials issues.
difference between them related to whether they were tidying up these loose ends before or after the fact of digitisation and upload for public access.

It is clear that any digitisation guidelines for Indigenous materials need to attend to this issue about where the points of differentiated practice have to be flagged in the workflow design. And what sort of information has to be captured at these points to facilitate best practice. And what sort of supplementary information has to be included to support professional judgements.

Given that the profession is hard pressed for time, this is also future work to be done in a broad way so that consistent practices across institutions are encouraged.

D. Implications of legal and sensitivity issues for technical conversion and ongoing management of Indigenous collections

All three institutions adhere to international technical standards expressed through NLA and/or institution-specific technical standards documents. Generic issues that were identified as important, valuable or which are currently being worked on and which apply equally to indigenous materials include:

- The value of setting out institution-specific standards and technical processes
- The task in some places of retrospectively standardising images done earlier or by volunteers (where metadata is not consistently applied) for migration/upgrading purposes
- The value of documented procedures for scanning for consistency: across institutions; in case of changes of staff; and across different materials, avoiding unnecessary duplication of scanning procedures etc.
- Also sorting out issues associated with consistency in file production and management e.g. original attribute files for preservation, enhanced copies of source files for easier viewing of content, secondary files for making publication copies, storage of files, keeping a record of what has been digitised, uploaded etc
- Ways to control use of reproductions: e.g. SLQ makes three resolutions available: thumbnail for display (and printing downloads), medium for record access, and high quality for research. The quality is not considered appropriate for publication, which assists in reducing some unauthorised use.
- Cataloguing and metadata issues (discussed in more detail with reference to Indigenous materials) – what to capture – descriptive metadata for identifying/finding materials; administrative metadata for managing items, and structural metadata for navigating collections etc. Comments from an LKC professional involved in digitising materials from Indigenous collections confirmed that metadata is often inadequate for those interested in
Indigenous content. Often quite basic information about Indigenous peoples (such as language region) featured in records is ignored or not recorded.

- Technical quality assurance and review needs to be built in - what process, at what points, for files, on screen and print-outs. SLNSW is documenting time issues and how to streamline process to improve this. When technical conversion is outsourced quality assurance has to also check original materials before and after return.
- Platforms, interfaces and web accessibility issues

**Standards**

- One issue that stood out was in the intersections between contemporary digitisation (born digital) occurring in Indigenous communities and standards in central institutions. SLQ reported that although they had the highest of technical standards this did not mean that they did not accept lower quality materials from communities. They were happy to accept such material but could only present/manage it at those standards.
- NTL identified the need to get more flow through of standards between NTL and LKCs. LKCs measure quality by file size, NTL by resolution standard. If in the future there is to be exchange of content between NTL and LKCs, then these criteria needed to be brought into closer alignment. This may apply to future developments in other States or in connections between different organisations with different capacities but which might want to share content in the future. For example, how to ingest materials in LKC databases suitable for Territory Stories. Similar issues may impact upon SLQ’s plans for digital story-telling projects throughout the IKC network.
- One institution was faced with the task of retrospectively re-scanning materials to achieve consistency. This was the result of earlier scanning activity and inconsistent cataloguing and metadata in the initial rush to digitise and the use of volunteers. The need for documented processes was one response to this developmental ‘teething’.
- Technical standards were important for quality as well as consistency across materials, collections, and repositories.

**Cataloguing and Metadata issues**

- Needs to be quality-controlled for Indigenous subject headings
- Variable cataloguing over the years was also an issue that drove the need for documenting processes in one institution.
- Metadata ideally should be able to reflect restrictions on access for Indigenous content and why an item was removed or taken down at whose request etc. Implications are that Indigenous content issues have to be thought through from the acquisition/donation/selection point in terms of what requirements need to be included in metadata for access, and collection management such as tracking access and use, take
down, adding in appropriate notices, disclaimers, etc. Although take down was a de facto 
policy in two institutions, in at least one, there was nothing yet in place to manage 
temporary take down. Metadata has to have a time check built in for sorry business.

- Need to include metadata in header and footers of files, so downloaded materials contain 
sources for attribution. For example, in at least one institution there is currently no 
metadata in headers and footers of files if people download and save the files, so 
acknowledgement/references can be ignored or lost. If users print the material from the 
screen, it prints the record. Need the reference on the file as NLA does it, so downloads 
will carry the institutional source and the items unique handle or ID.

- Platforms and interfaces: The potential of social tagging was raised as a process to allow 
information enrichment of items, for example in NTL’s digital repository Territory Stories. 
Social tagging is the creating and managing of tags to annotate and categorize content. 
Tags are a type of metadata for which one or more descriptive words (keywords) are 
assigned to an asset (ex, photo, web page, article, person, book, email etc). State Library of 
Queensland is in the process of adding social tagging options via a new catalogue expected 
to go live in early 2009,

- Web accessibility issues leading to copyright breaches –If audio and video files are able to 
be downloaded this increases risks of copyright/cultural infringements. Some ways to 
avoid this might include streaming or encoding files. This is an area of caution for those 
starting out. As well, warnings, conditions of access and use, acknowledgement of rights 
etc, and disclaimers need to appear on all web pages (or in headers and footers?) because 
increasingly searchers on the Web access WebPages directly through external search 
engines and not necessarily through the front of the library or collection website.

**Useful standards documents**


http://digitisation.jiscinvolve.org/2008/02/14/digitisation-conference-2007/


Although there are now global technical standards for digitising materials, our main focus has been on 
information capture and process issues specifically for Indigenous materials viz., which aspects of 
Indigenous digitisation discussed so far have to be captured in the technical conversion process and 
what else has to be captured by that stage to facilitate ongoing management of materials. It is clear
from the growing expertise at each site that there needs to be capture in the short and long records for Indigenous materials to accommodate relevant information for managing them appropriately. This includes management of access, risk-management associated with copyright and Indigenous sensitivities, and collection management needs such as tracking access and use, managing ‘take down’ items, and adding appropriate notices, disclaimers, etc., either to files or collections.

E. Developing rationales for prioritising Indigenous materials

Legal and cultural sensitivity issues are central issues, not the least because they are difficult to resolve. But they also affect the selection process and therefore help determine what gets digitised and what does not. This is a challenge for Indigenous priorities because dealing with the intellectual property issues, incurs more than risk, it incurs additional time and costs, and can mean circumventing materials that might be significant to Indigenous people, or which might build useful Indigenous collections.

Different institutions organise selection criteria according to their collections and locations but they have in common the consideration of:

- the content in terms of significance, intellectual value, and uniqueness;
- copyright issues;
- user demand for items/collections;
- the physical condition and format of materials;
- the availability of adequate descriptive information;
- and the cost.

If the main focus of any planned digitisation activity, whether it is an exhibition, a particular collection, or pictorial images, is specifically on Indigenous materials only, then in our view, generic criteria are acceptable because the decision to select according to an Indigenous priority has already occurred. Selection is focussed on choices between different Indigenous materials. Throughout the weighing up process that occurs in the preliminary decision-making process, selection is assumed to consider, and support, Indigenous needs, expectations, and interests according to priorities set out in policy.

But digitisation of Indigenous materials also occurs when it is incidental to a larger project or as a proportion of overall digitisation targets. This points up a wider selection and prioritisation question viz., on what basis is Indigenous digitisation considered amongst all the other competing priorities for digitisation?

- Is it on a comparative basis with the broader Australian population?
- Is it determined by an investigation of what is contained within collections?
- Is it determined on the grounds of general historical interest?
• Does it come up for consideration incidentally when other collections of general heritage interest contain Indigenous materials within them?
• Does it default to collections development policy?
• Are Indigenous priorities set out in digitisation policy?

It was noted, at the State Library of Queensland that at this point in time the digitisation of collections is quite small in comparison to the overall size of library collections which consist of millions of items and pages. Balanced digital collection development for different groups of users is not yet an issue because so little has been digitised. The exception is pictorial digitisation associated with Picture Queensland, the SLQ’s online image database, where contributing collection developers were cognisant of the need for balance across geographical and thematic areas. The point here is an important one from the Indigenous perspective. Although we are cognisant of the funding constraints in collecting institutions, it is difficult to accept the percentage of population argument, for that would give Indigenous people’s access to Indigenous digital cultural collections little priority amidst competing demands. Nor does the rationale that places Indigenous Australians as another ethnic group in the vast multi-cultural mix that is now Australian society gain any acceptance in the Indigenous public. Indigenous Australians are the first peoples, the original inhabitants. Indigenous cultural uniqueness should not be bundled in with other ethnic compositions.

However, it is difficult to determine the value and significance of cultural collections to Indigenous interest, and so determine Indigenous priorities, when the content of collections remains unexplored. Until the Indigenous materials within original material in institutions are identified and catalogued, it is difficult for anyone except seasoned researchers to uncover just what there is that might be of interest to descendant communities or families. It is also well reported that Indigenous communities have little idea of what or where materials relating to their communities or ancestors are. It was suggested that to set priorities for the digitisation of Indigenous materials would require some consultation by librarians with researchers and with descendant communities. It was also suggested that a process for communicating with communities about what is available or being considered for digitisation would increase the flow of information and interest both ways. Native Title researchers who worked for Land Councils in New South Wales, for instance, are possible conduits for information about material in that State Library.

Priority setting was seen, by an Indigenous professional, as a way to tune digitisation programs to criteria of usefulness to Indigenous interests or people rather than general historical interest. This point has implications for selection of content which, in two institutions, was reported to be based largely on professional judgements about how interesting historical material was, either in the general historical sense or for Indigenous people. This is not to suggest that collection specialists do not have the skills to make judgements about items or collections – they clearly do as part of their professional knowledge and expertise – or that such judgements do not resonate with Indigenous users, when clearly they have. But it is to make the point that Indigenous users can also define their priorities to assist in the selection of materials for public access and that this would add to the
legitimacy of any Indigenous digitisation programs and to their usefulness to the Indigenous community. NTL’s LKC model has been working in this domain for the past few years and has been described by one of their staff as ‘participatory digital heritage management’33. But for this to work effectively, Indigenous people need to be informed or initiate enquiries themselves about what collecting institutions hold. The process of clients recommending items for digitisation is accepted at SLQ for example.

Digitisation of Indigenous materials also cannot be rationalised on nostalgic Indigenous yearning for the past, or just on arguments about national heritage significance. Digitisation is a practical means for Indigenous re-connection with knowledge and information produced about Indigenous people and culture. This is knowledge and information Indigenous Australians want to access for future utility, for creative endeavours, and importantly for emotional and spiritual restoration of a people.

The identification of Indigenous materials in collections continues to be an important future area of investigation and should inform Indigenous priorities for digitisation in any guide for best practice. This would require a national approach to the issue and we recognise that it is not one that collecting institutions can be expected to deal with in isolation or without identified resources. But in the first instance we would highly recommend an Indigenous digital collections policy position that starts with preservation priorities. This would liberate digitisation priorities of the legal and sensitivity issues and place Indigenous collections priorities at another level.

The State Library of Queensland collection also provides access to digitised collections of participating Queensland organisations and Local Governments. The public library identifies content with local community input and the digitised content and metadata is made accessible via the State Library’s portal. Indigenous Library Services staff are working with Indigenous Knowledge Centre staff in communities to identify local collections to contribute to Picture Queensland. This will ensure local participation in the selection and digitisation of content.

**F. Indigenous priorities and digitisation policy**

All three institutions had collection development policies that covered Indigenous collection development.34 Indeed, all three institutions demonstrated a strong commitment to comprehensive collecting of Indigenous materials, especially those relating to Indigenous groups within their boundaries. In all three institutions these were supplemented by guidelines or protocols for developing and managing Indigenous materials within collections. All three utilised the ATSILIRN Protocols35 but both the NTL and the SLQ had developed institution-specific sets of protocols and guidelines for handling of and access to Indigenous collections or resources.36 In the case of NTL these were in draft form and under review.

All three institutions also had digitisation policies. These were institution-wide and did not make specific mention of Indigenous digitisation goals, which defaulted to Indigenous collection goals within collection policies.
If the digitisation schedules in libraries are going to reflect some priority for materials that are significant to Indigenous communities and people, then something needs to be said about these connections between policy and priorities for digitisation and how these inform selection and decision-making in the preliminary stage of the digitisation process.

However, this does not necessarily mean developing separate policy and guidelines in the area. That approach creates an unnecessary duplication of work. We think it is more efficient, and more of an encouragement to include Indigenous issues as core business, if primary policy positions include specific reference to Indigenous materials within them, as occurs in collection development policy. It would be strategic and practical to extend this to digitisation policy areas and to best practice digitisation guidelines. It is also clear that the key driving element to achieve significant momentum with an ordered approach would be how an institution organises and accounts for its priority and performance in the area of Indigenous digital collections.

**Conclusion**

Two key points are the critical ones which future institutional activity needs to come to grips with.

From the institution’s perspective, it is the legal and sensitivity issues that are reported to be the major point of disjuncture from standard digitisation processes. These issues are central to Indigenous people as well, to ensure appropriate preparation, handling and management of materials.

However, without a shadow of a doubt, the Indigenous preference would be to begin at a different primary point viz., the need for Indigenous access to Indigenous materials in collections. While we can say this objective is assumed by institutions, and while it is the case that this informs all that they do, the progress towards the goal is patchy. The reasons for this are primarily a resource issue. Nevertheless, this indicates the need for the development of broader cross-sector strategies.

As we go forward, it is important that the broader goal of Indigenous access to materials held in collecting institutions is not submerged in the process of working out the micro-issues of managing the digitisation process.

It needs to be a key position in the evolving process, that from the Indigenous perspective, digitisation is primarily for the preservation of materials of significance to understanding Indigenous pasts and improving Indigenous futures.
References


2 See http://www.pictureaustralia.org/


6 M Nakata A Byrne G Gardiner and V Nakata ‘Mapping the impact of the 1995 Aboriginal and Torres Strait Islander Protocols for Libraries, Archives and Information Services’ unpublished report UTS Sydney 2005


11 See www.nt.gov.au

12 NTL Terms of reference: Indigenous heritage team 2007 p 1


17 See eg Yumbulul v Reserve Bank of Australia (1991) 20 IPR 209

18 Copyright Act 1968 (Cth) Part IX

19 Ibid

20 See J Anderson 2005 p 26


22 Copyright Act 1968 (Cth) Division 3

23 J Anderson, 2005


28 Jane Anderson has produced a ‘Framework for Protocols for IP and Indigenous Communities’ to assist the practical needs of communities to manage IP concerns in local contexts where the interests of researchers, Indigenous knowledge production and institutions intersect. For more information see the AIATSIS website at http://www.aiatsis.gov.au/research_program/projects/cultural_transmission


30 For more information see the AIATSIS website at http://www.aiatsis.gov.au/research_program/projects/cultural_transmission

31 See http://www.ntl.nt.gov.au/our_story_version_2_project


