



Movable heritage

# Operation of the *Protection of Movable Cultural Heritage Act 1986*

This annual report is prepared in accordance with section 47 of the *Protection of Movable Cultural Heritage Act 1986* and covers the operation of the Act from 1 July 2006 to 30 June 2007.

## Purpose of the Act

The Act regulates the export of cultural heritage objects from Australia. The purpose of the Act is to protect, for the benefit of the nation, objects which if exported would significantly diminish Australia's cultural heritage. The Act also includes provisions that allow Australia to respond to an official request by a foreign government to return objects that have been illegally exported in contravention of that country's cultural heritage laws.

The Act defines certain heritage objects as 'Australian protected objects' and implements a system of export control. Some Australian protected objects of Aboriginal, military heritage and historical significance cannot be granted a permit for export. Other Australian protected objects may be exported provided a permit or certificate has been obtained. Permits are granted by the Minister for the Environment and Water Resources on the advice of the National Cultural Heritage Committee and expert examiners. Heritage objects located overseas may also be defined as Australian protected objects under the Act, and a certificate of exemption may be issued for such an object to enter Australia and return overseas without restriction.

The *Protection of Movable Cultural Heritage Act 1986* was passed as the necessary implementing legislation prior to Australia's accession on 30 January 1990 to the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970).

## National Cultural Heritage Control List

The National Cultural Heritage Control List sets out the categories of objects classed as Australian protected objects and the criteria defining each of these categories. These criteria include historical association, cultural significance to Australia, representation in an Australian public collection, age and financial thresholds. The control list includes Class A and Class B objects.



Class A objects are significant Australian heritage objects that cannot normally be exported from Australia. They include:

- some of the most significant items of Aboriginal and Torres Strait Islander heritage: bark and log coffins, human remains, rock art, dendroglyphs (carved burial and initiation trees), and sacred and secret ritual objects
- Victoria Crosses awarded to Australian recipients
- objects comprising the suit of armour worn by Ned Kelly at the event known as the siege of Glenrowan in 1880.

If a Class A object is not in Australia and a person wishes to temporarily import the object, the minister may grant a certificate authorising the subsequent export of the object.

Class B objects which may be exported subject to a permit include:

- archaeological objects
- objects of Aboriginal and Torres Strait Islander heritage not covered under Class A
- natural science objects
- objects of applied science or technology
- objects of fine or decorative art
- objects of documentary heritage
- numismatic objects and medals not covered under Class A
- philatelic objects
- objects of historical significance not covered under Class A.

## Review of the Act's Regulations and administration

The review of the Act continued in 2006–07. Issues raised by key stakeholders are being considered, with further targeted consultation with stakeholders in 2007–08.

## Enforcement

The department continued to work closely with the Australian Federal Police and Australian Customs Service to ensure the enforcement of, and compliance with, the Act. The department responded to 80 enquiries on a diverse range of objects being exported and imported including heritage machinery, fossils and antiquities.

Objects illegally exported from another country in contravention of the cultural heritage laws of that country, and imported into Australia, may be subject to seizure and forfeiture to the Commonwealth for return to the requesting government.



In 2006–07 the department liaised with foreign countries on cases involving such objects as fossils from China and Argentina, and decorated skulls from Indonesia and Malaysia. In December 2006 an illegally imported decorated Asmat skull was returned to the Indonesian Government at a formal ceremony at the Indonesian Embassy in Canberra. The department received support from the Australian Quarantine and Inspection Service, Australian Customs Service and the Australian Federal Police in the detection and recovery of this skull.

In May 2007 sixteen incised Dyak skulls were returned to the Sarawak Museum in Kuching, Malaysia. The skulls were seized under the Act in 2005 after being illegally imported into Australia. The Australian Quarantine and Inspection Service, Australian Customs Service and the Australian Federal Police supported the department in the detection and recovery of these skulls.

## National Cultural Heritage Account

The National Cultural Heritage Account was established under section 25 of the *Protection of Movable Cultural Heritage Amendment Act 1999* and in accordance with the regulatory requirements of the Commonwealth *Financial Management and Accountability Act 1997*. Its purpose is to facilitate the acquisition of Australian protected objects for display or safekeeping.

Funding of \$500,000 was allocated at Additional Estimates in 2006–07 to maintain the National Cultural Heritage Account.

This year, following advice from the National Cultural Heritage Committee, the minister approved funding for Australian cultural organisations to acquire the following objects:

- \$2,000 to the Norfolk Island Museum Trust to acquire a c.1900 roll top desk with strong associations with the whaling and communications operations on Norfolk Island
- \$31,360 to Museum Victoria to acquire two c.1890 drawings by Tommy McRae, *Another Fight*, and *A Fight*. These drawings are a rare and important record of Indigenous and non-Indigenous contact from an Indigenous artist
- \$200,000 to the South Australian Museum to acquire a rare early 19<sup>th</sup> century *Wokali* bark shield from the Adelaide Plains. No other *Wokali* shields of a similar quality are known to exist
- \$15,500 to the Powerhouse Museum to acquire a c.1856 double bass made by John Devereux. John Devereux was Australia's first professional maker of stringed, bowed instruments



- \$44,500 to the Powerhouse Museum to acquire the Australian Jockey Club's 1950 Sydney Cup. This gold cup was made by WJ Sanders, Sydney's leading producer of gold and silverware during the 20<sup>th</sup> century
- \$110,000 to the Powerhouse Museum in Sydney to acquire a 1930 Genairco biplane aircraft. This aircraft is one of nine designed and constructed by the Australian company the General Aircraft Company
- \$55,000 to the Nathalia and District Historical Society to acquire an 1884 Fowler steam traction engine, serial number 4841. This engine is one of the first steam traction engines to be used in the Victorian forestry and road transport industries and was used from the 1880s to the 1940s
- \$32,000 to the Australian War Memorial to acquire seven sketchbooks from the official First World War artist Arthur Streeton.



*1856 double bass made by John Devereaux.  
Photo: Powerhouse Museum*



*The Australian Jockey Club's 1950 Sydney Cup.  
Photo: Powerhouse Museum*



*Rare early 19th century Wokali bark shield from the Adelaide Plains. Photo: South Australian Museum*



## Export permit applications

A total of 97 applications were finalised which included the assessment of 4,593 objects (including 59 for letters of clearance). A summary of export applications processed in 2006–07 is at Appendix 1. The objects that were issued permanent and temporary export permits and certificates of exemption are described at Appendix 2.

## Permits for permanent export (including conditional permits)

Permits were issued to permanently export 21 Australian protected objects. In general, the exporters were seeking to sell the objects on the international market.

## Permits for temporary export

Twelve permits were issued to allow the temporary export of 35 Australian protected objects for exhibition or assessment. Objects included two Conrad Martens sketchbooks, a 1925 Leyland F6 steam lorry and Australian stamps for an exhibition in New York.

## Letters of clearance

Letters of clearance may be issued for objects that have been assessed by expert examiners as not being Australian protected objects, and therefore do not require an export permit under the Act. Letters of clearance are normally issued by the department to assist with the clearance of these objects through Customs.

A total of 59 letters of clearance were issued covering 4,486 objects.

## Refusal of export permits

Eight objects were refused an export permit.

An export permit was denied for a Torres Strait Island arrowhead on 6 July 2006. This is a rare arrowhead with a carved double human figure below the bone barbed point and tip. The arrowhead has traces of red pigment and is in excellent condition despite a missing shaft. There are no examples of the Janus double human figure in Australian museum collections.

A permit was refused for the 1972 painting *Water Dreaming* by Old Walter Tjampitjinpa on 10 July 2006. As a senior law man and 'boss' for the key Water Dreaming site of Kalipinypa, Walter Tjampitjinpa was a key figure in the seminal period of Papunya Tula painting. The painting contains depictions of eight sacred boards, and significant elements of the Eagle dreaming. There are no other works of comparable quality by this artist available.

On 10 July 2006 an export permit was refused for the 1972 painting *Women's Dreaming* by Uta Uta Tjangala. The subject matter of this painting is 'women in ceremony'. Uta Uta Tjangala was a key figure in the early development of Papunya Tula art and went on to become the most significant artist in its entire history. The painting includes sacred and secret content in relation to women's ceremonies.

A permit was refused on 20 December 2006 for the export of the 1972 painting *Wild Potato Dreaming* by David Corby Tjapaltjarri. He was the youngest of the early painters at Papunya 1971–1972, but Tjapaltjarri approached his work on



the basis of considerable ceremonial experience. He was a respected Nyunkari (traditional healer) with a strong knowledge of the country to the north-west of Papunya. This work shows the evolution of his decorative style and is critical to an understanding of this aspect of his artistic development. The work depicts the Wild Potato ceremony and contains explicit secret and sacred elements which are usually withheld from public display. The painting is an unusually explicit representation of the ceremony and a fine example of Tjapaltjarri's delicate work.

A 1974 Papunya board painting, *Men's Corroboree Dreaming in a Cave* by Anatjari III Tjakamarra, was refused an export permit on 21 December 2006. Anatjari III Tjakamarra is one of the most distinctive and highly regarded of the pioneering Papunya painters. He was the first Australian Indigenous artist to have a solo exhibition in North America, and the first Australian Indigenous artist to enter the Metropolitan Museum of Art's contemporary art collection. This painting has secret and sacred material, depicting ceremonial participants and objects. There is only one work by Anatjari III Tjakamarra in a public collection that resembles this painting. This painting is of particular importance to the Pintupi people to whom it has the highest level of cultural significance.

On 22 December 2006 an export permit was refused for *Untitled (ceremony)*, a bark painting by Charles Mardigan. This painting shows Mardigan's high level of skill with a combination of figurative elements, ceremonial boards and an extended colour palette. This painting is of particular importance to the Murrinh-patha people of Wadeye, Northern Territory. Its unusual and skilled imagery ensures that this painting has continued meaning and remains a tool for conveying an understanding of traditional cultural knowledge. The Murrinh-patha people are reliant on rare examples such as this painting as much of their traditional activity was disturbed or destroyed by the Catholic mission in the 1900s. There is a small amount of Mardigan's work and of Wadeye art of this period in Australian public collections.

On 12 January 2007 an export permit was denied for the 1972 painting *Budgerigar Dreaming* by Kaapa Tjampitjinpa. The work depicts a ceremony for young boys and is regarded as Kaapa Tjampitjinpa's masterpiece. The painting is an important record of the cultural and artistic achievement of a unique episode in Australian history. Tjampitjinpa is regarded as a highly significant artist in the development of the Papunya Movement and in contemporary Indigenous art. There are very few of his works in Australian public collections.

On 18 June 2007 an export permit was denied for the c.1950 painting *Moorool the Dreaming Man* by Nym Djimurrurr. The subject, an ancestral story of little *mimi*, is unusual in style, not typical of the Jawoyn people of Western Arnhem Land. There is documentation that links the subject and style to the earliest bark painting collected in Western Arnhem Land in 1912. Works by Nym Djimurrurr are rare and works of this period, the 1950s, are rare and culturally important to both the Indigenous and the wider Australian community. There are few of Nym Djimurrurr's works in public collections.



## Applications withdrawn

Seven applications were withdrawn.

## Certificates of exemption

Four certificates of exemption covering 39 objects were issued. Certificates of exemption allow Australian protected objects that are currently overseas to be imported into Australia and subsequently re-exported. Owners of Australian protected objects located overseas are encouraged to repatriate them to Australia for display or sale. Objects imported for exhibition allow the Australian public access to elements of their cultural heritage that would otherwise be unavailable.

## National Cultural Heritage Committee

The National Cultural Heritage Committee is appointed under the Act to advise the minister in respect to the operation of the Act, the National Cultural Heritage Control List, and the National Cultural Heritage Account. Members serve terms of up to four years, and are eligible for reappointment.

**Table 1: Membership of the National Cultural Heritage Committee in 2006–07**

Member	Date/term of appointment
Chair Mr Craddock Morton, Director, National Museum of Australia	Appointed 9 March 2006 for 4 years
Professor Daryl Le Grew, Vice Chancellor, University of Tasmania	Appointed 27 March 2006 for 4 years
Mr Simon Molesworth AM QC, barrister-at-law, Victoria	Re-appointed 25 May 2006 for 4 years
Ms Deborah Tranter, Deputy Director, Cobb and Co Museum, Queensland	Member until 12 July 2008
Ms Jennifer Sanders, Associate Director, Powerhouse Museum, Sydney	Member until 12 July 2008
Dr Susan Marsden, historian, South Australia	Member until 23 April 2008
Ms Kylie Winkworth, museum and heritage consultant, NSW	Re-appointed 31 July 2006 for 4 years
Ms Avril Quail, Principal Project Officer, Queensland Indigenous Arts Marketing and Export Agency	Re-appointed 31 July 2006 for 4 years
Mr Bill Bleathman, Director, Tasmanian Museum and Art Gallery	Member until 25 February 2007
Ms Anne-Marie Schwirtlich, CEO and State Librarian, State Library of Victoria	Appointed 9 May 2007 for 4 years



The committee held three face-to-face meetings (25 October 2006, 23 February 2007 and 7 June 2007) and one teleconference (30 January 2007) to consider applications for export permits and for funding from the National Cultural Heritage Account. Committee business was also conducted out of session, including the consideration of export applications and funding applications and advice to the minister on the significance of collections under the Act.

Committee-related expenditure for 2006–07 was \$38,404 which included sitting fees and travel and accommodation costs for attendance at meetings.

As part of the committee's outreach activities, a workshop was organised in conjunction with the Research School of Humanities at the Australian National University and the National Museum of Australia. The workshop took place on 22 March 2007 at the National Museum of Australia in Canberra and considered significance criteria, thresholds, heritage objects and the *Protection of Movable Cultural Heritage Act 1986*. It was attended by over 80 people from museums, universities and government heritage agencies across Australia. A follow-up workshop was held in Brisbane on 6 June 2007 at the Queensland Museum's Workshops Rail Museum in Ipswich to consider revised guidelines for the assessment of export permits and funding applications under the Act.

## Register of Expert Examiners

The Register of Expert Examiners was maintained by the committee in accordance with section 22 of the Act. The committee regularly invites individuals with appropriate expertise to be included on the register to broaden the expert advice available to the committee.

The committee wishes to express its sincere gratitude to the expert examiners for giving the benefit of their wide experience and practical support throughout the year. Their specialist knowledge and advice in preparing reports for consideration by the committee and the minister are vital in protecting Australia's significant movable cultural heritage, as is the specialist advice they provide to the Australian Customs Service and the Australian Federal Police.



## Appendix 1—Summary of export applications and assessments in 2006–07

Export applications	Number of applications	Number of objects
Applications brought forward as at 1 July 2006	32	1,969
Applications received during 2006–07	90	4,606
Active applications during 2006–07	136	6,550
Applications finalised during 2006–07	107	4,593
Applications carried over as at 30 June 2007	19	1,957
Outcomes of applications finalised	Number of outcomes	Number of objects
Permanent export permits issued	20	21
Temporary export permits issued	12	35
Conditional permits issued	0	0
Letters of clearance issued	59	4,486
Certificates of exemption issued	4	39
Permits refused	8	8
Applications withdrawn	7	8
<b>Total outcomes</b>	<b>221</b>	<b>4,596</b>

## Appendix 2— Permits issued in 2006–07

Permanent export permits—description	Finalised
1944 Buffalo MK4 (LVT4) tracked landing vehicle	07/07/2006
1943 General Stuart M3 A1 light tank	07/07/2006
1944 ¼ ton 4x4 Ford GPA amphibious jeep	07/07/2006
c1960 Centurion tank 20 pound gun	07/07/2006
c1960 Centurion tank	07/07/2006
1944 Bedford twin six twelve cylinder petrol engine for Churchill tank	07/07/2006
1942 Ford truck, 3 ton, breakdown	25/08/2006
1944 Indian Chief motorcycle 1200cc	25/08/2006
Rainforest shield, North Queensland	20/12/2006
Painting c1960 <i>Kunapipi Sacred Ceremony</i> by Samuel Wagbara	04/12/2006
Painting c1962 <i>Shellfish</i> attributed to Gulwarr	14/02/2007



Appendix 2—Permits issued in 2006–07 (continued)

Permanent export permits—description	Finalised
Painting c1960 Untitled (spirit figures), artist unknown	15/12/2006
Painting c1950s <i>Nulgoorook and Wife</i> by Mandidja	04/12/2006
Painting c1950s <i>Two Figures</i> , artist unknown	14/12/2006
A fragment of an ordinary chondritic meteorite and a fragment of a mesosiderite meteorite	22/12/2006
Foden double-crank compound steam traction engine c1908	02/04/2007
Parts of a Foden double-crank compound steam traction engine c1908	02/04/2007
Australian Cruiser tank Mk 1 (AC1) 'Sentinel'	03/01/2007
Painting 1971 <i>Bush Tucker Story</i> by Old Walter Tjampijinpa	07/05/2007
Painting <i>Untitled Spirit Figure</i> c.1900 unknown artist (Western Arnhem Land)	16/05/2007
Temporary export permits—description	Finalised
Stamps: postage rates of Victoria—128 pages for exhibition	13/09/2006
Stamp collection of NSW: Sydney views, laureates and diadems	13/09/2006
1854–1912 postal rates of Victoria	16/10/2006
1914–1936 Australian airmail covers	16/10/2006
1851–1933 trade exhibitions (documentation on Australian postal history)	16/10/2006
Sketchbook of water colours and pencil sketches dated between 1835 and 1836, George Frederick Dashwood	31/10/2006
Sketchbook Number II: Madeira, 1833 by Conrad Martens Beagle sketchbook IV, 1834 by Conrad Martens	31/10/2006
1914 Hotchkiss fire engine	22/12/2006
18 philatelic items in the Arthur W Gray collection of kangaroo and map series stamps	16/02/2007
1925 Leyland F6 steam lorry	02/04/2007
1970 yacht <i>Gretel 11</i>	04/05/2007
23 Indigenous artworks for temporary exhibition overseas prior to auction	07/05/2007
Certificates of exemption—description	Finalised
35 objects of Ashes cricket memorabilia from the Marylebone Cricket Club, Lord's Cricket Ground for a travelling exhibition	27/09/2006
Racing car Type BT4 Climax used by Jack Brabham to win the 1963 Australian Grand Prix	09/11/2006
Watercolour painting on paper, c.1952 by Albert Namatjira	02/04/2007
Painting <i>Yipa Story</i> , 1981, by Johnny Warangkula Tjupurrula	18/06/2007



