

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 2007 to 30 June 2008.

Purpose of the Act

The Act regulates the export of cultural heritage objects from Australia. It protects, 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 and Torres Strait Islander heritage, military heritage and historical significance cannot be granted a permit to export. Others may be exported provided a permit or certificate has been obtained.

Permits are granted by the Minister for the Environment, Heritage and the Arts on the advice of the National Cultural Heritage Committee and expert examiners. Heritage objects located overseas may also be defined as Australian protected objects, and a certificate of exemption may be issued for such an object to enter Australia and return overseas without restriction.

The Act 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. The criteria (which define the categories) 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 it, the minister may grant a certificate authorising its subsequent export.

Class B objects that 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 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 98 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 2007–08 the department liaised with foreign countries on cases involving such objects as fossils from China and Argentina, a 15th century map from Spain, and antiquities from Nepal.

In August 2007 the Australian Government returned to the Government of Argentina 130 kilograms of fossils illegally exported from Argentina. They included a large *Titanosaurus* dinosaur egg, numerous dinosaur egg pieces and fragments, a dinosaur vertebra, and plant specimens, including *Araucaria* conifer cones, seeds and petrified wood.

In January 2008 the Australian Government handed back to the People's Republic of China over 750 kilograms of Chinese fossils illegally exported from China. The fossils span different geological ages and past environments of ancient China. The oldest include trilobites and ammonoids from the middle of the Palaeozoic Era (450–350 million years ago); the youngest include teeth, jaw and skulls from mammals of the Pliocene Period (circa 5 million years ago). Most came from the 'age of dinosaurs', the Mesozoic Era (251–65 million years ago). These include complete skeletons of the Triassic marine reptile *Keichousaurus* (a relative of the great long-necked plesiosaurs) and a wide range of dinosaur eggs and bones from the Cretaceous Period (140–65 million years ago).

On 4 February 2008 the Australian Government returned a rare 15th century Ulm Ptolemy Map of the world, stolen from the National Library of Spain, to the Spanish Government. The Ptolemy world map, one of the most beautiful and most reproduced world maps, was printed for the 1482 edition of Ptolemy's *Cosmographia*, considered one of the most important atlases of the 15th century. The map was one of 18 rare documents reported stolen in August 2007 from the National Library of Spain. The Australian Federal Police supported the department in its detection and recovery. The map was returned at a function in the National Library of Australia, attended by dignitaries including the Ambassador of Spain, His Excellency Mr Antonio Cosano, the Director of the National Library of Spain, Mrs Milagros del Corral and members of the Spanish Guardia Civil.



Above: The Chinese Ambassador Zhang Junsai and Minister Peter Garrett at the Chinese fossil hand back ceremony. Photo: Mark Mohell



Left: His Excellency Mr Antonio Cosano, Ambassador of Spain and Parliamentary Secretary to the Prime Minister, the Hon Anthony Byrne MP at the return of the map. Photo: Mark Mohell

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 in 2007–08 to maintain the National Cultural Heritage Account.

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

- State Library of Victoria, to acquire the Mark Strizic Photographic Collection. The collection comprises approximately 12,000 negatives. It includes portraits of leading Australian artists, architects and designers. The images illustrate the growth and urbanisation of Australia in the 1950s, and the development and expansion of Australia's manufacturing industries.
- State Library of Western Australia, for the 11 Bussell Diaries, a family archive of early Western Australian settlers.
- Isis District Historical Society, for the 1898 Fowler Tank Steam Locomotive, the oldest known 0-6-0T locomotive still surviving with historical links to the Queensland sugar industry.
- Museum Victoria, for a daguerreotype of an Aboriginal group, part of a small series of images of local Aborigines of the Yarra Yarra tribe taken in Melbourne by Douglas Kilburn in 1847.
- Museum Victoria, for a 1930s tonic book belonging to Harry Telford, owner and trainer of the champion racehorse Phar Lap, which has provided a unique insight into the race horse industry of the time and one of the best known episodes of Australian sporting history.

Export permit applications

A total of 163 export permit applications were finalised, which included the assessment of 4,961 objects (including 116 for letters of clearance). A summary of export applications processed in 2007–08 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

Permits were issued to permanently export 22 Australian protected objects. In general the exporters were seeking to sell the objects on the international market.

Permits for temporary export

Five permits were issued to allow the temporary export of five Australian protected objects for exhibition or assessment. Objects included a 1914 Hotchkiss fire engine and a Painting by Tommy Lowry Tjapaltjarri.

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. The letters are normally issued by the department to assist with the clearance of these objects through Customs.

A total of 116 letters of clearance were issued covering 4,882 objects.

Refusal of export permits

One object was refused an export permit.

Applications withdrawn

Six applications were withdrawn.

Certificates of exemption

Thirteen certificates of exemption covering 25 objects were issued. The certificates 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 on 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.

The Committee held two face-to-face meetings (30 November 2007 and 28 March 2008) 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 2007–08 was \$20,624.82 which included sitting fees and travel and accommodation costs for attendance at meetings.

Register of Expert Examiners

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

The expert examiners give 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.

Table 1: Membership of the National Cultural Heritage Committee in 2007–08

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	Appointed 12 July 2004 for 4 years
Ms Jennifer Sanders, Associate Director, Powerhouse Museum, Sydney	Re-appointed 12 July 2004 for 4 years
Dr Susan Marsden, historian, South Australia	Appointed 23 April 2004 for 4 years
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
Ms Anne-Marie Schwirtlich, CEO and State Librarian, State Library of Victoria	Appointed 9 May 2007 for 4 years
Mr Christopher Menz, Director Art Gallery of South Australia	Appointed 30 September 2007 for 4 years

Appendix 1: Summary of export applications and assessments in 2007–08

Export applications	Number of applications	Number of objects
Applications brought forward as at 1 July 2007	19	1,957
Applications received during 2007–08	174	4,992
Active applications during 2007–08	193	6,949
Applications finalised during 2007–08	163	4,961
Applications carried over as at 30 June 2008	16	36
Outcomes of applications finalised	Number of outcomes	Number of objects
Permanent export permits issued	22	42
Temporary export permits issued	5	5
Conditional permits issued	Nil	Nil
Letters of clearance issued	116	4,882
Certificates of exemption issued	13	25
Permits refused	1	1
Applications withdrawn	6	6
Total outcomes	163	4,961

Appendix 2: Permits issued in 2007–08

Permanent export permits—description	Finalised
Collection of stromatolites	10.08.2007
Painting, 1972, <i>Wallaby Dreaming</i> Attributed to Charlie Eagle Tjapaltjarri	14.08.2007
Pair of carvings, 1962, by Mani Luki Wommatakimmi.	12.10.2007
Carving, c1960, by Ben Tipungwuti	12.10.2007
Opal	19.11.2007
Painting, 1971, by Charlie Numbulmoore	27.11.2007
Lethbridge Cricket Bat	18.12.2007
Carving, 1968, by unknown artist; Docker River	18.12.2007
Painting, <i>Womens Story</i> at Yalukuru, 1974	18.12.2007
Painting, <i>Dingo Dreaming at Wandurankuntjana</i> , 1986	18.12.2007
Bark painting, Groote Eylandt, unknown artist	18.12.2007
Carved ironwood by Paddy Henry (Teeampi) Ripijingimpi	18.12.2007
Painting by Paddy Jupurrula Nelson	18.12.2007
Merlin Diamond	19.12.2007
Tree trunk; inscribed	21.12.2007
French altar stone, c.1780s	21.12.2007
Painting, <i>Water Dreaming</i> at Kalipinyapa, 1974	12.02.2008
Untitled Ceremonial Design, 1971, by Tommy Lowry Tjapaltjarri	05.02.2008
Painting, c1987, by George Mung Mung	08.04.2008
Painting by Anatjari Tjampitjinpa	07.07.2008
Steam traction engine n01236	08.05.2008
1919 Glasgow 3WD Tractor	16.05.2008
Temporary export permits—description	Finalised
1914 Hotchkiss fire engine no. 4393	20.12.2007
1914 Vauxhall motor vehicle 'Fifty Bob'	08.01.2008
Elfin racing car	15.01.2008
Newmont Australia's Nugget	23.01.2008
Painting by Tommy Lowry Tjapaltjarri	14.05.2008
Certificates of exemption—description	Finalised
pre 1880 Queensland Shield; pre 1880 Aboriginal bowls	09.08.2007
Papunya painting, 1976, Anatjari Tjakamarra	13.09.2007
Bark painting by Tipera-Bunga-Dila (Kerinua)	23.10.2007
Six photographs c1850	25.10.2007
Four Papunya Tula paintings	25.10.2007
1826 letter from Melville Island	16.01.2008
First Australian Rules Football Cup	15.02.2008
Painting by Yala Yala Gibbs Tjungurrayi	15.02.2008
Bark painting, c1950	02.05.2008
Bark painting, c1950	02.05.2008
Bark painting by Mawalan Marika	07.04.2008
19th Century Torres Strait Island headdress mask	24.04.2008