

National Cultural Policy Submission

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Submitted: As an individual

What challenges and opportunities do you see in the pillar or pillars most relevant to you?

1. **First Nations**
2. **A Place for Every Story**
3. **The Centrality of the Artist**
4. **Strong Institutions**
5. **Reaching the Audience**

We must reform the Protection of Movable Cultural Heritage Act 1986. It is the principal mechanism by which we protect our significant movable cultural heritage so that it is available to be seen, appreciated and learned from, by this and future generations.

It is essential to our national identity and the ability to tell our national story through our collections – be those stories of our Indigenous cultures, our settler past or our contemporary practice. Our significant movable cultural heritage is our legacy from our past and our legacy to our future.

This is relevant to all five pillars.

Please tell us how each of the 5 pillars are important to you and your practice and why. Feel free to respond to any or all that are applicable to you:

Please see below.

Are there any other things that you would like to see in a National Cultural Policy?

The NCP should commit to the implementation of the 2015 ‘Borders of Culture’ Report on the protection of movable cultural heritage.

The *Protection of Movable Cultural Heritage Act 1986* requires urgent reform. The recommendations of the Report already have wide sector support, drafting of the legislation has already been commenced and implementation would not have significant financial consequences. It is necessary and affordable.

The model of cultural property protection proposed in the Report would provide:

- simpler and less confusing legislation;
- a flexible and risk-based approach to assessment processes;
- more objective standards to define objects being regulated;
- clear guidance to decision-makers throughout the process;
- a quicker, less expensive, less complex procedure.

It would also implement a simpler and transparent system for adjudicating issues arising from the import or export of cultural material.

The Borders of Culture Report set out the basis of this new system: It includes

1. Introduction of a **clearer and simpler** legislation.
2. A new system of defining and classifying what is **significant**. (This will form the basis for more accountable decision-making.)
3. Making the export permit process **transparent**, within the parameters of the Privacy Act, by publishing on-line details of applications, significance reports and decisions.

4. Introducing a **new decision-tree**:
 - The **decision maker** for permit applications to be the SES of the Department (not the Minister). The current AAT appeal process to remain available.
 - **Abolition of Compulsory referral of applications** to the National Cultural Heritage Committee – thus cutting unnecessary red tape and expense.
 - Introduction of a **register of experts** from which a flexible panel of experts can be formed as required.
 - Limiting the role of expert examiners to **giving expert advice as to significance** (and representation) but not recommendations as to the export decision.
5. The process for **temporary export permits would be simplified** and temporary export licences would be provided to a **wider range of trusted stakeholders**.
6. The **General Permit system enjoyed by museums would be extended** to include objects that the institution borrows for the purpose of international exhibition – not just owns.
7. **The National Cultural Heritage Account** would be retained with its purposes and priorities extended and better articulated.

IMPORT PROCESSES FOR NON-AUSTRALIAN CULTURAL MATERIAL:

1. Present protection is limited to illegally exported material. This should be **extended to include stolen and looted** cultural material.
2. Increase the options for seizure and sanction in regard to stolen and looted material. **Criminal sanctions** re looted material to be considered.
3. Establish a **statute of limitations** regarding the ability of a foreign government to make a claim on objects illegally exported from the country of origin. Consideration of the UNIDROIT model as implemented by New Zealand.) 50 years – 3 years. (This is a very important reform for all collecting institutions.)
4. Provide a **court process** for making decisions as to return of illegally exported material and restitution of stolen and looted material: one that is more transparent; public; allows the full consideration of evidence; and removes government from the dispute.
5. Include provisions which **allow the ratification of the First Protocol** to the Hague Convention of 1945 for the Protection of Cultural Property in the Event of Armed Conflict.
6. **Adopt the (selected) processes provided by the UNIDROIT Convention.**
7. **Ratification of the 1st Protocol of the Hague Convention** (to prohibit and inhibit the illegal trade in objects stolen during armed conflict)
8. **Adopt some of the UNIDROIT Convention's recommended procedures** re the restitution and return of stolen and unlawfully imported cultural material.
9. **Make the legislation ready for ratification of the 2nd Protocol** by establishing criminal sanctions for serious cultural property violations.
10. **Amalgamate all Commonwealth legislation** governing the export and import of cultural property into the one legislative instrument.