



DEACCESSIONING POLICY

SUMMARY

Name of policy	
Description of Policy	This policy sets out the principles by which the National Gallery deaccessions (removes from the collection) and disposes of or exchanges collection material that has been accessioned under the National Gallery of Australia (the National Gallery) Acquisitions Policy
Policy applies to	<input checked="" type="checkbox"/> National Gallery wide <input type="checkbox"/> Specific (e.g. Department)
Policy status	<input type="checkbox"/> New policy <input checked="" type="checkbox"/> Revision of Existing Policy
Approval authority	Director
Responsible officer	Head Curator
Contact area	Curatorial
Date of policy review*	February 2023
Related policies, procedures, guidelines and local protocols	<ul style="list-style-type: none">▪ <i>National Gallery Act 1975, National Gallery Regulations 2018</i>▪ <i>Public Governance, Performance and Accountability Act 2013</i>▪ <i>Council Instructions including Financial Delegations</i>▪ <i>Copyright Act 1968, Privacy Act 1988, Privacy Act 1988</i>▪ <i>Reconciliation Action Plan</i>▪ <i>Due Diligence and Provenance Policy, Acquisitions Policy, Privacy Policy</i>▪ <i>Australian Best Practice Guide to Collecting Cultural Material 2015</i>▪ <i>Collections Law: Legal issues for Australian Archives, Galleries, Libraries and Museums</i>▪ <i>Vision for the national collection 2019</i>

*Unless otherwise indicated, this policy will still apply beyond the review date.



APPROVALS

Position	Name	Endorsed	Date
<i>Director</i>	Nick Mitzevich	Yes	20 January 2023
<i>Council</i>	Ryan Stokes	Yes	3 February 2023



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1. PURPOSE

The National Gallery of Australia (the National Gallery) and its functions are determined by the *National Gallery Act 1975* (the Act). The principal functions of the National Gallery, as outlined in s 6 of the Act, are to develop and maintain a national collection of works of art and to exhibit, or make available for exhibition by others, works of art from the national collection.

This policy sets out the principles by which the National Gallery deaccessions (removes from the collection) and disposes of or exchanges collection material that has been accessioned under the Gallery's Acquisitions Policy.

2. SCOPE

This policy applies to all deaccessioning and disposal or exchange of collection material that is, as outlined in s 9 and 10 of the Act, unfit or no longer required in the national collection and the Study Collection (previously Art Archive).

Disposal of works of art not accessioned into the National Gallery's collections is covered under s 11 of the Act and is outside the scope of this policy. This policy also does **not** apply to assets that have not been accessioned into the collections.

3. RESPONSIBILITIES

3.1. CURATORS

Review and assess collection material for title, significance and condition; make recommendations for deaccession and disposal or exchange; effect approved avenue for disposal.

3.2. HEAD CURATOR

Oversees sustainable collection development and management to ensure the whole collection is maintained to an optimum level; ensures processes of deaccession and disposal or exchange are undertaken in accordance with the Act, this policy and related policies, plans and procedures.

3.3. DIRECTOR

Makes recommendations to the Council regarding deaccession and disposal or exchange on the advice of the Head Curator.

3.4. COLLECTIONS COMMITTEE CHAIR

Reviews and approves proposed deaccessions within the Collections Committee Chair and Council Chair delegation, or where necessary provides support for the Chair of Council recommending the proposed deaccession to the Minister responsible for the Arts for approval.

3.5. COLLECTIONS COMMITTEE

Supports the Collections Committee Chair to review and approve proposed deaccessions within the Council's delegation, or makes a recommendation to the Minister responsible for the arts regarding the proposed deaccession.



3.6. COUNCIL CHAIR

... Reviews and approves proposed deaccessions within the Collections Committee Chair and Council Chair delegation, or where necessary makes a recommendation regarding the proposed deaccession to the Minister responsible for the Arts.

3.7. COUNCIL

Ratifies the Collections Committee endorsement of proposed deaccession and disposal of collection material up to the value of AU \$10,000,000 or supports the Chair of Council making a recommendation regarding the proposed deaccession to the Minister responsible for the Arts if above the Council's delegated value. There is no limit to the value of collection material which the Council may approve for exchange..

3.8. HEAD OF REGISTRATION

Ensures all documentation of deaccession and disposal or exchange processes is completed for permanent retention in accordance with the Act, this policy and related policies, plans and procedures.

3.9. MINISTER RESPONSIBLE FOR THE ARTS

Decides whether to approve the Council's recommendation to deaccession and dispose of collection material above the value of AU \$10,000,000.

4. PROCEDURES

4.1. PRINCIPLES

Developing and maintaining a national collection of works of art is a core function under the *National Gallery Act 1975* (the Act). To maintain the collection, the National Gallery must deaccession collection material that is unfit or no longer required as outlined in s 9 of the Act. It may also deaccession collection material in order to exchange it where to do so would be advantageous to the collection as outlined in s 10 of the Act.

Once collection material is formally deaccessioned, it may be exchanged, or disposed of by various means.

The core principles that apply to deaccessioning collection material are:

- A.** The National Gallery must only deaccession collection material if to do so improves the overall quality of the collection, in accordance with the criteria outlined in this policy (see 4.2).
- B.** The National Gallery must not base any deaccessioning decision on current trends or personal tastes but strive to make such decisions objectively, in the long-term interests of the collection and the public, in line with recommendations by relevant curatorial staff and the Director.
- C.** The method of disposal or exchange of collection material under this policy must consider the protection of the public interest as well as the interests of the National Gallery.
- D.** Funds received from the disposal or exchange of collection material must be used only for the acquisition of material for the collection, preferably in the same collecting area, unless the Council otherwise determines.
- E.** Where possible and relevant, the name of the donor or the fund from which deaccessioned material was originally acquired will be credited to a new acquisition.
- F.** The National Gallery must list each object deaccessioned from the collection during the preceding year in its annual report.



- G.** Deliberations around the deaccession and disposal process must consider ongoing costs for the care, management and storage of the material in relation to its cultural value.
- H.** Collection material is approved for deaccessioning only when consistent with applicable legislation, as well as industry standard practice and ethics.
- I.** Where deaccessioned collection material has related material in the Study Collection (previously Art Archive), Research Library Archive or other such supplementary collection, the National Gallery may consider deaccessioning that material also.

4.2. DEACCESSIONING CRITERIA

When determining whether to approve deaccession of collection material, the Council must consider, among other things, whether the collection material:

- A.** No longer falls within the parameters of the Acquisitions Policy, or is no longer representative of the collection in line with National Gallery's Vision and Collection Development Strategies at the time of deaccessioning;
- B.** Has significance or aesthetic merit that falls below the general level of the collection;
- C.** Lowers the overall quality of representation of an artist or collection area;
- D.** Is identified as an object of significance to an Aboriginal or Torres Strait Islander community or Indigenous community in another country and will be returned to that community or a representative museum, cultural centre or keeping place as negotiated, as required by law or as determined by principles of best practice;
- E.** Is unfit to remain in the collection for legal or ethical reasons and on that basis is required to be returned to its country or community of origin, or the valid title-holder is found following investigation to be a person or entity other than the National Gallery, or is or on the balance of probability is more likely to be than not;
- F.** No longer falls within the parameters of the Due Diligence and Provenance Policy or was acquired in circumstances that do not meet the current due diligence standards expected of an Australian national cultural collecting institution such as the National Gallery;
- G.** Is falsely documented, described or attributed, or is on the balance of probability is more likely to be than not;
- H.** Is a forgery, or is incorrectly identified or attributed, or evidence indicates it is more likely to be than not;
- I.** Has provenance that is undocumented, or no documentation is available;
- J.** Is of a type that may be better placed in another public collecting institution;
- K.** Can be exchanged to improve the overall quality of the collection;
- L.** Is inferior to a later acquisition by the National Gallery;
- M.** Is a duplicate of another object, where such duplication serves no reasonable scholarly or educational purpose, a duplicate being an object produced as a multiple or in an edition (e.g., a work of art struck from the same die or printed from the same block or plate);
- N.** Has deteriorated to such an extent that it is no longer able to be exhibited and is unable to be acceptably restored;
- O.** Presents a risk to people, the National Gallery buildings or other collection material.

When deaccessioning any item, the National Gallery must consider:

- A.** The reason the item has been proposed for deaccession;



- B.** Public interest;
- C.** The National Gallery's reputation;
- D.** The National Gallery's relationship with any living artist or community;
- E.** The effect on the willingness of current and future benefactors to donate or bequeath material to the National Gallery;
- F.** The conditions of the Australian Government's Cultural Gifts Program.

4.3. THE DEACCESSIONING PROCESS

4.3.1. The deaccessioning process consists of four stages:

- A. *Under Review (Stage 1):*** Identify collection material for further investigation. Stage 1 is complete when the Director advises whether to proceed to Stage 2.
- B. *Under Consideration (Stage 2):*** Preliminary research and exploration of deaccession. Stage 2 is complete when the Director considers the deaccession proposal and makes an in-principle determination on behalf of Council.
- C. *For Proposal (Stage 3):*** Preparation to seek final determination. There must be a period that allows for the appropriate consultation between the Director's in-principle determination and Council's final determination to deaccession. The exception to this is when the National Gallery is found not to have valid title or there is a danger to people, to the National Gallery building, the National Gallery's reputation and/or to other collection material. In this case the collection material is progressed immediately to Stage 3.

During this consultation and research period, relevant curatorial staff conduct due diligence in relation to the proposed deaccession.

Other duties include cataloguing, updating the collection management system, consulting with stakeholders and confirming information required for the deaccession proposal.

The proposal for final determination must include a clear plan and timeline for disposal or exchange.

The proposal for final determination is recommended by the Director and the Chair of the Collections Committee to the Council based on advice from relevant staff in accordance with this policy. Stage 3 is complete when the deaccessioning proposal is approved by the appropriate authority (see 4.3.4), collection material is de-recognised by the Finance Team, and its status is updated in the collection management system.

- D. *Disposal (Stage 4):*** Preparation for disposal or exchange. Stage 4 is complete when disposal or exchange is effected.

4.3.2. Proposal format

For Stages 2 and 3 the relevant curator prepares a deaccession proposal outlining:

- A.** *the reasons for the proposed deaccessioning, considering the matters set out in this policy (particularly those in 4.2) and related National Gallery policies;*
- B.** *the context of the material within the collection;*
- C.** *the effect the deaccessioning would likely have on the collection;*
- D.** *the recommended method of disposal or exchange;*
- E.** *associated costs and any identified source of funding;*
- F.** where relevant, cost estimates for ongoing conservation, maintenance and storage of the object proposed for deaccession should it be retained;



- G.** applicable legislation and/or international agreements;
- H.** *an estimate* of the current market value, with documentary evidence to support that valuation where possible.

If the deaccession is a gift or bequest, the curator must also state in the proposal:

- A.** any relevant conditions that accompanied the donation or bequest;
- B.** the response of the donor, trustee or personal representatives when contacted regarding the potential deaccession;
- C.** where the donor, trustee or personal representatives could not be contacted, a summary of the steps taken to contact the relevant person;
- D.** whether there are any legal restrictions on deaccessioning the collection material;
- E.** the implications of deaccessioning collection material gifted or bequeathed to the National Gallery, including any considerations related to the Australian Government's Cultural Gifts Program;
- F.** the object being considered for the reattribution of the donor's credit line.

4.3.3. Restrictions

Under s 9.5 of the Act, the National Gallery may **not** deaccession:

- A.** A work of art by a living artist or other collection material from a living collector or creator without first engaging with the artist;
- B.** Collection material acquired subject to a restriction that it be retained for a certain period, until that period expires;
- C.** Collection material donated or bequeathed to the National Gallery without first engaging with any relevant donor, executor, trustee or personal representative of the donor or testator, having regard to any conditions or trusts attaching to gifts or bequests and to whether or not the relevant person can reasonably be identified and contacted.

4.3.4. Approvals

Under the Act and *National Gallery Regulations 2018*, Council has the authority to approve the deaccession and disposal of collection material valued up to AU \$10,000,000.

For deaccessions over AU \$10,000,000 in value, National Gallery staff must promptly seek the approval of the minister to the proposed deaccession following a final determination. The communication to the minister must include a statement of how the object is to be disposed of or exchanged and the Director must report the outcome at the next Council meeting.

Under s 10 of the Act, Council may, if satisfied that it would be advantageous to do so, exchange one work of art for another without ministerial approval. However, the National Gallery must inform the responsible government department of any proposed exchanges and the terms of the exchange. Where an exchange under s 10 of the Act is approved by Council, National Gallery staff must promptly inform the responsible government department of the final determination.



4.3.5. Financial accounting

The *Australian Accounting Standard* AASB 116 Property, Plant and Equipment requires that the carrying amount of an item of property, plant and equipment (including heritage and cultural assets) is derecognised when no future economic benefits are expected from its use or disposal.

The Head of Financial Accounting will attend Provenance Working Group and Deaccessioning Working Group meetings to gain a full perspective of emerging issues and ensure the accounting position and timing of derecognition aligns with accounting standards based on supporting background information.

Following a final determination, the Chief Finance Officer must ensure that:

- A.** the collection material is derecognised from the National Gallery's financial accounts
- B.** relevant disclosures are included in annual financial statements
- C.** the specific treatment is discussed and agreed with the Gallery's external auditors and the relevant government department.

4.4. DISPOSING OF COLLECTION MATERIAL

Unless the Council determines otherwise, the National Gallery must dispose of collection material in an open and accountable way. This includes by sale, public auction, public tender, or transfer to another institution that operates on a not-for-profit basis.

The National Gallery may first consider whether another Australian public collecting institution or publicly funded body may be interested in acquiring the collection material, including by way of sale, gift or exchange.

Where the National Gallery has decided to exchange collection material under s 10 of the Act, the agreement for exchange may include provision for payment or receipt of money in addition to the collection material in recognition of the difference in value between the collection material exchanged.

The National Gallery may first assign the material to its conservation department for testing or research if:

- A.** The material has deteriorated to such an extent that it is no longer able to be exhibited;
- B.** The material is unable to be acceptably restored;
- C.** The conditions of the Australian Government's Cultural Gifts Program are not compromised.

If all other avenues have been exhausted, collection material may be destroyed or recycled for materials or components if the collection material:

- A.** Presents a danger to people or to property;
- B.** Is a forgery;
- C.** Has degraded to the point that it is no longer recognisable or restorable;
- D.** Does not have any saleable value.

Returning deaccessioned collection material

With reference to the Due Diligence and Provenance Policy's Provenance Decision-Making Framework, where the National Gallery does not have a legal or moral right over any collection material:

- A.** That is required by law or the principles of best practice to be returned to its country or community of origin;
- or



B. For which the valid titleholder is a person or entity other than the National Gallery, after deaccessioning the National Gallery must return such material to the valid titleholder or transfer the material by restitution or repatriation.

Cultural Gifts

Any donations made under the Cultural Gifts Program will not be returned to the donor if deaccessioned by the National Gallery.

4.5. MAINTAINING DEACCESSION RECORDS

Following a deaccession, the National Gallery must:

- A.** Update relevant collection management system records and other documentation to reflect the deaccession and subsequent disposal or exchange;
- B.** Amend accession numbers or other markings identifying the collection material as having belonged to the National Gallery;
- C.** Retain a reference to the unique identifier and any assigned accession number in any future system.

Following deaccession, the National Gallery must **not**:

- A.** Reassign any assigned accession or other internal record number;
- B.** Delete relevant collection records in the current collection management system.

Except when giving or exchanging collection material with another public institution, the Gallery must:

- A.** Retain all original documentary material concerning the collection material, including photographs and appraisals;
- B.** Provide copies of relevant documentation to the recipient, where required.

If the National Gallery is giving or exchanging collection material with another public institution, the National Gallery must transfer original documentation to that gallery or museum and retain a copy of this documentation.

4.6. RELEASING IMAGES AND RELATED MATERIAL

Images of deaccessioned collection material may be released by the National Gallery for academic and other purposes. The release must first be agreed on a case-by-case basis between the Senior Curator of Provenance, relevant curator, Head Curator, Head of Communications, Director and present owner, where relevant. The method of disposal and the rights of the current owner and copyright holder for both the image and the collection material must be considered.

4.7. MAINTAINING ETHICAL STANDARDS, CONFIDENTIALITY AND DISCLOSURE

Collection material must not under any circumstances be transferred, given away or knowingly sold to any member of the Council or National Gallery staff, or any member of the immediate family of a member of Council or National Gallery staff.

Before public disclosure by the National Gallery of ministerial or Council approval to deaccession and dispose of or exchange collection material, National Gallery staff and Council members must maintain confidentiality.

In alignment with the National Gallery's commitment to accountability and transparency, and stance on provenance research and disclosure, the full known chain of ownership of the collection material, including its connection to the National Gallery, will be made available.



5. REFERENCES

This policy should be read in conjunction with the following:

5.1. NATIONAL GALLERY POLICIES

Reconciliation Action Plan
Acquisitions Policy
Due Diligence and Provenance Policy
Exhibitions Development Policy
Freedom of Information Policy
Inward Loans Policy
Outward Loans Policy
Risk Management Policy

5.2. GUIDELINES, PROCEDURES AND ASSOCIATED DOCUMENTS

5.2.1. National Gallery guidelines, procedures and associated documents

Art Acquisitions Strategy
Art Acquisition Procedures
Professional and Personal Conduct Guidelines
Code of Ethics
Fraud Control Plan
Inward Loans Procedure
Outward Loans Procedure
Provenance and Due Diligence Research Procedure
Work of Art Claims and Inquiries Handling Procedure

5.2.2. National and international guidelines, procedures and the associated documents

The National Gallery's guidelines and principles have been informed by the Australian Government's *Australian Best Practice Guide to Collecting Cultural Material 2014*, Association of Art Museum Directors' *Report of the AAMD Task Force on the acquisition of archaeological materials and ancient art* (2004) and *Combating illicit trade: due diligence guidelines for museums, libraries and archives on collecting and borrowing cultural material* (Department for Culture, Media and Sport, London, 2005). Other framing documents include:

National Museum of Australia, *Deaccessioning and Disposal Policy*



Australian Government, Attorney General's Department, Ministry for the Arts, *Protection of Cultural Objects on Loan: Scheme Guidelines*, 2014

ICOM, *Code of Ethics 2013*

American Association of Art Museum Directors, *Guidelines on the Acquisition of Archaeological Material and Ancient Art*, 2013

Pacific Islands Museums Association *Code of Ethics for Pacific Museums and Cultural Centres 2006*

Department for Culture, Media and Sport, Cultural Property Unit, United Kingdom, *Combating Illicit Trade: due diligence guidelines for museums, libraries and archives on collecting and borrowing cultural material*, October 2005

Museums Australia, *Continuing Cultures, Ongoing Responsibilities 2005*

Terri Janke, *First Peoples: A Roadmap for Enhancing Indigenous Engagement in Museums and Galleries*, Australian Museums and Galleries Association, 2018

Smithsonian Institution, *Collections Management*, 2001

Museums Australia, *Code of Ethics 1999* (under review 2023)

UNESCO, The Hague Convention 1954, First Protocol 1954 and Second Protocol 1999

Unidroit Convention on Stolen or Illegally Exported Cultural Objects 1995

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (Amendment) 1979

UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970

The Art Loss Register

ICOM, *International observatory on illicit traffic in cultural goods*

ICOM, *Red Lists*

ICOM, *World intellectual property organisation art and cultural heritage mediation*

International Foundation for Art Research

UNESCO, *Database of National Cultural Heritage Laws*

The National Gallery recognises the 1972 *UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import and Export and Transfer of Ownership of Cultural Property* and complies with the Australian Government's *Protection of Movable Cultural Heritage Act 1986*. In addition, the National Gallery adheres to the *Code of Ethics for Museums* (2004) of the International Council of Museums (ICOM) and the *Code of ethics for art, history & science museums* (1999) of Museums Australia, which preclude museums from participating in transactions involving illicit material.



5.3. COMMONWEALTH LEGISLATION

National Gallery Act 1975

Aboriginal and Torres Strait Islander Heritage Protection Act 1984

Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015

Customs Act 1901

Environment Protection and Biodiversity Conservation Amendment (Wildlife Protection) Act 2001

Personal Properties Securities Act 2009

Protection of Cultural Objects on Loan Act 2013

Protection of Cultural Objects on Loan Regulation 2014

Protection of Movable Cultural Heritage Act 1986

Protection of Movable Cultural Heritage Regulation 1987

Public Governance, Performance and Accountability Act 2013

Freedom of Information Act 1982

Public Interest Disclosure Act 2013

Information Privacy Act 2014

Financial Management Act 1996

Financial Management Regulation 2005

Archives Act 1983

This policy is also informed by the traditions and precedents set since the establishment of the National Gallery.



6. REVISION HISTORY

Version	Date	Responsible Officer	Comments
CUR1.0	04 2008	Council	Document created
CUR2.0	11 2015	Council	Due diligence review
CUR3.0	08 2017	Council	Format and content revised
CUR3.0	12 2019	Council	Format and content revised
CUR3.0	12 2020	Council	Format and content revised
CUR4.0	10 2021	Council	Changes to <i>National Gallery Act 1975</i> incorporated
CUR5.0	02 2023	Council	Format and content revised



DEFINITIONS

Aboriginal or Torres Strait Islander art	A work of art by an Aboriginal or Torres Strait Islander artist. Aboriginal and Torres Strait Islander art is defined in accordance with the Aboriginal and Torres Strait Islander Engagement Policy.
Accession:	The process that formally acknowledges a work of art or other material as part of the collection.
Acquisition	The process of obtaining valid title to collection material which may be acquired through various methods for the purpose of accessioning into the collections.
Act	The <i>National Gallery Act 1975</i> .
Collection material	Works of art and other material in various media that are National Gallery property and have been formally accessioned into the national collection or the Study Collection (previously Art Archive).
Council	The governing body of the National Gallery under the Act.
Council member	A member of the National Gallery's governing body, appointed in accordance with the Act.
Deaccession	The process that formally removes collection material from the collection. Following deaccession, the material may be disposed of by sale, gift, destruction, exchange, returned to its rightful owner, or transferred via restitution or repatriation.
Director	The Director of the National Gallery appointed under the Act, including a person appointed as acting Director by the Minister responsible for the Arts.
Disposal	The action taken to remove collection material from the National Gallery's ownership, control or possession once it has been deaccessioned. This action may take the form of disposal by sale, gift, destruction, exchange, return to its rightful owner, transfer via restitution or repatriation, or destruction.
Donor	A person, persons or entity that makes a gift of a work of art or other material, either directly to the National Gallery or through the Australian Government's Cultural Gifts Program, or supports the acquisition by cash donation.
Due diligence	The thorough assessment of collection material to evaluate its authenticity, ownership, legal and ethical status and provenance and to identify and assess any issues.
National Gallery	The National Gallery of Australia, a statutory body established in accordance with the Act.
Provenance	The history and ownership of collection material from the time of its discovery or creation to the present day, used to determine authenticity and ownership.

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Repatriation	The process whereby material in a museum collection is returned to lineal descendants and/or culturally affiliated communities, including countries of origin.
Restitution	Returning to the valid titleholder objects that have or may have been obtained through illicit dealings, pillaged in times of war, stolen or otherwise illegally obtained.
Study Collection (previously Art Archive)	A collection of works of art and other material designated for the purpose of study or research that supports or relates to works of art or artists represented in the National Gallery's collection.
Title	The legal right to ownership of property.