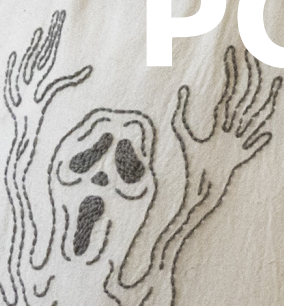


NATIONAL  
PORTRAIT  
GALLERY

PHOTOGRAPHY  
AND FILMING  
POLICY





## POLICY STATEMENT

The National Portrait Gallery of Australia (the Gallery) is committed to supporting the rights of artists, Copyright owners and the cultural and Intellectual Property Rights of First Nations Australians. This support extends to ensuring Gallery visitors are aware of their Copyright and First Nations Cultural and Intellectual Property responsibilities regarding in gallery Photography or Filming.

The Gallery complies with the *Copyright Act* by ensuring this policy and associated procedures are consistent with the obligations under the *Copyright Act*. This policy is in line with the principles of the Gallery's Copyright and Intellectual Property Policy.

The Gallery is guided by the principles outlined in the Australia Council's *Protocols for using First Nations Cultural and Intellectual Property in the Arts* (the ICIP Protocols).

While the Gallery actively encourages access to its Collection and temporary Exhibitions, it recognises that access must be balanced with legal and ethical considerations pertaining to Intellectual Property Rights, the requirements for protection of Works of art and the safety of staff and visitors. This policy will ensure that the protection of Works, the principles of collection management, security and safety are recognised along with Copyright, First Nations Cultural and Intellectual Property Rights requirements, and in-gallery Photography and Filming.

## SCOPE AND APPLICATION

This Policy applies to members of the NPGA Board, the NPGA Director, NPGA Staff including volunteers, interns and contractors, and all visitors to the Gallery.

## PHOTOGRAPHY OR FILMING IN NON-RESTRICTED GALLERY SPACES

### Personal non-commercial Photography or Filming in Gallery spaces – Visitors

Visitors may take photographs for personal non-commercial purposes in Non-restricted Areas at the Gallery unless otherwise advised.

Visitors have legal and ethical responsibilities in regards to Copyright and First Nations Cultural and Intellectual Property Rights in any photographs they create.

Filming is not permitted by visitors. Short-form video content intended for personal social media platforms no longer than five (5) minutes in length may be permitted where all conditions of the *Personal non-commercial Photography or Filming in Gallery spaces* section of this policy are met. Where there is an exemption to Filming restrictions for a special event or performance this will be communicated to visitors and will be limited to the event or performance only.

Visitors may only use small hand-held photographic cameras, mobile phones or similar devices. The use of flash, lighting, tripods, monopoles, selfie sticks or any additional camera, light or sound equipment by visitors is not permitted.

Any Photography undertaken in the Gallery must not present any risk to Works, or to the safety or enjoyment of Gallery visitors and Gallery Staff, nor interfere with or cause concern for other visitors. Any Photography should not include children under the age of 18.

The Gallery retains the right to request a visitor to cease Photography at any time for any reason.

Where the Gallery has specific restrictions on Photography for Works or Exhibitions, signage will be provided at a location appropriate to the specific situation such as at the entrance to the Gallery, the entrance to an Exhibition, in the gallery space or adjacent to a Work.

Reproduction of Works on display at the Gallery may require Copyright permission under the *Copyright Act*. This includes via Photography, and publishing or communicating reproductions for personal purposes. Any visitor who engages in

Photography of any Works in the Gallery is solely responsible for gaining all required Copyright permission from the appropriate party. Not adhering to these conditions may constitute an infringement of Copyright which may incur penalties, including fines, or result in civil liabilities for the visitor. The Gallery takes no responsibility for any liability resulting from Copyright infringements by visitors who photograph any Work in the Gallery.

The Gallery acknowledges that in some instances visitors' personal non-commercial Photography of a Work may fall under exceptions in the *Copyright Act*, including 'fair dealing' exceptions such as 'research and study' or 'criticism or review'. As noted the responsibility for permission or establishing any exemptions relied upon and any infringement which arises from this is the sole responsibility of the visitor.

Works on display may also have First Nations Cultural and Intellectual Property Rights which require permission. The Gallery requires that any visitor who photographs a Work in the Gallery which may include First Nations Cultural and Intellectual Property Rights associated seeks the appropriate permission from the owners of these rights. Any visitors any visitor who photographs a Work in the Gallery must seek confirmation from the Gallery as to whether a Work has First Nations Cultural and Intellectual Property Rights which require permission.

Individuals who wish to reproduce, publish or communicate Works displayed at the Gallery or which appear on the Gallery website must contact [copyright@npg.gov.au](mailto:copyright@npg.gov.au) in regards to a request for Gallery supplied images. The Gallery's Copyright Staff will advise on availability, terms and conditions, permissions required and any fees.

### **NPG Staff, volunteers, interns and contractors**

Gallery Staff, volunteers, interns and contractors who take photographs or film within Gallery spaces in the course of their employment must ensure their actions are consistent with the provisions of this policy, the Gallery's Copyright policy, the NPGA Enterprise Agreement and APS Code of Conduct.

Gallery Staff, volunteers, interns and contractors who take photographs in the Gallery spaces for personal non-commercial usage must meet the conditions as outlined in section on *Personal non-commercial Photography or Filming in Gallery spaces - Visitors* section of this policy.

### **Commercial Photography or Filming in Gallery spaces**

Any person undertaking commercial Photography or Filming within the Gallery for publication, reproduction, marketing, communication or any other commercial purposes must obtain permission from the Gallery (see the *Media Photography and Filming in Gallery spaces* section of this policy). Requests for permission must be submitted in advance via email to [info@npg.gov.au](mailto:info@npg.gov.au), the Gallery will confirm in writing if permission is granted or refused.

All requests are subject to an assessment by the Gallery in consideration of: the safety of the Works, access to the Gallery spaces, impact on Gallery activities, supervision and support required by Gallery Staff, risk management, and impact on financial and human resources. The assessment will be undertaken in consultation with the Gallery's Marketing & Partnerships Manager (or delegate), Collection Manager, Collection Administrator, Compliance & Risk Management Manager and Building Manager. The assessment may also include Curator, Collection & Research, Exhibitions Manager and other parties as required.

All fees and conditions will be agreed to during this assessment and then provided to the requesting parties.

Permitted commercial Photography or Filming within the Gallery will require supervision by trained Gallery Staff to ensure the safety of Works, visitors, the building and adherence by the photographing or Filming party to all agreed terms and conditions.

The party undertaking Photography or Filming will be advised that Works on display or other content at the Gallery may require Copyright permission under the *Copyright Act* to photograph, publish or communicate.

The party undertaking Photography or Filming will assume sole responsibility

for gaining all required permissions to reproduce, publish and communicate Works in regards to Copyright and First Nations Cultural and Intellectual Property Rights prior to any reproduction, publishing or communication of the Works. The Gallery Staff responsible for the Copyright permissions at the Gallery will, where possible, provide the required contacts to the party undertaking Photography or Filming so that permissions can be sought. The Gallery takes no responsibility for any liability or any claims resulting from Copyright infringement or alleged Copyright infringement by a party undertaking Photography or Filming.

Requests for Gallery provided images of Works should be directed to [copyright@npg.gov.au](mailto:copyright@npg.gov.au) or through an online application made via the Gallery website. The request will be assessed in line with any Copyright or First Nations Cultural or Intellectual Property Rights by the Gallery's Copyright Staff member and the requester advised of permissions required, fees and terms and conditions associated with the request.

### **Media Photography and Filming in Gallery spaces**

Photography and Filming by a party associated with a press or media organisation (media party) in Gallery spaces including access to the Gallery may be granted by the Gallery. Requests for Photography and Filming by a media party are to be sent at least ten (10) business days in advance to [media@npg.gov.au](mailto:media@npg.gov.au), the Gallery will confirm in writing if permission is granted or refused.

All requests are subject to an assessment by the Gallery in consideration of: the safety of the Works, access to the Gallery spaces, impact on Gallery activities, supervision and support required by Gallery Staff, risk management, and impact on financial and human resources. The assessment will be undertaken in consultation with Marketing & Partnerships Manager (or delegate), Collection Manager, Collection Administrator, Governance & Risk Manager and Building Manager. The assessment may also include

Publicist, Curator, Collection & Research, Exhibitions Manager and other parties as required.

Permitted Photography or Filming by the media party within the Gallery will require supervision by trained Gallery Staff to ensure the safety of Works, visitors, the building and adherence by the Photography or Filming party of all agreed terms and conditions.

The party undertaking Photography or Filming will be advised that Works on display or other content at the Gallery may require Copyright permission under the *Copyright Act* to photograph, publish or communicate. They will also be advised of Works which may require permission for undertaking Photography or Filming that include First Nations Cultural and Intellectual Property Rights.

The media party may choose to photograph or film Works under the 'fair dealing' exemptions of the *Copyright Act* including for 'reporting the news', or for 'criticism or review' should they feel that their usage falls within the parameters of the exemptions. The media party will be solely responsible for establishing the basis for any fair dealing exemption and the Gallery has no liability for this.

The media party undertaking Photography or Filming will assume sole responsibility for gaining any required permissions to reproduce, publish and communicate Works with Copyright or First Nations Cultural or Intellectual Property Rights prior to any publishing or communication of content, including obtaining appropriate Moral Rights consents from the author(s). The Gallery Staff responsible for the Copyright permissions at the Gallery will, where possible, provide the required contacts to the party undertaking Photography or Filming so that permissions can be sought. The Gallery takes no responsibility for any potential Copyright, or Moral Rights, infringements by the media party.

Requests by the media party for Gallery provided images of Works should be directed to [media@npg.gov.au](mailto:media@npg.gov.au). The request will be

assessed in line with any Copyright or First Nations Cultural or Intellectual Property Rights by the Gallery's Copyright, Collection Management and External Relations Staff. Following the Gallery's internal assessment the requesting media party will be advised if permission to photograph or film is granted or refused. If granted the media party will be advised of permissions required and terms and conditions associated with the request.

### **Photography or Filming of Private or Commercial events in Venue Hire locations**

The Gallery building includes a number of locations which can be hired for private or commercial events through the Gallery's venue hire program, which may include weddings and corporate functions. Personal non-commercial Photography and Filming and commercial Photography and Filming in the Gallery's venue hire spaces is permitted provided:

- the Photography or Filming does not include any Works of art
- there is no real or perceived implication that the Gallery endorses or supports an events, organisations or products as a result of the Photography or Filming, e.g. through the use or incorporation into the Photography or Filming of the Gallery's signage, logos or other indicia, or otherwise.

Any anticipated Photography and Filming needs should be discussed at the time of event booking with the Gallery representatives.

Should a private or commercial event held at the Gallery be located in a Gallery space or include a period of viewing of any Works of art, Collection displays or Exhibitions either in the event location or in the Gallery spaces then Photography for personal non-commercial usage must meet the conditions as outlined in the *Personal non-commercial Photography and Filming* section of this policy and commercial Photography or Filming must meet the conditions as outlined in the section on *Commercial Photography or Filming in Gallery spaces*.

### **Photography or Filming of the Gallery building**

Non-commercial Photography or Filming of publicly accessible external parts of National Portrait Gallery of Australia is permitted under sections 66 and 68 of the *Copyright Act*.

Any commercial Photography or Filming of publicly accessible external parts of Gallery must comply with the conditions outlined in the *Commercial Photography or Filming in Gallery spaces* of this policy.

Any Photography or Filming within the National Portrait Gallery of Australia building must comply with the conditions outlined in sections *Personal non-commercial Photography and Filming*, *Commercial Photography or Filming in Gallery spaces*, and *Media Photography and Filming in Gallery spaces* sections of this policy.

## **PHOTOGRAPHY AND FILMING IN RESTRICTED GALLERY SPACES**

### **Photography or Filming in exhibitions installation and deinstallation and Gallery changeovers**

Photography or Filming in Gallery spaces during the installation or deinstallation of Works or Exhibitions is not permitted.

Gallery Staff or Lenders may be granted special permission to photograph or film in Gallery spaces in specific instances following an assessment by the Collection Manager, Exhibitions Manager and Collection Administrator in consultation with the Governance & Risk Manager. Following the assessment, the Exhibition Manager and Collection Manager (or delegates) will jointly determine if permission is granted.

Any special permissions granted will consider the conditions of contracts and agreements related to the Works or Exhibition, Copyright, First Nations Cultural and Intellectual Property Rights, the safety and security of Works and the impact on the schedule of installation or deinstallation.

### **Photography or Filming in Collection Storage areas**

Photography or Filming in Collection storage areas is not permitted.

Gallery Staff, Lenders or researchers may be granted special permission to photograph or film in Collection storage in specific instances following an assessment by the Collection Manager and Collection Administrator in consultation with the Governance & Risk Manager. Following the assessment, the Collection Manager (or delegate) will determine if permission is granted.

Any special permissions granted will consider conditions of all existing contracts and agreements, Copyright, First Nations Cultural and Intellectual Property Rights, the safety and security of Works and the impact on the collection management activities and Gallery Staff.

## **PUBLICATION**

General and overarching reference to the terms of this Policy will be made in the Conditions of Entry to the Gallery, in order to assist the target audience in its observance of said Policy.

This reference will be made as follows: “Photographs may be taken with small hand-held devices in public areas unless otherwise advised. Filming is not permitted though short-form video content intended for social media platforms no longer than five (5) minutes in length is permissible.

The use of flash, lighting, tripods, monopoles, selfie sticks or similar equipment is not permitted.

Visitors are solely responsible for obtaining all required Copyright and First Nations Cultural and Intellectual permissions for photographs they take.

When taking photographs, visitors must not pose a risk to, or interfere with any Works of art, the building, or the safety or enjoyment of visitors and Gallery Staff. Photographs should not include persons under the age of 18.

The Gallery retains the right to request a visitor to cease Photography at any time for any reason.

For further details please refer to the Gallery’s Photography and Filming at the National Portrait Gallery Policy.”

This wording is subject to change as required, at which point this Policy will be reviewed and updated. The wording in publication may be amended for readability on the Gallery’s website, and at physical points of entry to the Gallery, in consultation with the Collection Administrator and/or Director, Collection & Exhibitions.



## APPROVAL AND REVIEW

This policy (including amendments) is approved by the NPGA Board.

This policy should be reviewed every three years unless there are changes to relevant legislation or ICIP Protocols. Collection Administrator, Director, Collection & Exhibitions, Collection & Exhibitions, External Relations and Access and Learning should be consulted when reviewing this policy.

Upon approval, all previous versions of this policy are revoked from the Effective Date.

## FURTHER INFORMATION

For further information, please contact the policy owner Collection Administrator, Collection & Exhibitions at [copyright@npg.gov.au](mailto:copyright@npg.gov.au)

## DEFINITIONS

**Collection:** Works in various media that are Gallery property and have been formally accessioned into the Collection or registered in the study collection. For the purposes of this policy, the terms Work and Work of art are used interchangeably to describe all art or other material accessioned into the Collection and any Works borrowed by the Gallery.

**Commission:** where the Gallery has paid for the creation of a unique Work under a commissioning agreement.

**Copyright:** all rights subsisting in and to materials, works, and subject matter other than works, conferred under the *Copyright Act*, including audio, audio-visual and visual materials, and any other rights of a similar nature anywhere in the world. Copyright is a type of property that is founded on a person's creative skill and labour. Copyright provides the owner with exclusive economic rights to do, or prevent others from doing, certain acts with that material including: the right to copy, publish or communicate the material to the public. Copyright also provides authors and performers with non-economic rights, known as Moral Rights. Copyright is an Intellectual Property Right.

**Copyright Act** means the *Copyright Act 1968* (Cth) as amended from time to time.

**Copyright Owner:** the individual or organisation who owns Copyright until such time as Copyright expires in accordance with the *Copyright Act*.

**Effective Date:** the Date of Approval listed in the Policy Control Sheet.

**Exhibition:** an exhibition of Works on display at the NPGA or other locations, which may include borrowed Works as Inward Loans and/or Commissions and Works drawn from the Collection.

**Filming:** capturing of capturing or creation of the aggregate of the visual images embodied in an article capable of being shown as a moving picture or of being embodied in another article by the use of which it can be so shown and may include audio associated with such visual images, including visual or audio-visual material in analogue or digital.

**First Nations (or Indigenous) Cultural and/or Intellectual Property Rights:**

refers to all aspects of the cultural heritage of First Nations Australians (tangible and intangible) including: traditional knowledge; traditional cultural expression; performances; cultural objects; human remains and tissues; the secret and sacred material and information; documentation of Indigenous peoples' heritage in all forms of media, and including all Intellectual Property Rights which may subsist in such items.

**Gallery:** the National Portrait Gallery of Australia, a statutory authority established in accordance with the National Portrait Gallery Act 2012 (Cth). This term is interchangeable with the term NPGA in this policy.

**Gallery Staff:** permanent, temporary or contracted members of staff of the National Portrait Gallery of Australia, this may include volunteers and contractors.

**Intellectual Property Rights:** all rights conferred by law in or in relation to any Copyright, trade marks, designs, brands, patents, circuit layouts, plant breeder's rights, business and domain names, improvements, methods and processes, algorithms, concepts, ideas, prototypes, know-how, trade secrets, inventions and confidential information, and other results of intellectual activity in the industrial, commercial, scientific, literary or artistic fields, whether or not registrable, registered or patentable, and any rights of the same or similar effect or nature as any of the foregoing which subsist anywhere in the world.

These rights include:

- all rights in all applications to register these rights and any registrations resulting from such applications;
- all renewals and extensions of these rights;
- the goodwill attaching to any of the foregoing (if applicable); and
- all rights in the nature of these rights, excluding Moral Rights.

**Inward Loan:** the temporary transfer of the physical possession, custody or control of Work directly or indirectly from one entity or person to the National Portrait

Gallery of Australia under a contracted arrangement. An inward loan may be made for the purpose of display, research or other purposes associated with the Gallery including but not limited to exhibition.

**Lender:** is the individual or organisation from which the Gallery has borrowed a Work for the purpose of Exhibition or display

**Moral Rights:** include:

- the right of attribution of authorship or performership;
- the right not to have authorship or performership falsely attributed; and
- the right of integrity of authorship or performership;
- conferred by the *Copyright Act* and rights of a similar nature. The rights cannot be transferred from the creator, exist for the same duration as Copyright and apply to all copyright material as defined under the *Copyright Act*.

**Non-restricted Areas:** any area at the National Portrait Gallery which is open to the public.

**NPGA:** the National Portrait Gallery of Australia, a statutory authority established in accordance with the *National Portrait Gallery Act 2012*. This term is interchangeable with the term Gallery in this policy.

**Photograph:** a product of photography or of a process similar to photography, other than an article or thing in which visual images forming part of a cinematograph film have been embodied, and includes a product of xerography. Photographic and Photography having corresponding meanings.

**Restricted Areas:** any area at the National Portrait Gallery which is restricted from public access including back of house areas, collection storage, office spaces and Gallery spaces undergoing exhibition preparation, installation or deinstallation. This includes areas which are generally open to the public however, have been temporarily closed for maintenance, events or other reasons at the discretion of the Gallery.

**Work:** any literary, dramatic, musical or artistic work, art, film, installation, literary work, musical work, or similar item in which Copyright subsists.



## REFERENCES

*Copyright Act 1968 (Cth)*  
*Copyright Regulations 2017*  
Australia Council for the Arts *Protocols for using First Nations Cultural and Intellectual Property in the Arts*  
Copyright and Intellectual Property Policy

# NATIONAL PORTRAIT GALLERY

COVER: National Portrait  
Gallery visitors featuring  
*The Architecture of Music*  
(Vladimir Ashkenazy) 2011  
by Ralph Heimans (detail)  
Gift of Michael Crouch AC  
and Shanny Crouch 2017  
© Ralph Heimans