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1 POLICY STATEMENT AND PURPOSE

The Western Australian Museum (“the Museum”) lends objects, specimens and samples from its collection to other museums, universities and organisations for exhibition and research. The Museum also borrows objects, specimens and samples from other museums and institutions for similar purposes.

The lending and borrowing of objects, specimens and samples are an important means of delivering public value to the people of the State. For the Museum they are means through which it:

- increases access to the State’s collection for the education and enjoyment of the community;
- enhances and builds relationships with other institutions and organisations; and
- advances the knowledge of the collection.

Making more effective use of the Museum’s collections, while minimising any risk of significant loss or damage, should be the paramount consideration in approving loans.

2 BACKGROUND

This Policy sets out the rationale and arrangements for:

- outward loans from the Museum for the purpose of exhibition, research and/or other purposes;
- ‘grants’ of specimen samples to another institution or organisation for the purpose of destructive or invasive analysis;
- inward loans to the Museum from another institution, organisation, person or community;
- the ‘depositing’ of object/s, specimen/s or sample/s with the Museum for information or identification, to be otherwise examined and recorded and usually returned to the owner;
- the ‘custodial care’ of object/s held by the Museum on behalf of third parties; and
- the Museum’s commitment to undertake appropriate consultation with respect to loans for public display, and related obligations under the Protection of Cultural Objects on Loan (PCOL) scheme.

Note that procedures relating to other potential third party uses for Museum collections, for example commercial, promotional or charitable applications, are discussed in Section 7 of the Museum's *Collections Policy and Procedures*.

Gifts and donations made to the Museum are handled by a different policy and process to loans as they constitute a permanent transfer of ownership of an object. Please refer to the Deed of Gift and Library Donation Form in the *Collections Policy and Procedures*.

The movement of objects and specimens between the various sites of the Museum is not considered or treated as a loan, nor is the transfer of material, objects or specimens to an external organisation where it has been contracted (paid) by the Museum to conduct work on behalf of the Museum. Similarly, this Policy does not apply to objects transferred to the temporary custody of the Museum for the purpose of contract (paid) work, such as conservation treatments.

3 SCOPE

This Policy applies to all Western Australian Museum employees (whether by way of appointment, secondment, casual, fixed term contract or traineeship).

4 RELATED LEGISLATION AND SUPPORTING DOCUMENTS

4.1 Related Legislation

- *Museum Act 1969 (WA)*
- *Museum Regulations 1973 (WA)*
- *Maritime Archaeology Act 1973 (WA)*
- *Protection of Movable Cultural Heritage Act 1986 (Cwth)*
- *Underwater Cultural Heritage Act 2018 (Cwth)*
- *Protection of Cultural Objects on Loan Act 2013 (Cwth)*
- *Protection of Cultural Objects on Loan Regulation 2014 (Cwth)*
- *Aboriginal Heritage Act 1972 (WA)*
- *Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cwth)*

4.2 Appendices

1. Scientific Research Loan Agreement template
2. Short Form Outward Loan Agreement template
3. Outward Loan Deed template
- 3a. Annexure A – Condition Report
- 3b. Annexure B – Environmental Condition Report
4. Inward Loan Deed template
5. Custodial Care Deed template
6. Grant for Destructive Analysis template
- 7a. Exhibition Consultation Guidelines
- 7b. Consultation Template
8. Provenance Checklist

4.3 Related codes of ethics

- International Committee of Museums (ICOM) - *Code of Ethics for Museums*
- Australian Government Office for the Arts - *Australian Best Practice Guide to Collecting Cultural Material*

5 POLICY PRINCIPLES – LOANS

5.1 Outward loans from the Western Australian Museum

- a. Loans are made for the purpose of exhibition, display or research.
- b. Loans are not ordinarily made to private individuals, however, such requests may be considered on a case by case scenario.
- c. Loans are temporary arrangements for a specified period of time, although options to extend though the provision of an additional term, or renew loans may be offered.

- d. All loans are documented in writing using the applicable template documents; all extensions to loans are also documented in writing.
- e. No loans will be made when there is unreasonable risk to the safety of the loan object/s.
- f. The borrowing institution must provide adequate security and an appropriate physical environment for the object/s loaned.
- g. The Museum reserves the right to refuse a loan of any specimen/s or object/s.
- h. The Museum reserves the right to recall loans following a reasonable period of notice to the borrower.
- i. Transportation costs for object/s to be exhibited and other costs associated with the loan, such as packaging, are generally born by the borrowing institution.
- j. Outward transportation costs for the loan of specimens, samples or materials for scientific research may be borne by the lending institution, with the borrowing institution generally paying for the cost of returning the loan. In those cases where material will not be returned, the costs will be borne by the borrowing institution.

5.2 Loan requests criteria for exhibition or display purposes

Loan requests for exhibition or display purposes will be considered using these criteria:

- a. the condition of the object/s and its suitability for display;
- b. the credibility of the requesting organisation, including the qualifications and training of the staff caring for the objects;
- c. the scope of the exhibition or display and the reason for requesting the object/s or material;
- d. the exhibition or display facilities (including security, lighting, environmental control systems, fire systems etc.) and whether these meet the requirements to ensure the protection of the object/s requested;
- e. the length of loan requested;
- f. the Museum's ability to resource the administration and coordination of the loan request;
- g. the Museum's own requirements for exhibitions as well as research; and

- h. whether the borrowing institution has the necessary permits, letters of clearance and registrations to handle the materials, including moving them overseas.

5.3 Grants from the Western Australian Museum's Collection

The Museum will give emphasis to non-intrusive and non-destructive methods whenever possible. However, the Museum recognises the need to damage or destroy a portion of an object, such as a meteorite, mineral, frozen tissue or zoological specimen in order to carry out analytical research on their material content (or in some cases destroy a whole specimen).

The Museum will, under circumstances listed below, give consideration to providing external researchers with samples from its collections to supplement, support or enhance an existing or proposed sampling program. While every effort will be made to accommodate requests it is not the intention of the Museum to provide all of the material for projects outside of the Museum's research program. Decisions concerning requests for destructive sampling of collection items are made on a case-by-case basis. Some requests may also be subject to state and/or federal legislation

In general, specimens will only be made available for destructive research when adequate representative material or a duplicate is retained by the Museum; the research is to be performed by an institution with the highest credentials; the Museum will derive significant benefit in terms of access to results; and acknowledgement of the Museum as the source of the specimen is made.

Where the grant of material would result in the partial destruction of a specimen, the following considerations will apply:

- a. Only requests from institutions/organisations on behalf of qualified scientists likely to publish the results of their research will be considered.
- b. Institutions applying on behalf of a graduate student should include a letter from the student's Head of Department, or supervisor accepting responsibility for the proper use of the granted material.
- c. The Museum will supply the minimum amount of specimens/material needed to complete the research task.
- d. Each request will be considered using the following criteria:
 - i. the nature of the research proposed;
 - ii. the rarity and replicability of the sample;
 - iii. the amount of specimens/material on hand;

- iv. the credentials of the institution and researcher(s) and the outcomes of any previous loans; and
 - v. whether the institution has the necessary permits, letters of clearance and registrations to handle the materials, including moving them overseas.
- e. Grants will be documented in writing using the Scientific Research Loan Agreement (Appendix 1) and/or Grant for Destructive Analysis template (Appendix 6).
 - f. Unused portions of the grant may not be passed on to researchers at other institutions without the prior approval of the Museum. Unused portions of the grant, including DNA extractions if relevant, will be returned to the Museum.
 - g. Institutions and the researchers who receive the grant must acknowledge the Museum in publications based on the granted specimen or material and copies of the publications are to be provided to the Museum.
 - h. Grants are subject to the same approval delegations as outward loans (Section 6.6). Where a grant results in the complete destruction of an accessioned object or specimen (and not a part thereof), the grant constitutes a disposal and will be dealt with as a de-accession under Section 8 of the Museum's *Collections Policy and Procedures*.
 - i. The taxonomic name or identification of granted specimens and samples is provided by the Museum to the grantee to the best of the Museum's knowledge at the time the grant is made.

5.4 DNA and biologically active compounds

Museum specimens may potentially be a source of DNA sequences and biologically active compounds. Isolation of such sequences and compounds with a view to commercialisation is a growing area of research with complex legal implications not currently resolved in this State.

Staff should endeavour to ensure that specimens or derivatives from them are not provided to parties involved in such commercially oriented research unless an approved agreement is in place. Where staff believe commercially oriented research will be performed on a loan they should advise the Museum's Legal Policy Officer who will liaise with the Department of Mines, Industry Regulations and Safety on associated policy issues. Further guidance on this issue is available in Section 7 of the *Collections Policy and Procedures*.

Genetic material or products derived from specimens include: preparations containing DNA, RNA or other biomolecules; genetic libraries; copies of specimen DNA, RNA or

other biomolecules; chemical syntheses of products with sequences or structures determined by prior sequencing or structural investigations of the specimen DNA, RNA or other biomolecules, and any comparable products (e.g. minerals/meteorite samples).

5.5 Inward loans to the Western Australian Museum

- a. Loans are made to the Museum by institutions and individuals for the purposes of exhibition, display or research and according to the principles set out in this Policy.
- b. Incoming loans will be approved for a specified period of time, although extensions may be sought subject to approval of the delegated authority and Senior Responsible Officer.
- c. In undertaking loans Museum staff abide by legal obligations and national and international codes of ethics, including the International Council of Museums (ICOM) and the *Australian Best Practice Guide to Collecting Cultural Material*. The Museum undertakes loans following the processes of due diligence and with the consideration of the following factors:
 - i. the importance of facilitating public access to the State's collections and whether the loan will enhance such access;
 - ii. reputation of the lender and history of collaboration with the Museum;
 - iii. whether the Museum can comply with the terms and conditions of the loan set by the lender;
 - iv. compliance with legal and ethical obligations; and
 - v. whether the lender can provide acceptable provenance documentation and can assure the Museum of clear title to objects and that it has the authority to lend.
- d. The Museum will not borrow any material unless it is satisfied that it has not been acquired in, or exported from, its country of origin (or any intermediate country in which it may have been legally owned) in violation of that country's law. Museum staff are expected to exercise their professional judgement in determining the legal and ethical status of the object/s.
- e. The Museum will not proceed with a loan where due diligence reveals a concern about the legal title of the object or there are suspect circumstances or ethical concerns surrounding the loan (see clause 7.12 of this Policy for more information).

- f. The Museum is committed to making information about loans, and the process by which it borrows material for exhibition, available to the public.
- g. All incoming loans are documented in writing using either a loan agreement provided by the lending institution, or the Western Australian Museum's Inward Loan Deed. All loan extensions are documented in writing.
- h. All objects, specimens and samples loaned to the Museum for exhibition, research purposes and identification are afforded the same level of care whilst they are held as if they were objects in the State Collection.
- i. When the Museum borrows materials from another institution, it will follow the procedures prescribed and uses the agreement of the lending institution. The terms of such an agreement should not depart substantially from the terms and conditions of the Museum's own Inward Loan Deed.
- j. When the Museum borrows material from individuals or organisations with no lending procedures or agreements, the Museum's procedures will be followed and the contractual agreement will be in the format provided in the Inward Loan Deed template (Appendix 4).
- k. For loans of material held overseas to be afforded protection under the *Protection of Cultural Objects on Loan Act 2013* (the PCOL Act) the Museum will act in accordance with the PCOL Act and *Protection of Cultural Objects on Loan Regulation 2014* as outlined in the *Inward Loan Deed* and Section 7 below.
- l. The Museum recognises that the *Protection of Movable Cultural Heritage Act 1986*, to which the Museum is bound, implements Australia's obligations under *UNESCO Convention on the Means of Prohibiting and Preventing the Illicitly Import, Export and Transfer of Ownership of Cultural Property 1970* to which Australia is a state party.

5.6 Custodial care of material by the Western Australian Museum

- a. Individuals, communities and organisations including other government agencies may on occasion request that the Museum holds in its custody, object/s for proper care or storage for the short or long-term.
- b. All custodial arrangements will be documented in writing using the Museum's Custodial Care Deed template (Appendix 5).
- c. All objects accepted into the Museum's custody are afforded the same level of care and precautions for their protection whilst they are held, as if they were objects in the State Collection.

- d. Each request for custodial care will be considered using the following criteria:
 - i. the level of need from the requesting body (whether there are other suitable alternatives);
 - ii. prior relationship between the Museum and the requesting body;
 - iii. importance of the objects;
 - iv. the availability of storage space and other curatorial capacity; and
 - v. the Museum's own requirements.

5.7 Deposits made to the Museum

- a. Deposits are usually made to the Museum by individuals for the purpose of identification, attribution or to be otherwise examined or recorded and then returned to its owner.
- b. All object/s deposited with the Museum are afforded the same level of care and precautions for their protection whilst they are held as if they were object/s in the State Collection.
- c. When material is deposited with the Museum, the responsible staff will ensure the material is tracked, the necessary tasks undertaken and the object/s returned to the depositor, should the depositor wish, in a timely manner and in a satisfactory condition.

5.8 Consultation for Loans for Display (Temporary Exhibitions)

- a. As part of the process of planning for, and approving, inward loans for temporary display, consultation should be conducted with sections of the community to which the exhibition relates.
- b. For international loans, there must be an assessment of whether consultation is required, based whether or not the object relates to either:
 - i. an Aboriginal or Torres Strait Islander person;
 - ii. an Australian group or community;
 - iii. a State or Territory Archive.
- c. For Aboriginal and Torres Strait Islander cultural material consultation is mandatory. If the object relates to a State or Territory archive then consultation is

also mandatory and must be conducted with the person responsible for that archive, such as the State Archivist or State Records Officer.

- d. Following approval of an exhibition, the Curator or Registrar (if no Curator is assigned) attached to the loan or exhibition shall carry out an appropriate level of community consultation in line with the Exhibition Consultation Guidelines (Appendix 7a). The Consultation Template (Appendix 7b) should be used for guidance or adapted as may be appropriate. Outcomes from the consultation must be accurately recorded and attached to the Consultation Template as a single document.

6 PROCESS – OUTWARD LOAN AND GRANTS

6.1 Requests

Requests for outward loans may be made informally but should be followed up in writing to the Head of Department, or the person delegated to administer loans in the relevant department. A request for loan for scientific research purposes should be submitted from an institution or organisation by an authorised representative on behalf of the researcher/s. The request should specify the sample needed; the purpose for which it is requested and the amount required. The Museum will supply the minimum amount needed to complete the task.

The Museum will ensure that the borrower is informed of the likely costs, if any. In the case of loans for exhibition purposes costs may include, for example, conservation treatment prior to travel or display, valuations, the provision of customised packaging, transport, security, and cultural consultation.

The borrower should also be advised of the likely timeframes for considering their request and finalising the arrangements before dispatch of the objects, specimens or samples can take place. Borrowers should be advised that adequate forward planning is needed to arrange loans for exhibitions and that requests may be refused on the grounds of inadequate planning. For example, conservation and curatorial time may be required to facilitate the loan.

6.2 Management

The Head of Department or delegated officer is responsible for ensuring that the potential borrower provides all the information necessary to evaluate and give proper consideration to the request. This includes obtaining sufficient information to assess each request against the criteria set out under the Policy.

For example, in the case of an exhibitions loan the Head of Department, or delegated officer's responsibilities include, ensuring that the organisation has the appropriate security and environmental conditions to display the objects requested. In the case of loans for scientific research, the Head of Department or delegated officer should ensure that the institution is of good standing, has the necessary permits, clearances and registrations to move materials overseas (if applicable) and the researcher has the qualifications/supervision necessary to carry out the research outlined.

The Head of Department, or delegated officer should consult with conservation, research and exhibition staff where appropriate to ensure the preservation and integrity of the object/s is maintained at all times.

6.3 Terms and conditions of the loan or grant agreement

A range of standard loan agreements and letters of agreement have been drafted for use by the Museum. Copies of these standard documents can be found in the Appendices.

SUMMARY OF STANDARD LOAN AGREEMENTS	
Outward loan valued at less than \$10,000	“Short form” loan agreement or Scientific Research Loan Agreement, or Outward loan deed
Outwards loans to a total value of more than \$10,000	Outward loan deed
Inwards loans (any value)	Inward loan deed (or the lender's own loan document)

Where the total value of the outward loan is less than \$10,000 the delegated authority holder may elect to use one of three loan agreement templates:

- The Scientific Research Loan Agreement – designed for routine loans from the zoology and earth sciences collections to other scientific research institutions (Appendix 1);
- The “Short form” Loan Agreement – recommended for use with other routine, relatively low risk loans (Appendix 2); or
- The Outward Loan Deed (Appendix 3).

The former two documents are designed to be relatively easy to use for both borrower and lender, while referring to the most significant potential risks associated with the loan. The Outward Loan Deed (Appendix 3) is a more complex and comprehensive document, and should be utilised where the potential risks make it appropriate regardless of the dollar value of the loaned specimens. Note that the Outward Loan Deed must be utilised for any loan where the total value of the objects placed on loan exceeds \$10,000.

Special terms or conditions may need to be negotiated for any loan or grant, which are different from, or additional to, the standard agreements; particularly in the case of very valuable objects or specimens, large quantities of objects, or object/s with special care arrangements, for example, operable machinery. Significant variations to the terms and conditions of any loan agreement or grant contract may need to be reviewed by the Museum's Legal Policy Officer in the first instance and potentially also be referred to the State Solicitor's Office.

Timeframes for the period of loan and extensions to the loan, including notification of request for extension, are at the discretion of the delegated authority to sign the loan or grant agreement. The period of the loan will depend on the object or specimen being lent, the purpose of the loan, the request made by the borrowing institution and the Museum's own requirements.

6.4 Dispatching or receipting the transfer or movement of materials

Objects, specimens and/or samples should not be dispatched for loan or grant without an agreement having been finalised. All dispatch and movement of specimens should be tracked within the relevant collection database, or other appropriate documentation. Note that in all cases adequate provision must be made to ensure there is a separation of duties between the individuals processing and recording the loan, and the individual authorising the loan, and this must be captured through the loan records.

The method of dispatch, transfer or transportation of the objects, specimens or material is at the discretion of the Head of Department, or delegated officer. Material will be packed and handled according to museum industry best practice. Highly fragile or valuable objects, specimens or materials may be transported by a Museum courier. Other alternatives include:

- commercial courier;
- regular postal service; or
- registered mail.

Where couriers are necessary, the most cost effective option should be considered, and the payment of costs should be agreed in advance (in writing in the appropriate agreement).

6.5 Insurance

The Museum Collection is insured by RiskCover, the State Government's insurer. The Insurance Policy covers all objects in the Museum's Collection at all sites, for all of the Museum's normal operations. Normal operations include object/s under the 'care', 'custody' and 'control' of the Museum, such as those object/s on loan to the Museum; deposited with the Museum; or held in custodial care on behalf of another body (subject to certain disclosures to the Museum's insurer). This ensures that the Museum has the coverage it needs to protect its collection and other objects in its care, custody and control at all times to a standard the Museum deems appropriate.

The Museum lends to a wide range of borrowers, ranging from large national and international institutions to small not-for-profit community based organisations.

- a. Objects on loan for exhibitions to **funded organisations** such as local, state or national government cultural institutions, would normally require the Borrower to take out insurance coverage for the duration of the loan, including when the object/s are in transit.
- b. The Museum may elect to insure the loaned objects on behalf of **non-for-profit community based organisations** that may not have the capacity to arrange adequate insurance coverage.
- c. Where the value of a scientific loan for research cannot be ascertained or the market value of specimen is low then the loan agreement may omit reference to insurance at the discretion of the relevant curator. Where the value of an outward scientific loan either is, or is likely to be, over \$10,000, then the loan must be insured.

Variances to the Outward Loan Deed standard insurance clauses should be considered on a case-by-case scenario. Where the Museum agrees to insure objects while on loan to third parties, this must be agreed in writing (exchange of email is a minimum) and RiskCover must be advised of the particulars so it can extend insurance cover to the object (refer to the standard Outward Loan Deed, clause 2.19). A detailed copy of the Schedule and Environmental Condition Report, must be disclosed to the Museum's insurer through the Chief Finance Officer prior to dispatch of the Objects.

The Museum may consider the following options when negotiating variances to the standard insurance clauses of the Outward Loan Deed:

- a. Whereby the **Museum elects to insure the loaned object/s** on behalf of the *Borrower*:

- i. confirmation that the Museum elects to insure the loaned object/s on behalf of the *Borrower* for the term of the Agreement must be put in writing to the *Borrower* by the relevant delegate.
- ii. the *Borrower* should also be **informed in writing prior to the commencement of the loan** that even though the Museum may elect to insure the loaned objects whilst in the borrower's care, custody and control, the insurance policy is between the Museum and RiskCover and cannot be extended to cover the legal liability of the borrower. RiskCover may exercise its right of recovery from a third party where the third party has caused damage to or loss of a Museum object.

6.6 Delegation for outward loan and grant approvals

Approval for the lending or granting of objects, specimens, samples or materials will be on the following basis:

DELEGATION OF OUTWARD LOAN AND GRANT APPROVALS	
Curator	<ul style="list-style-type: none"> • Scientific grants that do not constitute a de-accession. • Outward loans for scientific purposes for all non-type, or non- primary type specimens valued at less than \$10,000.
Head of Department	<ul style="list-style-type: none"> • Other outward loans valued at less than \$10,000. • Outward loans for scientific purposes of all primary type specimens, or type specimens, with notification to the Executive Director Collections and Research (except for meteorites¹).
Executive Director Collections and Research*	<ul style="list-style-type: none"> • Outward loans valued from \$10,000 to \$250,000.
CEO	<ul style="list-style-type: none"> • Outward loans to the total value of \$250,000 but under \$5,000,000.
Trustees	<ul style="list-style-type: none"> • Outward loans to the total value of \$5,000,000 or more.

* Authority may be delegated to Head of Culture and Communities or Head of Science.

¹ For meteorites, sub-sampling can be undertaken without compromising the 'type' therefore there is no need to refer decisions on meteorites to the Executive Director Collections and Research

Loan extensions require approval at the same delegation as the original loan, unless the original loan carried a specific provision for an additional term (Item 5) under the Outward Loan Deed Schedule.

Note that an outline of the approval processes for travelling exhibitions is also provided in the Exhibition and Engagement Planning Committee (EEPC) Terms of Reference.

7 PROCESS – INWARD LOANS

7.1 Inward loans for exhibition - procedures

Managers and staff responsible for projects involving inwards loans are responsible for ensuring the Museum's compliance with all legislation relating to the collection of items and ethical and legal obligations regarding the import and loan of material, as well as abiding by international conventions that Australia is a party to. Note that while the due diligence provisions in this section are intended to apply specifically for inwards loans related to exhibitions or other public programs, it is expected that due diligence will be exercised in relation to provenance/ethical and legal issues in relation to any incoming loan.

7.2 Identification of objects for loan for exhibition and public display

As part of the content development of an exhibition, Curators are responsible for identifying works for potential loan for exhibitions, for undertaking negotiations with lenders as to the availability of the object for loan, and for carrying out due diligence in relation to provenance (see below). Curatorial staff use their professional judgement to assess the information they uncover in their provenance research including risk assessments and whether to seek legal advice on identified risks.

7.3 Provenance and due diligence of loan objects for exhibition and public display

When identifying potential loan items, Curators must practice due diligence in researching the object's provenance, consistent with the Australian and international best practice. International resources include *Combating Illicit Trade: Guidelines for Museums, Libraries and Archives on Collecting and Borrowing Cultural Material (2005)* and the International Council of Museums website (<http://icom.museum>). Due diligence extends to thoroughly evaluating and acting upon any new information that raises questions about the provenance or authenticity of objects to be loaned.

Provenance relates to the place of origin, maker/manufacturer and chain of ownership of an object, artwork, artefact or specimen. Provenance research is an essential part of a significance and authenticity assessment for scientific, archaeological, historical and art objects and while generally carried out by the institution that owns the object at the

point of acquisition, Curators may need to conduct similar research when borrowing material.

Curators need to pay particular attention to the chain of ownership of an object over periods of conflict, including historically (e.g. World War Two) and whether the object would be considered protected in its country of origin (archaeological material, rare and endangered species). Where there is a concern over legal title not being established prior to proceeding with a loan, further advice can be sought from the WA State Solicitor's Office (and if needed, the Commonwealth Office for the Arts' Protection of Cultural Objects on Loan (PCOL) team) to determine whether or not to proceed with the loan.

Part of the process of provenance and due diligence checking involves Curators considering the possibility of items deriving from the illicit trafficking of cultural property. Where concerns exist, curators must review UNESCO lists of stolen cultural property: (<http://www.unesco.org/new/en/culture/themes/illicit-trafficking-of-cultural-property/>), UNESCO Red Lists and stolen art databases, such as the Art Loss Register, and lists by Interpol as part of their provenance and due diligence research.

For all loan objects, Curators will need to be satisfied and be able to demonstrate that:

- the lender has authority to lend the object/s;
- there are no outstanding or current third party claims on the object;
- there is acceptable legal and provenance information available for the Museum to base its decision to proceed with the loan;
- there are no suspicions that the object/s was obtained through unauthorised or unscientific excavation of archaeological sites, illicit trade and unlawful export, the destruction or defacing of ancient monuments, historic places or buildings, or the theft from individuals, museums or other repositories;
- appropriate permits have been obtained;
- there are no community concerns about the loan and display of the object/s; and
- there are no conflicts of interest.

Loans must not proceed where there is any doubt about an object's legal or ethical status or where borrowing an object would adversely affect the Museum's reputation.

7.4 Community consultation for inward loans (Consultation planning)

The Museum is committed to open and meaningful consultation with the Australian community, with particular reference to Aboriginal and Torres Strait Islander people. It is the Curators' responsibility to consult with the appropriate community, on advice from the Western Australian Museum Aboriginal Advisory Committee (WAMAAC), in regard to potential objects for loan. This is particularly important for the potential loan of Aboriginal and Torres Strait Islander cultural material held in collections overseas.

It is a requirement of the *Protection of Cultural Objects on Loan Regulation 2014* (PCOL Regulation) that consultations occur with relevant communities prior to the import of loan items for exhibition and display.

The Exhibition Consultation Guidelines set out in Appendix 7a to this Policy set out the requirements for an Exhibition Consultation Plan. In summary, it should:

- Identify groups within Australian society who may have an interest in travelling exhibitions because an object within the exhibition is of significance to that group.
- Identify whether any objects are of Aboriginal and Torres Strait Islander origin and apply the processes set out in the Guidelines.
- Propose a method of communicating with those groups to measure the level of support for a proposed loan.
- Suggest means of community engagement in public programs that are themed around a particular exhibition.
- Identify issues with proposed loans that may be likely to be contentious and thus particularly require careful consultation.

Curators should refer to the Exhibition Consultation Guidelines for International Loans (Appendix 7a) for details on how to undertake community consultation.

A Consultation Template is included as Appendix 7b to this Policy, for general use or adaptation by staff.

7.5 International loans including 'buy-in' or 'hire' exhibitions

Where an inward loan is from an international lender and that lender has requested its objects be provided protection then the Museum will proceed in accordance with the *Protection of Cultural Objects on Loan Act 2013* (PCOL Act) and PCOL Regulation including the publication, consultation and reporting requirements.

Exhibition Consultation Guidelines for International Loans for Exhibition are attached as Appendix 7a to this Policy, and a Consultation Template is attached as Appendix 7b.

When the Museum borrows objects as part of an entire 'buy-in' or 'hires' exhibitions from an international or national lender it will ensure that the lender is reputable and request provenance information from the lender for the loan items. If the lender cannot provide acceptable provenance information, then the exhibition Curator will undertake independent provenance and due diligence checks. In all cases, where the lender's loan agreements are used the Registrar/Collections Manager will ensure that they include appropriate warranties from the lender regarding provenance, no third party claims and their authority to lend.

Any claims that may arise while objects are on loan to the Museum and are protected under the PCOL scheme will be handled in accordance with the requirements of the PCOL Regulation and the Museum's *Customer Feedback Policy*.

7.6 Inward loan approvals

Once a Curator has identified potential objects for loan, completed preliminary provenance checks, and if necessary, due diligence research and community consultation, the loans need to be approved and informally requested by the Head of Department. After approval and informal confirmation of the availability of the loan object from the lender, a loan request letter will be sent to the lender for in-principle agreement. The letter should be signed by the relevant delegate as per the Delegation of Loan Approvals table below.

The loan request letter should set out the following details where relevant:

- title of the exhibition and its venue and dates;
- organiser's name, address and contact details;
- scope/purpose of the exhibition and why the object/s have been included;
- term of the loan and any option for extension;
- touring details;
- details of object/s being requested;
- transportation arrangements;
- insurance/indemnity arrangements;
- related publications;

- facilities provided for the protection and care of the object/s;
- form of lender acknowledgement; and
- permission for copyright and reproduction.

Once written in-principle agreement has been provided by the lender, the Departmental Registrar is responsible for sending out the Inward Loan Deeds or negotiating amended lender loan agreements and the insurance and logistics of the loan.

DELEGATION OF INWARD LOAN AND APPROVALS	
Curator	Inward loans for scientific/research purposes for all non-type, or non- primary type specimens.
Head of Department	Inward loans for scientific/research purposes for all primary type specimens, or type specimens, with notification to the Executive Director Collections and Research. Other Inward loans for exhibition to the total value of \$10,000 or less.
Relevant Executive Director / Director	Inward loans for the total value of \$10,001 to \$250,000.
CEO	Inward loans for exhibition to the total value of \$250,001 but under \$5,000,000.
Trustees	Inward loans to the total value of \$5,000,000 or more.

7.7 Inward loan deeds and loan agreements

A standard Inward Loan Deed has been drafted by the State Solicitor’s Office. A copy of this document can be found in Appendix 4.

Where the lending institution does not provide an agreement setting out the terms and conditions of the loan, or the loan is made by an individual, the Museum will follow its own procedures and the contractual agreement will be in the format provided in the Inward Loan Deed.

In instances where the Museum ‘hires’ or ‘buys-in’ a temporary exhibition from another institution or organisation, the procedures and contractual arrangements are governed by the body offering the exhibition for hire. Where a lender uses their loan agreement it

should include reference to a warranty against third party claims, authority to lend and provenance information.

Once the terms have been agreed the relevant agreement can be finalised and signed by both parties.

7.8 Permits

Collection staff are responsible for obtaining any permits that may be necessary for inward loan items:

- Permits or certificate of exemptions under the *Protection of Movable Cultural Heritage Act 1986*.
- Permits or approvals required under the *Environment Protection and Biodiversity Conservation Act 1999*.
- Permits or approvals required by the Commonwealth, state or territory heritage laws including the *Underwater Cultural Heritage Act 2018* and the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*.
- Processes required by the Australian Customs and Border Protection Service and the Australian Quarantine and Inspection Service.

7.9 Conservation, logistics and security

Best practice of the lending institution is to place conservation conditions, security, display and logistical requirements in the loan agreement. It is expected that conservation and collection staff at the Museum and the lending institution will communicate regarding the details of these aspects, if relevant, before the loan agreement is finalised. Curators may begin these discussions in the early stages of loan negotiations, records of these early discussions need to be maintained once in-principle approval has been granted.

7.10 Record Keeping

The provenance checklist, along with any field notes and outcomes of consultation, need to be filed in accordance with the Museum's *Records Management Policy*.

7.11 Conflicts of interest

Any conflicts of interest pertaining to a loan will be handled in accordance with the Museum's *Conflict of Interest Policy*.

7.12 Additional considerations under the Protection of Cultural Objects on Loan (PCOL) scheme

7.12.1 Publication of information for inward loans from overseas

The Museum must publish on its website information about the objects borrowed from overseas under the PCOL Act four weeks prior to importation, until export. The information to be published will focus on descriptive and provenance information to enable the object/s to be identified. Information to be published includes (but is not limited to):

- a. a thumbnail image of the object;
- b. name of the lender/owner/person authorised to act on the lender's behalf;
- c. the name and nationality of the artist, manufacturer or creator of the object;
- d. the type of object;
- e. the title of the object;
- f. the place or likely place the object was created or manufactured; or if the object consists of archaeological or paleontological material, the place where the object was found, or likely to have been found;
- g. a description of significant or identifying marks or significant inscriptions on the object (for example the description of a signature or an inscription on the back of a painting);
- h. the date on which the object was created or the period in which the object was created or likely to have been created;
- i. object dimensions;
- j. provenance information, including the date and place the object was acquired by its current owner and where possible the date and place the object was acquired by the person who owned the object immediately before the object's current owner; and
- k. addresses in Australia where the object is to be displayed and dates of exhibition.

The Museum acknowledges that it may make an application to the Minister for the Arts via the Australian Government Office for the Arts requesting permission not to publish some or all of the required information and that this request must be made in writing at least eight weeks before the object is imported.

Additional details on information to be published and exemptions from publishing is found in the PCOL Regulation and PCOL scheme guidelines.

7.12.2 Opt-out of protection

The Museum notes that all objects imported for loan under the PCOL Act are afforded automatic protection. However, there may be some circumstances where the Museum may not want protection to extend to particular objects. In these circumstances, the Museum will liaise with the lender regarding the decision to opt-out and the lender will be advised that the objects imported for exhibition will not be protected.

The Museum is required to advise the Commonwealth Minister for the Arts of its intention to opt-out of protection at least four weeks prior to their importation into Australia. Where the Museum opts-out of protection, it is not required to undertake consultation or publication.

7.12.3 Claims handling

The Museum has published on its website its claims handling process for any claims on objects which are protected under the PCOL Act.

Should a claim be made, the Museum will consider the nature of the request and circumstances of the enquiry or claim to determine if the claim is justified. The Museum must reply to potential claims and those with a significant enquiry about an object within 28 days of receiving a request for information. As required under the PCOL scheme, the Museum will advise the Minister for the Arts via the Commonwealth Office for the Arts of any significant enquiries or claims.

Specific details of what information is to be provided by and to the claimant can be found in the PCOL Regulation and PCOL scheme guidelines.

7.12.4 Annual Reports

The Museum is required to report annually on objects that are imported from overseas under the PCOL Act. Information to be contained in the report can be found in the PCOL Regulation and PCOL scheme guidelines. The report must be supplied to the CEO for approval and then submitted to the Commonwealth Office for the Arts for provision to the Minister for the Arts by 31 October. The Museum must publish on its website information about the objects loaned under the PCOL Act.

8 PROCESS – TEMPORARY CUSTODIAL CARE BY THE WESTERN AUSTRALIAN MUSEUM

Requests for the Museum to take 'custodial care' of object/s on behalf of an individual, community or organisation are not limited to but most likely to involve object/s of Aboriginal or Indigenous cultural heritage importance.

In considering whether to proceed, staff will actively consider the possibility of items deriving from the illicit trafficking of cultural property and where concerns exist, review UNESCO lists of stolen cultural property as part of Due Diligence and Provenance procedures/assessments.

Where there is a concern over legal title not being established prior to proceeding with a loan specialist advice might be sought from the Museum's Legal and Policy advisor and the State Solicitor's Office. Loans must not proceed where there is any doubt over the validity of the lender's title in the object/s concerned.

Requests should be made in writing where possible, with the agreed terms and conditions of the custodial arrangements set down in a plain English contract. A standard Custodial Care Deed template is at Appendix 5.

9 PROCESS – DEPOSITS MADE TO THE WESTERN AUSTRALIAN MUSEUM

From time to time, members of the public deposit object/s, specimen/s and materials with the Museum for identification, comment, attribution, or to be otherwise examined and recorded and then usually returned to its owner.

Regulation 9 of the *Museum Regulations 1973*, provide for the following:

9. Unclaimed Specimens

- (1) Where a specimen or other thing has been received on behalf of the Museum for the purposes of identification or for a similar purpose and at the time it was received no undertaking was given to return it to the person from whom it was received, the Director may, at his discretion, retain that specimen or other thing for Museum use or he may destroy or dispose of it as he thinks fit if it is not reclaimed from the Museum within 30 days of its receipt.
- (2) No liability arises in respect of the destruction or disposal of a thing carried out in pursuance of this regulation.

The Museum's normal procedures for 'returning' a deposit involve making it available for collection at an agreed location. In certain circumstances, the offer might be made by the Museum to 'return' the object/s by post.

Every endeavour should be made by Museum staff when accepting a deposit to establish whether or not the person or organisation making the deposit wishes to have the object/s returned by way of collecting the object/s or specimen/s following its identification, attribution, or examination.

The depositor should be made aware of the likely timeframes for having the specimen identified, attributed, or otherwise examined and the Museum's right pursuant to the regulations to dispose of an object/s should it be unclaimed.

Materials, specimen/s, object/s, artefacts or relics that are covered by the provisions of:

- i. Part VI of the *Museum Act 1969 (Meteorites)*;
- ii. section 6 and 7 of the *Maritime Archaeology Act 1973*; or
- iii. the *Underwater Cultural Heritage Act 2018 (Cwth)*, may not be returned to the depositor, should they be found to rightfully be the property of the Crown vested in the Museum or the Commonwealth.

10 DEFINITIONS

In this Policy, the following terms have the meanings attributed to them:

Term	Definition
Accessioning	The formal process of recording an object or specimen lot as a collection object/s and assigning to it a unique registration with appropriate documentation.
Curator	May refer to a specific job title or, in relation to Section 7 of this Policy, the manager or senior staff member of a project responsible for identifying and recommending suitable incoming loans.
Custody	An arrangement where an individual, community or organisation has requested the Museum holds an object on their behalf for the purpose of care and storage. This may be on a short or long term basis, but it does not involve a transfer of ownership to the Museum.



De-accessioning	The formal process of removing an object/s permanently from the collections.
Deposit	The temporary physical transfer of an object from a member of the public to the Museum to enable an object or specimen to be identified, attributed, restored, conserved or otherwise examined or recorded. It is then usually returned to its owner and does not normally involve a transfer of ownership to the Museum. [Except where objects or object/s are covered by Part VI of the <i>Museum Act 1969</i> (Meteorites), section 6 and 7 of the <i>Maritime Archaeology Act 1973</i> , or the <i>Underwater Cultural Heritage Act 2018</i> (Cwth).]
Gift	A gift or donation is a permanent physical transfer of a specimen, or object from an individual or organisation to the Museum or from the Museum to another institution, where there is a transfer of ownership to or from the Museum.
Grant	The permanent physical transfer of specimens, or samples of specimens from the Museum to another organisation involving the destruction of the specimen or sample for research purposes. The Museum would not expect to have the specimen or sample returned, but may require, data, or the results of the research to be provided as a term of the grant. If the Museum does expect the remains of the specimen, slides or tissue samples to be returned, this transfer is to be considered an outward loan.
Internal movement	Is a temporary or permanent transfer/movement of an object or specimen between the various sites of the Museum. This is not considered a loan.
Inward loan	Is a temporary physical transfer of specimens, or objects from another organisation or individual to the Museum where there is no transfer of ownership. This includes inward loans of objects or specimens intended for research, exhibition and identification purposes. Specimens or objects from another institution or organisation intended for temporary exhibitions are included in this category of loan.
Invasive and/or destructive analysis	Including dissection for research purposes, generally involves irreversible changes to the object or specimen involved and may include its complete destruction. Where specimens or samples are loaned for scientific research and subjected to invasive analysis, the Museum may require the

	remains of the specimen or parts of the specimen (including slides and tissue samples) to be returned with data resulting from the research. If the remains of the specimen are not to be returned, the transfer of the specimen is considered a 'grant', rather than a loan (see above definition of grant).
Loan Agreement	Is the contract entered into between the lender and the borrower. It specifies the terms and conditions of the loan including the respective responsibilities of each party.
Object	Means reference to an artefact; material; item or works archaeological or historical interest.
Outward loan	Is a temporary physical transfer of specimens or objects from the Museum to another organisation for exhibition or scientific research, where no transfer of ownership is involved.
Primary type specimens	For specimens of animals and plants (including fossils), 'primary type specimens' are those specimens designated as holotypes, syntypes, neotypes or lectotypes as defined in the International Code of Zoological Nomenclature and the International Code of Botanical Nomenclature.
Sample	Means reference to a portion, piece, or segment of tissue, meteorites, zoological, botanical and geological material.
Specimen	Means reference to an individual, object, or part regarded as typical of the group or class to which it belongs.
The State collection	Consists of objects and specimens with provenance and associated data that have been accessioned into the Museum's collections.
Type specimens	For specimens of minerals and meteorites, 'type specimens' are those specimens designated as holotypes, cotypes or neotypes as approved by the International Mineralogical Association and the Nomenclature Committee of the Meteoritical Society, respectively.