

Loans policy and procedures

Version Control

APPROVED BY:	CEO and Board of Trustees		
DATE EFFECTIVE:	October 2015	RELEASE:	October 2015
DOCUMENT AUTHOR:	Robin Ho, Principal Policy Officer		
DOCUMENT OWNER:	Director, Organisational Development		
RESCISSIONS AND REPLACEMENTS	Loans policy and procedures – September 2008		
NEXT REVIEW DATE:	November 2016		
CENTRAL RECORDS FILE No.	2008/0305V03		

Revision History

Revision Date	Document #	Summary of Changes / Revision	Changes by / Consultations	Authorised by
13 August 2008	Draft # 1		Robin H	Peter S
17 September 2008	Draft # 2	Heads of Department meetings 27 August and Executive Director, Collections Management	Robin H	
23 September 2008	Draft # 3	Feedback from Heads of Departments	Robin H	
30 September 2008	FINAL	Endorsement by EMT	Robin H	EMT
12 February 2009	Amendment – 2.5 Insurance	Based on Advice from the State Solicitors Office	Robin H	
November 2009	Re-format document	Format document and reword, as required. All changes tracked.	Adriana M	
November 2009	Revision – 2.5 Insurance	To provide clear and simple insurance options for consideration for each loan proposal, in sync with RiskCovers' advice.	Adriana M	EMT
7 December 2009	Resubmit to EMT	Resubmit to EMT for endorsement of changes	Adriana M	EMT
October 2015	Ver 1.1	Include amendments to reflections new delegations limits and provenance requirements for inward loans.	Fred Saunders	CEO and Board of Trustees

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1 Policy Statement

The Western Australian Museum lends objects, specimens and samples from its collection to other museums, universities and organisations for the purpose of exhibiting and scientific research. The Museum is also a borrower of 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 achieving the purposes of the Western Australian Museum. For the Museum they are means through which:

- increasing access to the states collection for the education and enjoyment of the community;
- enhancing and building relationships with other institutions and organisations; and
- advancing the knowledge of the collection.

Minimisation of the risk of loss or damage to objects, specimens and samples 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 specimens or samples to another institution or organisation for the purpose of research;
- 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, Identification or Conservation, to be otherwise examined and recorded and usually returned to
- the owner; and
- the ‘custodial care’ of object/s held by the Museum on behalf of third parties.

Requests for the use of the collection for non-museum purposes, including commercial, promotional, publications, charitable or other non-museum purposes will be considered on their merits by the Executive Director, Collection Content and Development, on the advice of the relevant Head of Department. Such use must always acknowledge the Museum, and notwithstanding such credit, fees may be charged for the use of the object/s.

Arrangements for loans made for the purpose of supporting public education are currently being reviewed and are considered to be a separate category of loan. They are not dealt with in this policy.

Similarly, 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 *Deed of Gift* and *Library Donation Form*.

The movement of objects and specimens between the various sites of the Western Australian Museum is not considered or treated as a loan (refer to *Appendice 7* -

Internal Loan Schedule), nor is the transfer of material, objects or specimens to an external organisation where it has been contracted (paid) by the Museum to conduct research, or other work on behalf of the Museum.

3 Scope

This Museum-wide policy applies to all staff, in particular policy owners and authors. policy owners and authors. The appendices form part of the policy.

4 Related Legislation and supporting documents

4.1 Related legislation

- [Museum Act 1969](#)
- [Museum Regulations 1973 \(WA\)](#)
- *Protection of Movable Cultural Heritage Act 1986*
- *Historic Shipwrecks Act 1976 (Cwth)*
- *Protection of Cultural Objects on Loan Act 2013 and Protection of Cultural Objects on Loan Regulation 2014*
- *Aboriginal Heritage Act 1972 (WA) and the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cth)*

4.2 Supporting documents

- Museums Australia – Code of Ethics
- International Committee of Museums (ICOM¹) - Code of Ethics for Museums 1.
- NAME Loan Template
- NEMO Standard Loan Agreement
- Ministry for the Arts, Australian Best Practice Guide to Collecting Cultural Material, 2013 - Exhibition Program Selection, Approval and Planning Policy and Procedures

4.3 Appendices

- Outward Loan Deed
- Inward Loan Deed
- Deed of Gift
- Grant for Destructive Analysis
- Custodial Care Deed – including Proposal; Return/Retrial Form; Proposal Decline; Extension Approval Form
- Scientific Research Loan Letter of Agreement
- Internal Loan Schedule
- Delegation of Authority for Grant and Loan Approvals.
- Conservation Condition Report
- Environment Condition Report

¹ ICOM establishes ethical standards which must be adopted and respected by museums and museum professionals. It organises co-operation and mutual assistance between museums and between museum professionals.

- Provenance Checklist for International Loans for Display
- Items for Information, Identification or Conservation - This electronic format has been uploaded for your reference only. *Please continue to use the carbon copied printed booklets.*
- Dispatch, Invoice and Receipt Form - This electronic format has been uploaded for your reference only. *Please continue to use the carbon copied printed booklets.*

5 Loan criteria - principles

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, or renew loans may be offered.
- d. All loans and extensions to loans are documented in writing using the Museums Outward Loan Deed.
- 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 as specified in the Outward Loan Deed.
- 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, as provided for in the loan agreement.
- 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 are generally born by the lending institution, with the borrowing institution generally paying for the cost of returning the loan.

5.2 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; and
- g. the Museum's own requirements for exhibitions as well as research.
- 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).

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.

- a. Only requests from institutions on behalf of researchers will be considered.
- b. Institutions applying on behalf of a graduate student should include a letter from the students' 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
 - 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 a museum grant agreement.
- f. The researcher must be a qualified scientist who is likely to publish the results of their research.
- g. Grants will not be made to institutions on behalf of researchers who have not made good use of material or who have not fulfilled grant requirements in the past.
- h. Unused portions of the grant may not be passed on to researchers at other institutions without the prior approval of the Museum.
- i. 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.

- j. Outward transportation costs for the granted specimens, samples or materials are generally born by the lending institution, while the borrower is responsible for the costs of returning the loan.
- k. 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 (see section 2.8).
- l. The taxonomic name or identification of granted specimens and samples is provided by the
- m. 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.

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. Museum procedures including the staff responsible for inward loans are set out in the Inward Loans Procedures document.
- b. Incoming loans will be approved for a specified period of time, although extensions may be sought subject to approval of the delegated authority or Exhibition Project Control Group (where applicable).
- c. In undertaking loans Museum staff abide by legal obligations and national and international codes of ethics including the International Council of Museums (ICOM), Museums Australia and the 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. reputation of the lender and history of collaboration with the Museum;
 - ii. whether the museum can comply with the terms and conditions of the loan set by the lender;
 - iii. compliance with legal and ethical obligations; and
 - iv. 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 legal
- 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.
- 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 and extensions to loans are documented in writing using either a loan agreement provided by the lending institution, or the WA Museum's *Appendix 2 - Inward Loan Deed*.
- h. All object/s, 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 object/s 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 however the Museum will ensure the due diligence clauses from the Museum's own inward loan agreement are replicated.
- 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 *Appendix 2 - Inward Loan Deed*.
- k. For loans of material held overseas to be afforded protection under the *Protection of Cultural Objects on Loan Act 2013* (the Act) the Museum will act in accordance with the *Act and Protection of Cultural Objects on Loan Regulations 2014* as outlined in *Appendix 2 – Inward Loan Deed* and *7. Process – Inward Loans to the Western Australian Museum*, 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*.
- c. All object/s accepted into the Museum's custody are afforded the same level of care and precautions for their protection whilst they are held, as if there were object/s in the State Collection.
- d. When the Museum accepts the custody of materials, Museum procedures will be followed.
- e. 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
- 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 conservation or to be otherwise examined or recorded and then returned to its owner.
- b. All deposits are documented in writing using the Museum's Item/s Submitted for Information, Identification or Conservation Form, refer Appendice "a".
- c. 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.
- d. When material is deposited with the Museum, Museum procedures will be followed to ensure
- e. 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.

6 Process – Outward Loan and Grants

6.1 Requests

Requests for outward loans 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.

Following a request for a loan or grant, the enquirer will be provided with a copy of the Museum's *Loans Policy*.

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

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.

A request for loan for scientific research purposes should be submitted in writing to the Head of Department from an institution or organisation 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.

6.2 Management

The Head of Department or delegated officer is responsible for ensuring that the borrower has all the information the borrower needs to finalise their request for an object/s, specimen/s or sample and that the Museum has 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 exhibitions 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 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 standard Outward Loan Deed and standard Letter of Agreement for Scientific Loans have been drafted by the State Solicitor's Office. Copies of these standard documents can be found in Appendices. These will be made available on the Museum's website along with a copy of the Museum's Loans Policy.

Special terms or conditions may need to be negotiated for the loan or grant, which are different from, or additional to, the standard agreement; particularly in the case of very valuable objects or specimens, large quantities of objects, or object/s with special care arrangements, for example, not operating cars or machinery that are operable. Significant variations to the terms and conditions of any loan agreement or grant contract may need to be reviewed by the State Solicitor's Office for their advice and should therefore be referred to the Policy and Legal Unit for review and consultation with State Solicitor's Office, if required.

Time frames for the period of loan, extensions to the loan, including notification of request for extension are at the discretion of the Head of Department, subject to the approval of the person who has 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.

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

6.4 Dispatching or Receiving 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.

- a. A dispatch 'invoice' (in triplicate) should be completed and signed by the Head of Department, or delegated officer. Refer to Appendice "b" for an

electronic copy of the *Dispatch, Invoice, and Receipt form*.

- b. One copy is to be retained by the Museum following dispatch.
- c. Two copies should accompany the object/s being transferred.
- d. One of these copies should be signed by the borrower on receipt of the object/s and returned to the Museum, and
- e. the other should be signed by the borrower and returned with the object to the Museum at the
- f. end of the term of the loan.

Dispatching documentation can also be used in addition to the Internal Loan Schedule to track the transfer of material between the Museum's own sites and to other external bodies that are contracted by the Museum to undertake work on the Museum's behalf.

Dispatch documentation should be linked or integrated into collection management systems.

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's 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 WA 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 WA Museum's insurer). This ensures that the WA 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 WA Museum deems appropriate.

The WA Museum lends to a wide range of borrowers, ranging from large national and international institutions, such as the National Museum of Australia, to small not-for-profit community based organisations, such as the Rottnest Island Museum.

- i. Object/s on loan to **funded organisations** such as local, State or national government museums, would normally require the Borrower to take out insurance coverage for the duration of the loan, including when the object/s are in transit.
- ii. The WA 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.

- iii. Object/s or specimens loaned for scientific research are valued according to scientific significance, originality or rarity. It is common in the case of Scientific Loans that the WA Museum elects to insure the loaned specimen/s on behalf of the Borrower.

6.5.1 Variances to the Outward Loan Deed standard insurance clauses should be considered on a case-by-case scenario by the relevant delegate (refer to 6.6 – Delegation of Loan and Grant Approvals) and a risk assessment (refer to *Risk Management Policy 2007 – Risk Reference Tables*) should be conducted, prior to approval². Variances should be committed in writing to the Borrower, as per stipulated in clause 4.7, Waiver.

A detailed copy of the *Schedule and Environmental Condition Report*, **must be disclosed to the WA Museum's insurer** through the Strategy and Performance department prior to dispatch of the *Object/s*.

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

- (i) Whereby the **WA Museum elects to insure the loaned object/s** on behalf of the *Borrower*:
- (a) confirmation that the WA 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.
- (b) the *Borrower* should also be **informed in writing prior to the commencement of the loan** that even though the WA Museum may elect to insure the loaned objects whilst in the borrower's care, custody and control, the insurance policy is between the WA 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 WA Museum object.

*Important - The following wording has been developed in accordance with RiskCovers' recommendations and **must** be included in correspondence to the Lender whereby the Museum has elected to insure the loaned object/s:*

Pursuant to clause 2.19, (a) of the Outgoing Loan Deed, the WA Museum (Lender) elects to insure the loaned object/s whilst in the Borrower's care, custody and control.

The insurance policy is between the WA Museum and RiskCover and does not extend 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 WA Museum object/s.

- (ii) On a case by case scenario, the Museum may **elect to insure the loaned object/s on a cost recovery basis**. For particulars on how to calculate the Museums fees, please contact the Policy and Legal

² Loss or damage to an Object/s of significant value would result in higher premium for the Museum if a claim was made.

Unit. Criteria 5.5.1 (a) and (b) should also be adhered to.

- (iii) Any other variations to the standard insurance clauses and/or options provided above must be referred to the Policy and Legal Unit for consultation with RiskCover.

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 LOAN AND GRANT APPROVALS (Aligned with Financial Delegations)	
Head of Department	<ul style="list-style-type: none"> • Grants that do not constitute a de-accession. • Outward loans for scientific purposes for all non-type, or non- primary type specimens. • Outward loans for exhibition to the total value of \$10,000.
Relevant Executive Director / Director	<ul style="list-style-type: none"> • Outward loans for scientific purposes or all primary type specimens, or type specimens, with notification to the Chief Executive Officer (CEO) (except for meteorites³). • Outward and Inward loans for exhibition to the total value of \$10,001 to \$250,000.
CEO	<ul style="list-style-type: none"> • Outward loans for exhibition to the total value of \$250,001 but under \$5,000,000.
Trustees	<ul style="list-style-type: none"> • Outward loans to the total value of \$5,000,000 or more.

[Note: Approval processes for travelling exhibitions are also dealt with in the *Exhibition, Program Selection, Approval and Planning Policies and Procedures*].

6.7 Grants may constitute Disposal/De-accessioning

The decision to dispose of, or de-accession an object or specimen of the State Collection by exchange, sale, gift, grant or destruction is the responsibility of the Board of Trustees of the Museum.

Grants involve the destructive analysis or invasive sampling of specimens, resulting in irreversible changes to the specimen and sometimes the total destruction of the object/s. Grants may involve the destruction of a part, or whole of an accessioned object/s.

Where grants involve the destruction of a whole accessioned specimen or object, the grant should be treated as a disposal and should follow principles and procedures for de-accessioning. This requires the authorisation of the Board of Trustees. The Board of Trustees meet bi-monthly. Bodies making requests for grants involving the destruction of an accessioned specimen or object need to be aware of the timeframes associated with such approvals.

³ 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 for Perth Museums and Collections

7 Process – Inward Loans

7.1 Inward Loans for exhibition – procedures

Curators and Registrars 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.

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 and for undertaking negotiations with lenders as to the availability of the object for loan. An essential part of identifying suitable loan objects for exhibition requires provenance and due diligence checking including chain of ownership, authenticity, whether the lender is reputable, if the loan object was legally acquired and/or exported from its country of origin or any intermediary country and the loan and display of the object is ethical. 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

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)* (<http://www.museumsassociation.org/download?id=17156>) 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 loan objects.

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 (i.e. World War Two) and whether the object would be considered protected in its country of origin (archaeological material, rare and endangered species). The Provenance Checklist, Appendix 6 of the Exhibition Program Selection, Approval and Planning document, is the template for curatorial research as well as the document that Registrars will request lenders complete during loan negotiations (after in-principle agreement). Where there is a concern over legal title not being established prior to proceeding with a loan, specialist advice can be sought from the Museum's Legal and Policy advisor and/or the State Solicitor's Office in determining whether 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. 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 demonstrate and document 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, 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. All loans should undergo a risk assessment according to the Museum's Risk Management Policy.

7.4 Community consultation for inward loans

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 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.

Curators should refer to the Exhibition Consultation Guidelines for details on how undertake community consultation.

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 Regulations including the publication, consultation and reporting requirements. Exhibition consultation must be carried out in line with the Exhibition Consultation Guidelines set out in Appendix 6 to the Exhibition Program Selection, Approval and Planning Policy.

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. If there are still gaps and questions raised in this research then the Registrar/Collections Manager will request the lender complete the Provenance Checklist prior to the signing of the Inward Loan Deed, or the lender's Loan Agreement.

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 Comments, Compliments and Complaints 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 Head of Department, Director, Executive Director or Chief Executive Officer, whichever is most appropriate 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; and
- facilities provided for the protection and care of the object/s. xi. form of lender acknowledgement;
- 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. Where there may be questions around an object's provenance, and the Curator has not been able to obtain this information from the lender, the Department Registrar or Collections Manager will need to request the lender complete the Provenance checklist prior to the final loan agreement being signed.

DELEGATION OF LOAN AND GRANT APPROVALS (Aligned with Financial Delegations)	
Head of Department	<ul style="list-style-type: none"> Inward loans for scientific purposes for all non-type, or non- primary type specimens. Inward loans for exhibition to the total value of \$10,000.
Relevant Executive Director / Director	<ul style="list-style-type: none"> Inward loans for scientific purposes for all primary type specimens, or type specimens, with notification to the Chief Executive Officer (CEO) (except for meteorites). Inward loans for exhibition to the total value of \$10,001 to \$250,000.
CEO	<ul style="list-style-type: none"> Inward loans for exhibition to the total value of \$250,001 but under \$5,000,000.
Trustees	<ul style="list-style-type: none"> 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 the Appendices.

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 Appendix 2 - Inward Loan Deed.

Special terms or conditions may need to be negotiated for the loan, which are different from, or additional to, the standard agreement. Variations to the terms and conditions of any loan agreement may need to be reviewed by the State Solicitor’s Office for their advice and should therefore be referred to the Policy and Legal Unit for review and consultation with State Solicitor’s Office, if required.

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 will be amended to include 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

Registration 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*
- Export permits from the country of origin and/or the country where the object will be imported from

- 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 *Historic Shipwrecks Act 1976* 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 logistic requirements in the loan agreement. It is expected that Conservation and Registration staff at the Museum and the lending institution will communicate regarding the details of these aspects 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 provided to the Collections Manager 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 Record Keeping Policy.

7.11 Conflicts of interest

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

7.12 Additional considerations under the Protection of Cultural Objects on Loan 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 type of object
- d. object dimensions
- e. date on which it was created
- f. provenance information
- g. 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 Ministry 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 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 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 Act.

Should a claim be made the Museum will consider the nature of the request and circumstance 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 scheme the Museum will advise the Ministry 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 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 scheme guidelines.

The report must be supplied to the CEO/Director for signing and then submitted to the Ministry 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

8 Process – 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 review UNESCO lists of stolen cultural property: [<http://www.unesco.org/new/en/culture/themes/illicit->

trafficking-of-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. Additionally, Form 'e' (Provenance Checklist for International Loans for Display) should be completed by the lender to assist with decision making.

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. See Appendix 5 which provides the standard Custodial Care Deed.

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, conservation, or to be otherwise examined and recorded and then usually returned to its owner. Such deposits are processed using an *'Item/s Submitted for Information, Identification or Conservation Form'*, refer *Appendix "a"*.

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 officials 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, conservation or examination.

The depositor should be made aware of the likely timeframes for having the specimen identified, attributed, conserved 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 *Historic Shipwrecks Act 1976 (C'wth)*, 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 Further Information

Further information or queries about this policy may be directed to the Museum's Director, Organisational Development at robin.ho@museum.wa.gov.au.

11 Definitions

For the purpose of this document, the following definitions apply.

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.
Collection	means reference the State Collection – refer to definition <i>State Collection</i> .
Custody	an arrangement where an individual, community or organisation has requested the Museum hold 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 Museum Act 1969 (Meteorites), section 6 and 7 of the Maritime Archaeology Act 1973, or the Historic Shipwrecks Act 1976 (C'wth).]
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 transfer	Is a temporary or permanent transfer of an object or specimen between the various sites of the Museum. This is not considered a 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).
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.
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.
Permits	reference to those 'permits' applicable to the export of cultural heritage objects from Australia and/or transfer of possession or removal from Australia of a historic shipwreck relic. <ul style="list-style-type: none"> i. Application for Transfer of Possession or Removal from Australia of a Historic Shipwreck Relic – Under Section 15 of the Commonwealth Historic Shipwrecks Act 1976. The WA Museum Chief Executive Officer has delegated authority to administer sections 10(i); 11(i) and 15 under the Historic Shipwrecks Act 1976 (Cth). ii. Class B Permit – Application for a Permit to Export Cultural Heritage Objects from Australia - Class "B" object/s are protected under the Protection of Movable Cultural Heritage Act 1986 and are subject to General Permit No: 25, Issued [to the Western Australian Museum] under section 10A of the Act. This authorises WA Museum to export on loan from Australia any number of Class "B" Australian protected object/s accessioned into its collection e.g. historic shipwreck material ...]
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.
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.
The State collection	consists of objects and specimens with provenance and associated data that have been accessioned into the Museum's collections.