

Loans policy

POL-C-036

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1. Title

Loans policy

2. Introduction

The National Museum of Australia (the Museum) is a major cultural institution charged with researching, collecting, preserving and exhibiting historical material of the Australian nation. The Museum focuses on the three interrelated areas of Aboriginal and Torres Strait Islander history and culture, Australia's history and society since European settlement in 1788 and the interaction of people with the environment.

Established in 1980, the Museum is a publicly funded institution governed as a statutory authority in the Commonwealth Arts portfolio. The Museum's building on Acton Peninsula, Canberra opened in March 2001.

3. Scope

This policy applies to the outward and inward movement of material from the Museum's collections and to the Museum, otherwise referred to as 'outward loans' and 'inward loans'.

3.1 Purpose

The objectives of this policy are to outline the principles and guidelines that:

- enable the display of objects from the Museum's collections and other collections to the widest possible audience
- provide appropriate conditions and controls under which other organisations may borrow historical material from the Museum, and the Museum may borrow historical material from other organisations, for the purposes of exhibition, research and operational use
- provide access to the Museum's collections and borrowed objects while providing protection to the objects, the Museum, lenders and borrowers.

3.2 Rationale

The functions of the Museum are set out in section 6 of the *National Museum of Australia Act 1980* ('the NMA Act') and include:

6(1)(b) to exhibit, or to make available for exhibition by others, historical material that is in the national historical collection or otherwise in the possession of the Museum

6(1)(baa) to exhibit material, whether in written form or in any other form, that relates to Australia's past, present and future

6(1)(ba) from time to time as the occasion requires, to exhibit, by itself or in collaboration with others, in Australia or elsewhere, material, whether in written form or in any other form and whether relating to Australia or to a foreign country.

Section 7 of the NMA Act sets out the powers of the Museum to do things in connection with the exercise of its functions, including:

7(2)(a) to purchase or take on hire, or to accept as a gift or on deposit or loan, historical material

7(2)(b) to lend or hire out or otherwise deal with historical material.

Council has delegated the power to approve loans to a limited number of Museum officials. Delegates can exercise these powers to approve inward and outward loans, subject to the terms of Council's delegation and having regard to the Museum's Collections policies.

This policy sets out guidelines for the Museum in regards to the inward and outward loans of objects (including historical material).

4. Guidelines for outward loans

4.1 Approvals

Loans will be made only in accordance with this policy. The delegate may add special conditions to a loan agreement as required, provided they are not at variance with these guidelines or the conditions of loan.

If a delegate proposes to vary the conditions of a loan the delegate must consult with the Head, Collection Care and Management before doing so.

4.2 Loan assessment criteria

Unless otherwise agreed, the Museum will generally prioritise the loan of objects from its collections to other organisations for the purpose of public exhibition or display by the borrower, provided that:

- a) the Museum receives an application for loan in writing 12 months prior to the object(s) leaving the Museum; in special circumstances approval may be given by the delegate to process loan requests with less notice, however this may incur a late fee of AUD\$250 per object
- b) the borrower agrees to meet all loan costs, where applicable, which may include but are not limited to valuations, conservation treatment, object preparation, crating, loan fees, and transport and courier costs
- c) the object(s) requested is in a suitable condition for loan or can be conserved or treated to bring it to a condition suitable for loan
- d) the object(s) requested is available for loan, fully documented and accessioned, and its acquisition by the Museum complies with the Museum's Collections Development Policy
- e) the borrower can provide appropriate security, environmental and display/storage conditions for the object(s) on loan
- f) the borrower agrees to comply with any specific conservation and security instructions the Museum may impose
- h) any interpretation of the object(s) by the borrower in displays and display material, publications or research is consistent with the aims and objectives of the Museum
- i) any other requirements specified under the loan agreement can be satisfied by the borrower.

4.3 Loans for other purposes

Under certain circumstances the Museum may lend objects from its collections to organisations for purposes other than public exhibition or display, such as valuation, teaching, conservation or restoration. Such loans will be of the shortest duration possible and subject to the conditions of loan.

4.4 Loans to private organisations and individuals

The Museum will consider loans to private organisations provided the use of the material is consistent with the Museum's functions and strategic priorities and the borrower is able to meet the requirements set out in this policy and the conditions of loan.

Loans to private organisations or individuals must be approved by the Director and only then in accordance with Section 4.2 and the conditions of loan.

4.5 Loans associated with commercial activities

The Museum may consider loans to shows, fairs, conventions and other commercial ventures as they may serve promotional as well as educational purposes. They may be subject to a loan fee, which may include recovery of part, or all, direct costs and overheads.

4.6 Loans to corporate businesses

Loans to corporate businesses may be approved for the purpose of public exhibition or display.

4.7 Loans for travelling exhibitions

Loans for travelling exhibitions may be approved if the delegate is satisfied that all proposed venues conform to the required minimum standards, including security, environmental conditions, cleaning and care, and that the proposed method of transport will not expose the objects to material damage.

4.8 Third parties

The Museum will not permit borrowers to lend objects borrowed from the Museum to third parties.

4.9 Material generally not available for loan

The following classes of material are generally not available for loan to domestic or international borrowers:

- a) objects of great fragility
- b) original audio/visual material
- c) human remains, including skeletal, tissue material or samples of hair
- d) secret/sacred, sensitive or private material
- e) objects that are required for display by the Museum over the period of the proposed loan
- f) objects which are classed as iconic by the National Museum of Australia
- g) objects which are protected under schemes such as the *Protection of Movable Cultural Heritage Act 1986 (Cth)* or the *Underwater Cultural Heritage Act 2018 (Cth)*, to be assessed on a case by case basis.

Where special circumstances exist, a loan may be approved by the Director.

4.10 Loan period

Objects from the Museum's collection will normally be lent for a standard period of up to two years, or up to one year for international loans. Consideration may be given for loan periods to be longer than the standard two years and/or be extended on application, subject to the borrower satisfying the Museum that acceptable standards of care can be met and maintained.

4.11 Operational use restrictions

The Museum will not lend objects for operational use except with the approval of the Director and only then if the proposed usage is in accord with the purposes for which the object was originally designed, built or subsequently modified. Objects will not be lent for operational use if such use would lead to the degradation of the object beyond normal wear and tear.

4.12 Loan agreements

All loans will be subject to the Museum and the borrower entering into a loan agreement. The Museum has specific requirements in its loan agreements. These requirements include:

- a) use of approved couriers
- b) insurance
- c) copyright and reproduction
- d) loan documentation
- e) due diligence regarding provenance of objects for loan
- f) consultation with key stakeholders
- g) managing complaints and/or claims regarding collection objects.

4.13 Costs and charges and reciprocal arrangements

All costs associated with the loan are to be paid by the borrower. Following an in principal approval of a loan request issued by the Director of the Museum, the Museum will provide the borrower an estimate of all fees and charges. Such fees and charges will be assessed on a case by case basis, taking into account reciprocal arrangements and MOUs, and in accordance with the Museum's Discounts and waivers policy.

5. Guidelines for inward loans

5.1 Approvals

Approval for inward loans will be given only in accordance with this policy and subject to the terms of the Council delegation.

The delegate must ensure that the terms and conditions of the loan are recorded in a written loan agreement between the lender and the Museum.

Prior to making any changes to the conditions of loan, or entering into a loan agreement on terms and conditions proposed by the lender, the delegate must consult with the Head, Collections Care and Management.

5.2 Loan assessment criteria

The Museum will only borrow objects if:

- a) The Director has made (or agreed to) a request to borrow the objects, or has agreed to pursue an offer from the lender to lend the objects to the Museum
- b) The Museum is satisfied, based on consultation with the lender and on the Museum's own due diligence research and verification of the lender's claims regarding the provenance and chain of title of the objects to be borrowed, that:
 - i. the lender has authority to lend the objects
 - ii. there are no outstanding or current third-party claims on the object
 - iii. that there is acceptable legal and provenance information available for the Museum to base its decision to proceed with the loan

- iv. 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
- c) it has consulted with relevant stakeholders, in accordance with the Museum's consultation procedures and the Indigenous cultural rights and engagement policy, where relevant
- d) the object(s) does not include or comprise Aboriginal and Torres Strait Islander secret/sacred or culturally sensitive material
- e) if the objects are being borrowed from an international lender, the additional requirements set out in clause 5.3 of this policy are complied with
- f) the lender agrees to provide a written warranty in the loan agreement that:
 - i. it is not aware of any matter including third-party claims which might prevent or impede the return of the object(s) to the lender
 - ii. it has authority to lend the objects to the Museum
- g) the Museum is willing and able to comply with the terms and conditions of loan set by the lender.

5.3 Additional criteria for international loans

The Museum is an approved borrowing institution under part 3 of the *Protection of Cultural Objects on Loan Act 2013* (PCOL Act). The Museum will comply with the terms of the PCOL Act and Protection of Cultural Objects on Loan Regulations 2014 (PCOL regulations), to ensure that eligible international lenders are protected from suit and seizure, in accordance with Part 2 of the PCOL Act.

Where the Museum is considering the loan of objects from an international lender that is eligible under the PCOL Act, the Museum delegate must be satisfied that:

- a) the lender has been made fully aware of the requirements of the PCOL Act and PCOL regulations prior to formalising loan agreements
- b) the loan will comply with the requirements of this policy and the Museum's related procedures for inward loans for temporary public exhibition
- c) the level of due diligence undertaken by the Museum is sufficient to identify and mitigate potential risks associated with the object. Additional consideration will be given to objects that may be associated with periods of conflict or vulnerable to illicit trade or theft
- d) the consultation and publication requirements of the PCOL regulations parts 5 and 6 will be met
- e) the object(s) can be borrowed without contravening national or international conventions, treaties and laws which control the movement of cultural items and natural heritage.

Objects which are not eligible for protection include class A Australian protected objects under the *Protection of Movable Heritage Act 1986*.

While adherence with the PCOL Act and PCOL regulations is preferred for inward international loans, lenders may opt-out of PCOL protection by way of written notice to the Museum. The Museum must then provide timely notification to the relevant authority as set out in the PCOL Act prior to importation of objects into Australia.

5.4 Disputes and/or claims

The Museum will endeavour to resolve any disputes regarding inward loans in a timely and cooperative manner. Where the dispute cannot be resolved directly, the Museum's complaints handling procedures and the applicable loans procedures for managing claims or disputes will be followed, and the Director will be notified of the dispute.

6. Definition of terms

Delegate(s)

Whosoever is delegated by Council under section 7 of the *National Museum of Australia Act 1980* to approve outward loans and inward loans of objects, including historical material.

Outward loan

A loan of material from the National Historical Collection or of other collection material owned by or in the custody of the Museum to another institution, generally for the purpose of public exhibition.

Inward loan

A loan of collection material from a private lender or another institution generally for the purpose of public exhibition.

Conditions of loan

The standard conditions of loan are set out in the Museum's template agreements for inward and outward loans, which are maintained by the Manager, Registration.

Loans procedures

The procedures for assessing and approving inward and outward loans are set out in the Museum's Door to Store manual.

7. Definition of responsibilities

Council delegations

Council delegates some of its powers under the NMA Act to specified Museum officers. The delegation instrument sets out Council's delegation of its powers in section 7 of the NMA Act for the approval of inward and outward loans.

Director and Deputy Director

Have authority from Council to approve inward and outward loans of objects, in accordance with the Council delegations, and also the functions in relation to loans as described in this policy.

Assistant Director, Discovery and Collections

Has authority from Council to approve inward and outward loans, in accordance with the Council delegations.

Head, Collections Care and Management

Has authority from Council to approve inward and outward loans, in accordance with the Council delegations.

8. References

Australian Best Practice Guide to Collecting Cultural Material

RA Buck and JA Gilmore (eds), *The New Registration Methods*, American Association of Museums, Washington, 1998

Conditions of loan, National Museum of Australia

Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES), 1975

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

Environment Protection and Biodiversity Conservation Act 1999 (Cth)

Protection of Cultural Objects on Loan Act 2013 (Cth)

Protection of Cultural Objects on Loan Regulations 2014 (Cth)

Protection of Movable Cultural Heritage Act 1986 (Cth)

Underwater Cultural Heritage Act 2018 (Cth)

9. Implementation

This policy will be implemented in accordance with the related loans procedures, or as approved by the Director from time to time.

9.1 Coverage

The outward loan of objects from the Museum's collections and the inward loan of material from private or institutional collections.

9.2 Exclusions

Outward loan of material from the Education Collection and non-collection material.

9.3 Superseded policies

This policy supersedes:

Former policy/ies title	Version no.	Version date	Council approval date
Outward loan of historical material policy	1.0	May 1995	May 1995
Collections — outward loan of historical material	2.0	24 May 2006	May 2006
Collections — outward loan of historical material policy	2.1	14 Apr 2011	Feb 2006

Loans policy	2.2	Feb 2015	19 Mar 2015
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9.4 Monitoring

This policy will be reviewed in June 2023.