

MAAS Outgoing Loans Policy

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1. Policy Statement

The Museum of Applied Arts and Sciences (MAAS) is committed to making its Collection accessible to broad and diverse audiences across New South Wales and its regional communities, as well as nationally and internationally. In managing Outgoing Loans, MAAS will balance the accessibility of the Collection with practical and ethical considerations regarding the long-term care, preservation, display, interpretation and stewardship of the Collection. This Policy provides a framework for the management of Outgoing Loans in accordance with legal, ethical and best practice standards.

2. Application

This Policy applies to the Outgoing Loan of objects and associated non-collection material in the MAAS Collection for exhibition, research and public program purposes. It covers individual objects and MAAS travelling exhibitions.

3. Key Principles

- 3.1 MAAS is committed to promoting and facilitating access to the MAAS Collection through an active Outgoing Loans program, consistent with its obligations under the *Museum of Applied Arts and Sciences Act 1945* (NSW), s14 and s11 of the Museum of Applied Arts and Sciences Regulation. The Outgoing Loans program is also a reflection of the state-wide, national and international significance of the MAAS Collection.
- 3.2 In considering Outgoing Loan requests MAAS will take into account the need to balance the accessibility of the MAAS Collection in a variety of contexts, with the long-term care, preservation, display and interpretation and stewardship of the Collection.

4. Loan Requests

- 4.1 MAAS will consider Loan requests received in writing addressed to the Director six (6) months prior to the required shipment date for the object/s.
- 4.2 Short notice Loan requests:
 - 4.2.1 In extraordinary circumstances, approval may be given to Loan requests received with less than the required notice period.
 - 4.2.2 Priority will be given to Loan requests received with the full period of notice as required under clause 8.1.
- 4.3 MAAS reserves the right to refuse any Loan request if internal resources do not permit the Loan to be facilitated in the required timeframe.

5. Outgoing Loan Request Assessment

In assessing a request for an Outgoing Loan, MAAS considers a range of factors specific to the object, the Borrower and the Purpose of the Loan in order to determine whether to approve the request, and the standard or additional considerations that may be required.

5.1 Objects

- 5.1.1 In assessing the request for an Outgoing Loan, the following factors regarding the object will be considered:
 - a. the material condition of the object, including but not limited to its ability to travel and the impact of handling, installation, and display on the object;
 - b. the availability of the object(s), including any commitments to current or planned MAAS exhibitions, research or other programs or prior commitments to other Borrowers;
 - c. the Provenance of the object.
 - d. the adequacy of the timeline and available resources required to prepare the object for Loan.
 - e. any specific conditions which prevent the object being Loaned, including restrictions imposed on Outgoing Loan or display under the terms of the acquisition or by virtue of the nature of the

object. In particular, MAAS will be informed by the Indigenous Cultural and Intellectual Property Protocol, and will consult with the Aboriginal and Torres Strait Islander Collection Management Reference Group prior to agreeing to Loan Aboriginal or Torres Strait Islander objects to which access is restricted or community concerns may be identified.

- 5.1.2 Requests for Loan will be considered for non-collection material in MAAS possession on a case by case basis. In exceptional circumstances, MAAS may agree to facilitate the Outgoing Loan of an object in its custody or care on behalf of the Owner. In such circumstances, arrangements will be formalised with the Owner and MAAS will act in accordance with such agreements.
- 5.1.3 Requests for Loan of support material, including mannequins and showcases will be considered under the Outgoing Loan of Mannequins and Showcases Policy.
- 5.1.4 Where relevant, and in accordance with the Indigenous Cultural and Intellectual Property Protocol, MAAS will consult with the Aboriginal and Torres Strait Islander Collection Management Reference Group, and other appropriate individuals, groups or communities within Australia as part of the assessment for an Outgoing Loan request. Consultations will inform whether MAAS will proceed with a proposed Outgoing Loan.

5.2 Borrowers

- 5.2.1 Each Loan application will be considered on a case by case basis.
- 5.2.2 MAAS may Loan an object from the MAAS Collection or non-collection material to:
 - 5.2.2.1 Public collecting institutions able to provide museum-standard facilities and display requirements, as approved by MAAS;
 - 5.2.2.2 Government departments;
 - 5.2.2.3 Private not-for-profit organisations, community and cultural groups, and other organisations may be considered on a case by case basis.
- 5.2.3 MAAS will only Loan objects to a Borrower where it is confident that:
 - 5.2.3.1 the Borrower is reputable and is in a stable legal and financial situation; and
 - 5.2.3.2 the Borrower has the authority to enter into the Loan Agreement; and
 - 5.2.3.3 the Borrower is able to provide adequate and appropriate facilities and meet and maintain facility, environmental and security requirements and the terms and conditions of the Loan as set out in the Outgoing Loan Agreement. Additional documentation or evidence of compliance with these matters may be sought in accordance with established procedures; and
 - 5.2.3.4 the Borrower is able to provide appropriate staff or sub-contractors in order to administer, manage and oversee the Loan and comply with the terms of the Outgoing Loan Agreement throughout the Loan period; and
 - 5.2.3.5 the country or region in which the Loan will reside is politically and financially stable.

5.3 Purpose of Loan

- 5.3.1 MAAS may Loan an object from the MAAS Collection and associated material for exhibition, display, research and public program purposes that are consistent with MAAS objectives.
- 5.3.2 MAAS will take into consideration the scholarly, public interest or educational value of the exhibition, display, research or program concept and its feasibility.
- 5.3.3 Operational Use:
 - a. MAAS will Loan objects from the MAAS Collection for Operational Use following assessment of the request on a case by case basis.
 - b. Proposed Operational Use must accord with the purpose for which the object was originally designed, built or subsequently modified.
 - c. An object will not be Loaned for Operational Use if such use would lead to the degradation of the object beyond normal wear and tear.

6. Other Considerations

A number of factors will be considered by MAAS in assessing an Outgoing Loan request and administering the Loan. While some considerations are required for all Outgoing Loans, others may be applied on a case by case basis, as required.

6.1 Due Diligence

- 6.1.1 MAAS undertakes to be open and transparent in its decision making processes and procedures and will practice and demonstrate appropriate levels of Due Diligence as relevant to the circumstances of the proposed Loan.
- 6.1.2 MAAS fully supports the UNESCO *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property* 1970 (the UNESCO Convention) and acknowledges that Australia has ratified the Convention. MAAS also recognises and is bound by the terms of the *Protection of Moveable Cultural Heritage Act 1986* (Cth) and the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth).
- 6.1.3 MAAS adheres to Australian and international best practice, including the Ministry for the Arts' *Australian Best Practice Guide to Collecting Cultural Material*, Museum Australia's *Code of Ethics* and the ICOM *Code of Ethics for Museums*.
- 6.1.4 MAAS will require the Borrower to warrant that they have no reasonable cause to believe that any object comprised in the exhibition in which an object from the MAAS Collection will be displayed (whether at the Borrower's venue or another venue) has been stolen, illegally exported or illegally imported from its country of origin as defined by the UNESCO Convention.
- 6.1.5 Where relevant, in consultation with MAAS, MAAS may require the Borrower to provide evidence that it has planned or undertaken Aboriginal and Torres Strait Islander community engagement and consultation and/or consent processes for the exhibiting of the object.

6.2 Travelling Exhibitions coordinated by Other Parties

- 6.2.1 MAAS may approve an object from the MAAS Collection for Loan in a travelling exhibition coordinated by the Borrower if it is satisfied that all venues conform to the required minimum standards as outlined in the Loan Agreement and in this Policy.

6.3 Third Party Loans

- 6.3.1 Borrowers are not permitted to Loan or transfer possession of an object from the MAAS Collection or non-collection material to a third party without the prior written consent of MAAS.

6.4 Costs

- 6.4.1 MAAS is obliged to recover some of the costs associated with facilitating an Outgoing Loan.
- 6.4.2 Additional costs arising from short-notice Loan requests may also be referred to the Borrower.
- 6.4.3 Borrowers are responsible for all packing, freight, courier and other related costs in relation to the objects approved for Loan.
- 6.4.4 Cost estimates cannot be provided in advance as each Loan request is assessed on a case by case basis.
- 6.4.5 Borrowers are responsible for the maintenance of all risks insurance cover for the duration of the Loan period as specified in this Policy.
- 6.4.6 Separate fees apply for requests for digital images of an object approved for Loan.

6.5 Insurance, valuation and significance

- 6.5.1 Significance categories and values for all objects from the MAAS Collection will be reviewed prior to entering into or renewing an Outgoing Loan, in accordance with this Policy, the Collection Management of High Significance Objects Policy and Collection Management Policy.
- 6.5.2 Insurance requirements will be specified in the Loan Agreement. Borrowers are generally required to provide insurance for the object approved for Loan on a 'wall to wall' basis for the insurance value specified in the Outgoing Loan Agreement from the time the object leaves MAAS care until the time the object is returned to MAAS.

- 6.5.3 Insurance requirements will be specified in the MAAS Outgoing Loan Agreement and arrangements must be confirmed and approved by MAAS before the object will be released.
- 6.5.4 Borrowers are required to provide evidence of insurance for an object on Loan before the object will be released.
- 6.5.5 The insurance value may be revised from time to time and the Borrower must insure the object on Loan for the reassessed value, and provide evidence of the revised insurance cover to MAAS satisfaction.

6.6 Couriers

- 6.6.1 MAAS may require a MAAS courier for an object on Loan, in accordance with the Collection Management Policy.
- 6.6.2 The courier may be a MAAS employee or another person approved by MAAS. MAAS-approved couriers will be appropriately qualified and experienced in object handling and transport procedures.

6.7 International Loans

- 6.7.1 Where MAAS determines it is required, international Borrowers will ensure that the object approved for Loan qualifies for immunity from seizure and that all conditions required for protection under any such legislation can be met.
- 6.7.2 Where immunity from seizure cannot be provided, with the approval of the Director, MAAS may proceed with the Loan, and the decision to do so will be made on a case by case basis.

7. Loan Approval

- 7.1 Loan requests are approved by the Director or her/his delegate.
- 7.2 MAAS will undertake a formal assessment process for all Loan requests, in accordance with the terms of this Policy.
- 7.3 MAAS will not proceed with an Outgoing Loan if, after undertaking Due Diligence in accordance with this Policy, there remains reasonable concerns about the Loan of the object, the Borrower or touring exhibition venues, the purpose of the Loan or any other circumstances surrounding the Loan.
- 7.4 Notification of approval or decline of a Loan request will be made in writing by the Director or her/his delegate.

8. Period of Loan

- 8.1 The Loan of an object from the MAAS Collection will normally be granted for a period of up to two years in the first instance.
- 8.2 The Loan period may be extended annually, upon receipt of a request by the Borrower and assessment by MAAS in accordance with this Policy.

9. Formalising an Outgoing Loan – Outgoing Loan Agreement

- 9.1 Borrowers must accept Loans under the written MAAS Outgoing Loan Agreement.
- 9.2 No object that is the subject of an Outgoing Loan will be released to the Borrower until MAAS receives the completed Loan Agreement signed by the Borrower or a party with the authority to enter into the Loan Agreement on the Borrower's behalf.
- 9.3 Loan Agreements will be signed by the Director or her/his delegate.

10. Acknowledgement

- 10.1 MAAS must be acknowledged as the Lender of the object in a prominent and clear manner as approved by the Director whenever the object is used, referenced or reproduced, including in any exhibition labels, publications or online use that refers to the object.
- 10.2 The preferred form of acknowledgement for MAAS as the Lender will be specified in the Outgoing Loan Agreement.

11. Conflicts of Interest

11.1 Loans to organisations directly associated with MAAS Trustees, employees and associated parties must be disclosed and documented at all stages of the process of endorsement and approval of the Loan.

11.2 MAAS Trustees and relevant sub-committee members and employees must exclude themselves from any discussion or decision making regarding the approval or administration of a Loan in which they or related parties have an interest. Any such exclusion will be documented.

12. Record Keeping

12.1 In accordance with the Records Management Policy, MAAS will maintain records for all Loans including proposed Outgoing Loans that are not approved. These records will include information on approval processes, key decisions, consultations, transactions, negotiations, Provenance, Due Diligence undertaken, compliance with policies and procedures and signed Loan Agreements. All records will be kept securely and permanently by MAAS.

13. Roles and Responsibilities

Director: Reviews and formally approves requests for Outgoing Loan.

Head of Strategic Collections: Ensures that Outgoing Loans from the MAAS Collection are managed in accordance with this Policy, related legislation, policies, plans and procedures and accepted best practice standards: and endorses requests for Outgoing Loan.

Registration Manager: Oversees the operation of the Registration unit with regard to Outgoing Loan management and reviews and endorses requests for Outgoing Loan.

Conservation Manager: Oversees the operation of the Conservation unit with regard to Outgoing Loan management and reviews and endorses requests for Outgoing Loan.

Registrars: Manage the Outgoing Loan program and ensure a commitment to the highest legal and ethical standards of Due Diligence, object security and risk assessment.

Conservators: Assess and prepare objects for Outgoing Loan, including condition reporting prior to departure and upon return.

Curators: Assess Outgoing Loans and provide Provenance and valuation details.

14. Definitions

Board of Trustees: Comprising nine Trustees, the Board is established and its powers, authorities, duties and functions defined under the MAAS Act.

Director: The Director of MAAS or a person with the delegated authority of the Director.

Due Diligence: For the purposes of this Policy Due Diligence is a comprehensive assessment of the Ownership, Provenance and authenticity of an object and to identify any gaps in these.

Loan Agreement: A formal, legally binding written contract between MAAS and the Borrower, specifying the object/s and outlining the conditions and terms of the Loan and the responsibilities of each party.

MAAS Collection or Collection: The acquired Collection of material and objects owned by MAAS.

Operational Use: Operation of an object as opposed to static exhibition display.

Outgoing Loan: Any contracted arrangement for the transfer of possession of an object or non-collection material from MAAS to another party or parties on a temporary basis under which MAAS grants a temporary right of possession to the Borrower. It therefore includes Loans in the strict legal sense of gratuitous bailments, bailments that arise from contracts that expressly benefit both MAAS and the party receiving possession and other sharing arrangements, such as a scheduled rotation of possession among co-Owners. For the purpose of this Policy, Outgoing Loans encompasses touring exhibitions. The terms Lender, Borrower, Lending, Borrowing and Loan are to be construed in the context of this definition and unless otherwise specified, references to Outgoing Loan or any related terms may apply to proposed, contemplated, potential, approved or realised Loan arrangements.

Outgoing Loan Agreement or Loan Agreement: A formal, legally binding written contract between the Borrower and MAAS as the Lender, specifying the object/s and outlining the conditions and terms of the Loan and the responsibilities of each party. Includes but is not limited to MAAS Outgoing Loan Agreements, or MAAS exhibition contracts.

Owner / Ownership: The party or parties that legally possess Title to the object.

Provenance: The history and Ownership of an object from the time of its discovery or creation to the present day, which assists in the assessment of authenticity and Ownership.

Title: The legal right to Ownership of property.

15. Related Museum plans, policies and/or procedures

- Aboriginal and Torres Strait Islander Repatriation Policy
- Acquisition and Accession Policy
- Australian Indigenous Cultural and Intellectual Property (ICIP) Protocol
- Collection Development Policy
- Collection Management Policy
- Conflict of Interest Policy
- Conservation Policy
- Incoming Loans Policy
- Outgoing Loan of Mannequins and Showcases Policy
- Records Management Policy
- Restitution Policy
- Incoming Loans Procedures
- MAAS Reconciliation Action Plan

The latest version of any Policy referred to will apply.

16. Relevant legislation and external context

This Policy should be read in conjunction with the following:

- *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth)
- Australian Government, Attorney General's Department, Ministry for the Arts, *Australian Best Practice Guide to Collecting Cultural Material* 2014
- International Council of Museums (ICOM), [Code of Ethics for Museums](#) 2013
- Museums Australia – *Continuous Cultures Ongoing Responsibilities: A Comprehensive Policy Document and Guidelines for Australian Museums Working with Aboriginal and Torres Strait Islander Cultural Heritage* 2005
- Museums Australia Incorporated – [Code of Ethics](#) 1999
- *Museum of Applied Arts and Sciences Act 1945* (NSW)
- Museum of Applied Art and Sciences – *MAAS Strategic Vision 2020* 2014

- *Protection of Movable Cultural Heritage Act 1986 (Cth)*
- *UNESCO – Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970*
- *UNESCO – Convention on the Protection of Cultural Property in the Event of Armed Conflict 1954*
- *UNESCO – Convention for the Safeguarding of the Intangible Cultural Heritage 2003*
- *UNIDROIT – Convention on Stolen or Illegally Exported Cultural Objects 1995*
- *United Nations – United Nations Declaration of the Rights of Indigenous Peoples 2007*

The latest version of any Policy or legislation referred to will apply.

17. Responsible Officer

Registration Manager

18. Responsible Department & Unit

Curatorial, Collections & Exhibitions department, Strategic Collections team

19. Amendment history

Version	Date issued	Notes	By
1	04/04/2011		Executive
2	21/07/2016		Executive