

Return of Cultural Objects Policy

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Contact for queries	Melanie Piddocke Director Culture and Communities E: Melanie.piddocke@museum.gov.wa.au

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1. PURPOSE

This policy provides a framework for those requesting and those responding to requests for the return of cultural objects and materials.

The Museum occasionally receives requests for the return of cultural objects, and this policy describes the Museum's approach to consideration of such requests.

The policy excludes Ancestral Remains and secret and/or sacred material. These are covered in the Ancestral Remains Policy, and the Secret and/or Sacred Materials Policy.

2. SCOPE

The Policy applies to all Western Australian Museum employees (whether by way of appointment, secondment, casual contract, fixed term contract or traineeship). It also extends to Honorary Associates, Research Associates, Fellows, volunteers, and members of the Board of Trustees. The policy is a publicly accessible document and should be available to members of the public on the museum website and will be supplied on request.

3. DEFINITIONS

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

Term	Definition
Ancestral Remains	The physical remains, whole or in part, and including skeletal, tissue material, and samples of hair, of deceased individuals from past generations of Indigenous peoples.
Collection	The Western Australian Museum's collection of acquired items. Items on loan or held on behalf of a third party are not included.
Cultural Objects	Objects of cultural significance to an individual, family, community, or cultural group. These objects may be culturally modified or unmodified and may originate from any cultural or social context. They can also include other forms of media such as tapes, documents, photographs, films, and recordings. This definition includes, but is not limited to, Aboriginal and Torres Strait Islander materials.
Deaccession	The formal process of permanently removing an accessioned item(s) from the Museum's collections

Disposal	The permanent physical removal of either deaccessioned or unaccessioned items from the Museum's collections
Secret and/or sacred material	Objects that are secret and/or sacred to Aboriginal or Torres Strait Islander Peoples and therefore have access restrictions placed upon them based on knowledge recognised by custom and ceremony as established by Traditional Owners, and often determined by gender
Unaccessioned	Items which have not been formally accessioned into the Museum's collection. They typically do not have formal documentation and are not recorded in the database.

4. POLICY STATEMENT

The Museum believes that, to the best of its knowledge, the cultural objects in its possession were acquired ethically and in accordance with appropriate legal and cultural processes.

Policies and procedures for responding to and managing requests for the return of cultural objects are important for museums worldwide. Several international instruments have been developed which aim to deal with property which may have been collected illegally or unethically. These include:

- Convention on the Protection of Cultural Property in the Event of Armed Conflict (UNESCO, 1954) in which States undertake to prevent the export of heritage goods from occupied territory, or alternatively to return them after war has ceased
- Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (UNESCO, 1970), which prevents museums from acquiring cultural property which has been illegally exported or stolen from a museum or public institution, and provides a mechanism to allow States to request the return of any such cultural property
- Convention on Stolen or Illegally Exported Cultural Objects (UNIDROIT, 1995) adopted in Rome, which creates a private international law remedy for individual owners to file a complaint, enlarges the definition of cultural property and imposes a requirement to return the object
- ICOM Code of Ethics for Museums
- Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which protects species from extinction by regulating the international trade of wild plants and animals, or products using such species.

Australia has ratified the 1954 and 1970 UNESCO Conventions, but not the 1995 UNIDROIT Convention. While Australia is not bound to comply with international instruments it has not ratified, the Museum considers that its policies should reflect and build on current international thinking about the return of cultural objects.

When assessing requests for the return of cultural objects, the Museum will consider its responsibilities under its enabling legislation, the legal rights of donors, the legal rights of the person or community requesting the return of objects, and the method of acquisition. It will balance such requests against the rights of other Australians and future generations to access, understand, and enjoy these cultural objects. The circumstances of each request for return will vary and each will be considered on the basis of the evidence presented.

5. RESPONSIBILITIES

Board of Trustees

Responsible for:

- The Board delegates decision making to approve or deny the return of cultural objects to the CEO, except when sensitive or high-risk matters require consideration which will be escalated to the Board for determination.

Chief Executive Officer

Responsible for:

- Applying and interpreting this policy, adjudicating on contentious issues and presenting requests for return of cultural objects that are sensitive or high-risk to the Board of Trustees.

Director Culture and Communities

Responsible for:

- Preparation of briefing note to the CEO providing the case made by the applicant and curatorial recommendation. Assisting curatorial staff with the assessment of the legal, ethical, and policy context of applications
- Ensuring compliance with this policy by Culture and Communities staff

Senior Aboriginal and Torres Strait Islander Adviser

In the case of requested returns of Aboriginal and Torres Strait Islander cultural material:

- Advising on community contacts and consultation
- Reporting to and informing WA Museum Aboriginal Advisory Committee of any decisions and activities relating to the return of Aboriginal cultural material

Curatorial staff

Responsible for:

- Liaising with applicants to assist with their application
- Researching, compiling, and preparation of documentation in response to the submission provided by the applicant, and providing a recommendation based on this research and the applicant's submission

6. LEGAL AND COMPLIANCE CONTEXT

Legislation and regulations

- *Firearms Act 1973*
- *Firearms Regulations 1974*
- *Maritime Archaeology Act 1973*
- *Museum Act 1969*
- *Privacy and Responsible Information Sharing Act 2024*
- *Protection of Moveable Cultural Heritage Act 1986*
- *State Records Act 2000 (WA)*
- *Underwater Cultural Heritage Act 2018*
- *Weapons Act 1999*

Creative Industries Tourism and Sport policies, procedures and guidelines

- Code of Conduct

Department / Museum policies, procedures and guidelines

- Ancestral Remains Policy
- Collection Policy
- Deaccession and Disposal Policy
- Departmental Procedures
- Non-Indigenous Human Remains Policy
- Secret and/or Sacred Materials Policy

Other related documents

- *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES Convention)

- Continuous Cultures, Ongoing Responsibilities: principles and guidelines for Australian museums working with Aboriginal and Torres Strait Islander cultural heritage
- *UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970* (1970 UNESCO Convention)
- International Council Of Museums (ICOM) Code of Ethics
- International Council Of Museums Guidelines on Deaccessioning
- National Standards for Australian Museums and Galleries (2023)

7. PRINCIPLES AND GUIDELINES

The Museum recognises that it may be approached with requests for return of cultural objects. While in most instances such requests cannot be accommodated, the Museum recognises that from time-to-time circumstances may arise where it can be demonstrated that an object was, at some stage in its history, obtained in ways which are no longer considered ethical or in keeping with modern museum practices.

7.1 Categories for requests for return

Due consideration will be given to requests to return cultural objects which can be demonstrated to fall into the following categories:

- Acquired without the free and informed consent of the custodian at the time of donation / transfer of ownership.
- Acquired in contravention of tradition or custom.
- Acquired from or through a person legally or culturally unauthorised to dispose of the object.
- Acquired through an illegal act of war or aggression.
- Acquired through a process, or with a history, that is determined by the Museum to render it unfit for the Museum's collection.

7.2 Assessment of requests for return

In order to resolve a request for return of a cultural object, the Museum will:

- Consider whether the applicant has demonstrated to the Museum's satisfaction that the object(s) was acquired in one or more of the circumstances described in Section 7.1
- Reasonably and impartially consider each application on its merits in order to determine whether the object in question is fit or unfit for the collection based on the case advanced by the applicant
- Determine its legal title to the objects requested for return

- Consider the legal, moral and ethical rights of the applicant
- Consider any connection between the applicant and the object
- Assess the rights and opinions of other potential applicants for the return of the object
- Consider the future safety and security of the object, where appropriate, and if this would be threatened by return.

If approval is given for the return of a cultural object, the Museum will follow its normal legislative and policy procedures.

Reasons for the Museum's decisions can be made public.