

## HOTA Gallery Inward Loans Claims Handling Procedures

Accountabilities	
Approving Authority	Gallery & Visual Arts Director
Procedure Owner	Registration Coordinator
Procedure Advisor	Registration Coordinator
Version and Date	v 1.0 (17 April 2024)
Next Review Date	17 April 2026

### 1. SUMMARY

In accordance with the HOTA's policies and procedures, before entering into any loan arrangement HOTA Gallery conducts background research to ensure that it is operating on terms that are legal, ethical and transparent to public scrutiny.

As part of this commitment, HOTA Gallery invites people to make contact if they have a concern about an object that HOTA Gallery has borrowed or is about to borrow.

### 2. PURPOSE

The purpose of this procedure is to ensure that standard protocols are followed by HOTA Home of the Arts staff when engaging with enquiries relating to claims relating to objects that HOTA Gallery has borrowed or is about to borrow.

### 3. SCOPE

This procedure applies to claims relating to objects that HOTA Gallery has borrowed or is about to borrow. These objects will usually be subject to the provisions of the Protection of Cultural Objects on Loan Act 2013 (Cth) ("the Act") which (among other things) generally prevents an item from being seized or forfeited while it is in Australia. This procedure is aligned with the *HOTA External Complaint Management Policy*.

### 4. DEFINITIONS

In these procedures, definitions are consistent with the *Provenance and Due Diligence Research Policy* and the *Incoming Loans Policy*.

### 5. COMMENCEMENT

These procedures are current as of April 2024.

### 6. RELATED DOCUMENTS, LEGISLATION AND USEFUL LINKS

The context for these procedures is consistent with the *Provenance and Due Diligence Research Policy* and the *Incoming Loans Policy*.

## 7. PROCEDURE

### 7.1 Enquiries and claims in relation to objects borrowed from overseas for temporary public exhibition

HOTA Gallery is committed to exhibiting works of art only in accordance with the highest standards of due diligence (including ethical and professional practice, and in accordance with applicable law).

As part of this commitment, HOTA invites people to contact it if they have a concern about an object that HOTA Gallery has borrowed or is about to borrow from overseas. HOTA Gallery may be contacted regarding:

- Making a claim (such as an ownership claim) over such an object;
- Any questions or information about such an object; or
- Request for further information about such an object's ownership or provenance.

Objects that HOTA Gallery is borrowing or has borrowed from overseas and that are subject to the Act are to be published on HOTA's website. Images and information about such works will be uploaded at least four weeks before the work is imported into Australia and only removed once the object leaves Australia.

### 7.2 Information required relating to a claim or enquiry

If a claim, enquiry, or additional information about an object that HOTA Gallery has borrowed or is borrowing from overseas is made, the below information must be provided to HOTA in writing:

- Claimant's name, address and contact details;
- If the enquiry is on behalf of a Claimant, that person's name, contact details and their relationship to the enquirer;
- A short summary of the claim to the object;
- Copies of any documents or other evidence that may be relevant to the claim or enquiry; and
- A statement confirming that the Claimant is aware that HOTA may inform the lender of the request and supply them with information on the claim.

### 7.3 Enquiry or claim handling

HOTA will give serious consideration to each enquiry and claim it receives in relation to an object borrowed from overseas, based on the nature and circumstances of each enquiry or claim.

In determining whether an enquiry or claim in relation to an object borrowed from overseas and subject to the Act is justified, HOTA may consider (without limitation):

- The documentation and evidence provided;
- If the Claimant is known to HOTA and whether they have already made the same or a similar claim in another country; and
- In the case of Australian cultural material (including Aboriginal and Torres Strait Islander material), a close examination of the object's known provenance and history, including how the object left the custody of any relevant individual or community and the circumstances in which it was exported from Australia.

### 7.3 Enquiry or claim response

If HOTA is satisfied about the nature and circumstances of the request for information or claim, HOTA will provide the Claimant with information on the provenance and due diligence procedures it followed. Such research will have been in accordance with the policies and procedures of HOTA Gallery and is required under the Act. Where the additional information is information that has already been published on HOTA's website, HOTA will direct the Claimant to the exact website

address for that information. HOTA retains the right not to disclose any of the above if HOTA determines that it is not, in all the circumstances, appropriate for it to do so.

HOTA will endeavour to initially respond to an enquiry within 20 days of receiving an enquiry or claim, and no later than the 28 days required by the PCOL Act. HOTA Gallery will inform the Claimant of their intention to contact the lender if they consider it appropriate to inform the Claimant about their enquiry or potential claim.

### 7.3 Justified claim

If HOTA determines that a claim is legitimate in relation to an object before that object is imported into Australia, HOTA will assess whether or not it is appropriate, in all the circumstances, to continue with the loan. In making that assessment, HOTA will have full regard to its due diligence and provenance standards, as set out in the *Inward Loans Policy*. As part of its obligations under the Act, the HOTA Gallery Registration Coordinator will report claims made on objects that are protected by the Act to the Minister for the Arts in writing and without delay.

Once an object has been imported into Australia on loan from overseas, the ability to take legal action in relation to that object in Australia will be limited by the provisions of the Act. Once an object has been imported, this protection cannot be revoked. This means that the protections provided by the Act will stand if a legitimate claim is received for an object that has already entered Australia. For information on the Act, see <https://www.arts.gov.au/funding-and-support/protection-cultural-objects-loan-scheme>.

### 7.3 Submission of an enquiry or claim

Claims regarding a work of art that HOTA Gallery has borrowed or is about to borrow are to be submitted through HOTA's website <https://hota.com.au/contact>.

The claim or enquiry will be directed to the HOTA Gallery Registration Coordinator, who will coordinate the response to the claim or enquiry.

## 8. RECORD KEEPING

The Registration Coordinator will maintain records relating to all inward loans claims. Records will be retained electronically for a minimum of five years on the internal HOTA SharePoint system.

## 9. RESPONSIBILITIES

### a. Gallery & Visual Arts Director

- Responsible for determining whether a claim is justified, in consultation with the Curatorial and Engagement Manager and Registration Coordinator.
- Responsible for ensuring that the process and documentation relating to inward loans claims conform to all HOTA Gallery policies and that HOTA Gallery staff understand and comply with the policies.

### b. Registration Coordinator

- Responsible for coordinating the response once received from the online submission portal.
- Responsible for maintaining records and reporting to the Minister for the Arts.

**10. REVIEW CYCLE**

- a. This procedure/process should be reviewed every 2 years or as required and appropriate.

Revision History			
Version	Approved By	Approval Date	Modification
1.0	Gallery & Visual Arts Director	15 May 2024	New procedure in line with current practice

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We acknowledge the Kombumerri families of the Yugambah Language Region, the traditional custodians.