

## ART GALLERY OF SOUTH AUSTRALIA

### Acquisitions Policy

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#### 1. Purpose of this Policy

The Charter and Goals of the Art Gallery of South Australia (AGSA) states that “the Gallery should preserve and add to its permanent collections, works of art that are of outstanding aesthetic quality, art-historical importance and regional significance”.

AGSA acquires works of art by various methods and is committed to ensuring that all acquisitions are negotiated and managed on terms that are ethical, honourable, responsible and transparent to public scrutiny. This policy specifies the principles and considerations to be applied to acquisitions and loans to AGSA’s collections.

#### 2. Scope

This policy applies to AGSA’s staff, officers and Board members who are involved in the acquisition of works of art on behalf of AGSA.

#### 3. Collecting Areas

AGSA has a legislated responsibility to collect and display works of artistic excellence and should seek to acquire works in its three established collecting areas of Australian art, International art and Asian art. Acquisitions should build upon existing collection strengths, or distinctive

areas of the collection identified for development, and conform to clearly defined policy positions.

### **3.1 Australian Art**

- To collect Australian art, including Aboriginal and Torres Strait Islander art, in such quantity and range as to develop a comprehensive collection.
- To collect Australian art of all regions and periods, in all visual arts media, and including Australia-related art made elsewhere, such as art related to the voyages of discovery and pre-European settlement.
- To represent major artists by an appropriate number and range of works to show their development and achievements.
- To collect South Australian art especially comprehensively, not only as suitable for display but also as an art and social history research resource. This includes works related to South Australia by subject matter and works of art relating to regions traditionally and historically associated with South Australia, such as Broken Hill, the Northern Territory and Central Australia.
- To recognise that Australia is geographically part of Oceania and, in collecting, to be mindful of artistic connections within this region.

### **3.2 International Art**

- To collect international art in all visual arts media in such quantity and range as to develop a coherent collection, with an emphasis on broadening and developing existing strengths of the collection.
- 'International art' is here defined to include Oceanic, British, European, North American art and art of any other non-Australian or non-Asian culture.

### **3.3 Asian Art**

- To collect Asian art, primarily from East Asia, Southeast Asia, South Asia and Islamic art in such quantity and range as to maintain coherent exhibitions of the visual arts and cultural histories of each region.
- To collect contemporary Asian art, including the works of diasporic artists residing in Australia and elsewhere, which specifically relate to the historical Asian collections and represent current practice

### **3.4 Reference and Archival Material**

To collect reference material relating to the art collections – not only traditional library material, but also art-related archival material, including artists' papers, artists' personal libraries, studio equipment, memorabilia and material relating to art associations, art schools, galleries and art dealers.

### 3.5 Non-active Collecting Areas

AGSA holds significant collections of Numismatics and Philatelics, and although these areas are not a collecting priority, AGSA remains willing to consider gifts and bequests in these areas.

## 4. Acquisition Strategy

This policy operates in conjunction with AGSA's confidential Ten Year Acquisition Strategy, which provides details regarding AGSA's collection and strategies for its development, outlining priorities for specific collection areas, subject to funds being available. The Ten Year Acquisition Strategy is not inflexible and does not preclude unforeseen opportunities that might arise and be acted on.

## 5. Methods of Acquisition

- Works of art may be acquired through a variety of means, including gift, bequest, purchase, transfer from other State institutions or, in exceptional circumstances, by commission.
- AGSA should apply the same criteria of quality and relevance to all acquisitions, regardless of the method of acquisition.
- To safeguard the integrity of the collection and guard against misrepresentation, it is critical that, prior to acquisition, regardless of method, the object ownership be thoroughly researched and due diligence undertaken as outlined in section 6.4 Provenance and Due Diligence.
- Acquisitions of all works of art must be undertaken in accordance with financial delegations.

### 5.1 Gift

#### 5.1.1 Direct Gift

Any donation of art by an individual or organisation is categorised as a gift. To make a valid gift, there must be a clear intention on the part of the donor to transfer title and possession of the property. It is essential to the validity of such a gift that the transfer of both possession and title shall be absolute and unencumbered. The donor is required to sign a standard Deed of Gift, evidencing the donor's full transfer of title and possession, and providing AGSA with a range of warranties and indemnities.

#### 5.1.2 Gift through the Cultural Gifts Program

The Cultural Gifts Program (CGP) is a Commonwealth Government initiative that provides a tax incentive to private collectors when donating works to public institutions. This method of acquisition follows the same

criteria as for a direct gift however, in addition to the Deed of Gift, documentation as specified by the CGP is required.

## **5.2 Bequest**

The decision to add works of art received by bequest to AGSA's collection is based on the same criteria of quality and relevance as applies to all acquisitions. AGSA reserves the right to accept or not works offered through a bequest.

## **5.3 Pledged Gift or Bequest**

A donor may undertake to pledge a gift or bequest to AGSA. A pledge is a commitment to AGSA where part or all of the receipt of the gift is deferred until agreed date(s) in the future.

## **5.4 Purchase**

### **5.4.1 Purchase from dealers, commercial galleries, shops, private individuals and companies**

Although warranty of title is implied in every sale of a work of art, a Purchase Agreement must be entered into. This agreement sets out the various warranties that the vendor gives that they convey good title, free from encumbrances.

### **5.4.2 Auction purchases**

In these cases, the auction house generally provides little by way of warranty (except in relation to the way they have described the work). Purchases are made on the auction house's terms and are not formalised through AGSA's template Purchase Agreement.

## **5.5 Commission**

AGSA may, on occasion, commission an artist to produce a work of art for the collection. The terms and conditions of the commission will be stipulated in the commissioning contract. The contract must contain clauses to ensure that the execution of the contract effects the transfer of both possession and title to AGSA and that this transfer is absolute, unencumbered and free of restrictions and also addresses rights, including copyright and moral rights.

## **5.6 Permanent Joint Ownership**

AGSA recognises the increasing frequency of this form of ownership and its potential benefits. Accordingly, AGSA may undertake to jointly acquire a work of art with another collecting

institution. Any transactions involving binding terms for permanent joint ownership of a work of art must be reviewed and approved by the Art Gallery Board and must ensure conditions for shared possession, preservation and conservation, storage conditions, display, outward loan, freight packing and handling and other considerations for collection management and access are agreed.

## **5.7 Other Methods of Acquisition**

Other forms of acquisition may be considered by the Art Gallery Board from time to time and on a case by case basis, including but not limited to transfer from another State institution.

## **5.8 Conditional Acquisitions**

Conditional gifts, pledges or bequests are discouraged. Donors of works of art will relinquish all rights to the work donated, except in exceptional circumstances in which an exemption is granted by the Art Gallery Board.

## **6. Acquisition Principles**

### **6.1 Quality, Condition, Care and Display**

- To collect works of high artistic quality and only if they are suitable for display (though exceptions may be made of South Australian works of particular historical, social or regional interest).
- To collect works that are in a stable state of preservation and maintain their integrity (not works that have been largely restored).
- Exceptions are made if the deteriorated physical condition is integral to the meaning of the work, or if the significance or rarity of the work is such that it should be collected in order to protect or preserve it.
- To take into account issues and costs associated with the freight and packing, as well as long-term storage, preservation, documentation, display and outward loan.
- To resolve the future display requirements of large or multi-part works of art (in consultation with the artist as appropriate) and any financial and logistical considerations relating to the work's installation.
- To take into account the presence of any technological elements that may become obsolete and whether these elements can be replaced or upgraded (with the agreement of the artist where applicable).

## 6.2 Valuations and Acquisition Funding

- To ensure that all proposed acquisitions and loans to the collection are properly attributed and valued, so that AGSA is not exposed to the legal and financial risks of acquiring improperly valued or priced works.
- To ensure that any acquisitions funded by bequest funds, donations and fund-raising campaigns, comply with the specified purpose for that fund, consistent with the requirements of Section 29 of the Art Gallery Act 1939.
- To ensure that acquisitions identified for funding from the James and Diana Ramsay Bequest Fund, comply with the approval process specific to this fund as detailed in the Acquisitions Procedures.

## 6.3 Loans to the Collection

- To apply to inward loans to the collection, the same criteria and approval processes that apply to proposed acquisitions.
- To accept long-term inward loans when a work of art is of the highest quality and importance and is suitable for regular display. Long term loans should be of such quality and usefulness that the Gallery would, should circumstances permit, aspire to own the work in the fullness of time, through purchase, gift or bequest.

## 6.4 Provenance and Due Diligence

- To comply with AGSA's *Due Diligence and Provenance Policy*, ensuring that all collecting is done according to the highest standards of ethical and professional practice, including compliance with conventions and legislation addressing the movement of cultural artefacts.
- To undertake thorough research before proposing a work of art for acquisition to establish the provenance (history and chain of ownership of a work of art), authenticity of the work of art and the veracity of the title held by the donor or vendor.
- Despite best efforts, provenance information or chain of ownership for some works of art or cultural material may be incomplete or unobtainable. AGSA will endeavour to discover and to confirm as best it can its ownership history and assess the associated risks with bringing the work into the collection. Works of art however will not be acquired in cases where there is any reason to believe that the work of art was stolen or sold under duress.
- In addition to confirmation of provenance and authenticity, to ensure that acquisitions of Aboriginal and Torres Strait Islander art are either intended for public display, or approved for display in consultation with appropriate Indigenous representatives and communities.

## **7. Conflicts of Interest – Staff and Board Members**

- Members of AGSA’s Acquisitions Committee should declare any material conflict of interest and this conflict should be actively managed. AGSA staff involved in the acquisition process and members of the Art Gallery Board must declare any conflict of interest in an acquisition. The declared conflict will be minuted by the Acquisitions Committee.
- AGSA staff, Board members and Acquisitions Committee members must exclude themselves from any discussion or decision by the Acquisitions Committee and/or Art Gallery Board in relation to an acquisition in which they have an interest and this will be minuted.
- AGSA staff members involved in the acquisition of works of art are bound by the Code of Ethics for the South Australian Public Sector.

## **8 Approval of Acquisitions**

- Acquisitions to the collection are approved by the Art Gallery Board or their delegate.
- Ministerial approval is also required for purchase of high value works of art as specified in the financial delegations.
- The Director has delegated authority to approve acquisitions within established delegation limits.
- The Acquisitions Committee is responsible for review of the documentation relating to proposed acquisitions for AGSA and for making a recommendation to the Board whether or not to approve the proposed acquisition.
- All proposed acquisitions will be considered on their merit, taking into account the principles and terms of this policy and the details of the proposed acquisition as outlined in the Acquisitions Committee’s papers.

## **9. Publication of Acquisition Policy and New Acquisitions**

- AGSA’s policies relating to the acquisition of works of art will be available to the public via the AGSA website. Information on new acquisitions will be regularly updated online in the collection section of the AGSA website.

## **10. Responsibilities**

- The Art Gallery Board is responsible for approving acquisitions to the collection, either directly or by delegation to the Director subject to cases where Ministerial approval is required.
- The Acquisitions Committee is responsible for review of the documentation relating to proposed acquisitions for AGSA and for making a recommendation to the Board whether or not to approve the proposed acquisition.

- The Director is responsible for ensuring that the process and documentation relating to new acquisitions conform to the relevant policies and that the staff involved understand and comply with the policies.
- The curatorial staff are responsible for the research and documentation prepared in support of a proposed acquisition and for ensuring that this meets the requirements of the relevant policies

## **11. Related Policies and Procedures**

- Acquisitions Committee Charter
- Due Diligence and Provenance Policy
- Due Diligence and Provenance Procedures, to be revised 2019
- Acquisitions Procedures, to be revised 2019
- Ten Year Acquisition Strategy, to be revised 2019
- Gifts, Bequests and Donations Policy
- Gifts, Bequests and Donations Procedure, to be revised 2019
- Deaccessioning Policy, to be revised
- Deaccessioning Procedure, to be revised
- Board Funds Management Policy
- Code of Ethics for the South Australian Public Sector

## **12. Review**

This revised policy will be reviewed after its first year of operation and then on a five-yearly basis.

Policy approved by the Art Gallery Board, 16 April 2019.