

# DEACCESSIONING & REMOVAL OF WORKS OF ART POLICY

Approved 30 April 2018  
Queensland Art Gallery Board of Trustees

## 1. PURPOSE

This policy sets out the key principles that the Queensland Art Gallery | Gallery of Modern Art ('the Gallery' or 'QAGOMA') will adhere to in the development, maintenance and refining of the permanent collection ('the Collection') of the Gallery through the practice of deaccessioning and removal of works of art in the Collection.

## 2. SCOPE

This policy is applicable to all staff involved in the development and management of the Gallery's Collection. This policy sets out the rationale, authority and criteria for the deaccession and removal of works of art from the Collection.

This policy does not extend to works of art forfeited or seized by government under legislation, or surrendered pursuant to a court order, that urgently need to be returned to a person or entity that is able to establish a better title to the work of art than the Gallery, or to other Gallery assets that are not works of art.

## 3. POLICY STATEMENT

This Policy supports the Gallery's primary objective, stated in the Queensland Art Gallery Act 1987, '*to contribute to the cultural, social and intellectual development of all Queenslanders*' by ensuring that the Gallery develops and manages the Collection in a responsible manner, having regard to best practice internationally and within Australia.

In this context, deaccessioning and removal of works of art from the Collection is a legitimate collection management activity.

## 4. DEFINITIONS

The following definitions apply to this document:

**Act:** refers to the Queensland Art Gallery Act, 1987.

**Acquisition:** means the acceptance, through donation or purchase, of a work of art into the Gallery's Collection.

**Board:** refers to the Gallery's governing Board of Trustees under the Act.

**Collection:** means works of art in various media that are Gallery property and have been formally accessioned into the permanent collection of the Gallery.

**Deaccessioning:** means the administrative process of removing a work of art from the Collection.

**Removal:** means the physical removal of the work of art from the organisation through an authorised process, also referred to as 'disposal'.

## 5. POLICY ELEMENTS

### 5.1.1 Authority

Under section 19 of the Act, management and development of the Collection is a function of the Board, which is undertaken on behalf of the people of Queensland.

Authority, therefore, for the deaccessioning of a work of art from the Collection and the approval of the method of removal rests with the Board.

The Board delegates limited authority, equal to the delegated authority for the discretionary purchase of a work of art for the Collection, to the Director to deaccession a work of art.

## 5.2 PRINCIPLES OF DEACCESSIONING

### 5.2.1 Selection

A work of art should be retained in the Collection if it continues to be of relevance and significance, having regard to the prevailing Gallery Acquisitions or Collection Policy, and for as long as the Gallery is able to appropriately utilise and care for it.

Deaccessioning may be considered when these standards are no longer met and when removal through sale or otherwise would contribute to the enhancement of the Collection.

Deaccessioning, however, can only be pursued where there are no residual legal constraints from the time of acquisition (for example, if the Gallery has acquired a work of art under a contractual obligation to keep it permanently).

Where it is identified that the Gallery is in possession of a work of art which has been obtained from the legal owner by the illicit actions of a third party, and therefore the Gallery does not have secured legal title, the Gallery shall disclose this information and take the necessary action for the restitution of the object to the rightful owner.

Where it is identified that the Gallery is in possession of a work of art which is of special cultural significance to Indigenous Australian people, the Gallery shall disclose this information and consult with the Gallery's Indigenous Advisory Panel and act in accordance with the *Aboriginal and Torres Strait Islander Engagement Strategy*. In addition, the Gallery will apply the principles outlined in *Policy Guidelines for Museums and Aboriginal and Torres Strait Islander Communities* and *Previous Possessions, New Obligations*, developed by Museums Galleries Australia.

The deaccessioning of a work of art by a living artist shall only be considered in exceptional circumstances. The living artist or their representative shall be notified of the Gallery's intention to deaccession a work of art.

### 5.2.2 Criteria

In determining whether a work of art will be deaccessioned a thorough justification must be prepared and may include:

1. The work of art is no longer of a standard suitable for inclusion in the holdings of a major public collection
2. Holding the work of art in the Collection is no longer in line with any collection or acquisition policy of the Gallery
3. Superior examples of the work of the artist or period have been acquired, or are available for acquisition
4. Duplicates of the work of art are already held in the Collection, where duplication serves no scholarly or educational purpose.
5. The work of art has been or is highly likely to have been illicitly traded and the Gallery does not have legal title to it

6. After thorough due diligence, the provenance of the work of art is unsatisfactory having regard to current best practice (including Australian ethical codes and Australian government guidelines and expectations)
7. The work of art is of special cultural significance to Indigenous Australian, Torres Strait Islander, or non-Australian indigenous people and has been requested for return
8. The Gallery is unable to continue to provide an appropriate level of care for the work of art
9. The work of art was incorrectly attributed or described, falsely documented and/or is a forgery
10. The work of art is in poor condition and beyond restoration, or the importance of the work of art is insufficient to warrant the allocation of resources necessary to restore it
11. The object poses an unacceptable risk to staff or visitors, or to other assets.

### 5.2.3 Proposals

A work of art proposed for deaccessioning and removal should be subject to a rigorous assessment and documentation process equivalent to that applied to a work of art under consideration for acquisition. A written recommendation for deaccessioning and method of removal must be submitted to the Director for consideration via the Deputy Director, Collection and Exhibitions. The recommendation should be supported by the relevant curator.

### 5.2.4 Approval

The Director may approve the deaccessioning and method of removal of a work of art, where the value of the work of art does not exceed the delegation by the Board.

Deaccessioning and method of removal for works of art that exceed the Director's delegation require approval by the Board of Trustees.

The Board of Trustees shall be competent to give approval and ratification with the consent of a majority of a quorum of the membership of the Board.

The details of a work of art approved for deaccessioning and removal shall be made available to the public upon request.

### 5.2.5 Removal

The deaccessioned object may be offered for removal by way of:

1. Sale (including direct to a dealer or by public auction or tender)
2. Gift (to an appropriate public collecting institution)
3. Exchange (with artist, dealer or other public collecting institution).

The Gallery will preferentially consider removal of a work of art to another public collecting institution, to maintain public access to the work of art, though where a work may have high personal value (rather than merely monetary value), consideration may secondarily be given to returning the work to any donor or the immediate family of the donor.

A deaccessioned work of art shall not be available directly by sale or gift to Gallery staff or members of the Board, or their immediate families, nor may they receive any personal benefit from the removal of a deaccessioned work of art.

The income derived from the removal of a deaccessioned object shall be used only for the acquisition of works of art for the Collection or for conservation of works of art in the Collection, in line with section 2.16 of the *ICOM Code of Ethics for Museums, 2013*. All such acquisitions shall be made in conformity with the Gallery's *Acquisitions Policy for Works of Art*.

The use of income derived from the removal of a deaccessioned gift toward the acquisition of another work of art shall be acknowledged in the credit line for the new acquisition and shall include the name of the original donor. Consideration shall be given to the donor's interests when selecting a new acquisition. The income derived from the sale of such objects shall be used only for the acquisition of works of art for the Collection or for upgrading the Collection through conservation of works of art. Such acquisitions shall be made in conformity with the Gallery's *Acquisitions Policy for Works of Art*.

In extenuating circumstances, a deaccessioned work of art may be considered for destruction if its deteriorated condition renders it unsaleable, the work of art is a danger to the public or to property, or is a forgery.

The details of the method of removal of a deaccessioned work of art shall be made available to the public.

On occasion the Gallery may accept a work of art or object which is donated by gift or bequest but which is not deemed appropriate for accessioning into the Collection. With the formal approval of the Board of Trustees on each occasion these items shall not be accessioned but disposed of in the most appropriate manner. As these items are not accessioned, such objects will not be subject to the deaccessioning process set out in this Policy and the related Deaccessioning & Removal Procedures.

### **5.2.6 Reporting**

A decision by the Board to deaccession a work of art will be documented in the minutes of the Board meeting and all works of art deaccessioned in the financial year will be reported in the Board's Annual Report.

After a work of art is removed from the Collection, the Gallery should maintain its collection management documentation and computer record for future reference.

## **6. ROLES AND RESPONSIBILITIES**

The Director, as representative of the Board, oversees the control, management and maintenance of the Gallery and its property, including the Collection (See The Queensland Art Gallery Act 1987).

Subject to this Policy, the Director has delegation to deaccession works of art for the Gallery up to a financial value determined by the Board of Trustees.

Deaccession procedures are administered by the curatorial and registration staff, under the direction of the Deputy Director, Collection and Exhibitions.

## **7. ADMINISTRATION**

### **7.1.1 Related Documents**

This policy should be read in conjunction with the following:

#### **Gallery Policies**

- Acquisitions Policy for Works of Art
- Code of Conduct for the Queensland Public Service
- Fraud Control Policy
- Provenance and Due Diligence Policy
- Queensland Art Gallery Board Instrument of Delegation

#### **Gallery Guidelines and Procedures**

- Aboriginal and Torres Strait Islander Engagement Strategy
- Deaccessioning Procedure
- Provenance and Due Diligence Procedures

#### **Guiding National and International Codes of Ethics**

- ICOM Code of Ethics for Museums
- Museums Galleries Australia Inc. Code of Ethics

#### **National and International Guidelines and Resources**

- The Art Loss Register
- Australian Government, Australian Best Practice Guide to Collecting Cultural Material

- CITES Convention on International Trade in Endangered Species of Wild Fauna and Flora
- Collections Law – Legal Issues for Australian Archives, Galleries, Libraries and Museums
- Combating Illicit Trade: Due diligence guidelines for museums, libraries and archives on collecting and borrowing cultural material (2005)
- ICOM International Observatory on Illicit Traffic in Cultural Goods
- ICOM Red List
- ICOM-WIPO Art and Cultural Heritage Mediation
- IFAR Provenance Guide
- Indigenous Australian Art Charter of Principles for Publicly Funded Collecting Institutions
- Interpol Works of Art Database
- Museums Galleries Australia Inc. Continuous Cultures, Ongoing Responsibilities
- Museums Galleries Australia Inc. National Standards for Australian Museums and Galleries (Version 1.4, 2014)
- PIMA Code of Ethics for Pacific Museums and Cultural Centres
- Protocols for producing Indigenous Australian visual arts (2nd edition, 2010)
- Significance 2.0: A Guide to Assessing the Significance of Collections
- UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects
- UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970
- UNESCO Database of National Cultural Heritage Laws
- UNESCO Convention of the Protection of Cultural Property in the Event of Armed Conflict with Regulations of the Execution of the Convention 1954
- UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005
- UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage 2003

#### Queensland Legislation

- Gifts and Benefits Directive
- Public Interest Disclosure DSITIA
- Public Records Act 2002
- Queensland Art Gallery Act 1987

#### Commonwealth Legislation

- Aboriginal and Torres Strait Islander Heritage Protection Act 1984
- Customs Act 1901
- Personal Properties Securities Act 2009
- Protection of Cultural Objects on Loan Act 2013
- Protection of Cultural Objects on Loan Regulation 2014
- Provenance and Due Diligence Policy | August 2017 Page 5 of 5
- Protection of Movable Cultural Heritage Act 1986
- Protection of Movable Cultural Heritage Regulation 1987
- Biosecurity Act 2015
- Environment Protection and Biodiversity Conservation Act 1999

## 7.2 DOCUMENT OVERSIGHT

<b>Approval authority</b>	Queensland Art Gallery Board of Trustees		
<b>Maintained by</b>	Deputy Director, Collection and Exhibitions		
<b>Release</b>	External	<b>File reference</b>	QR/18/10009
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### 7.3 DOCUMENT HISTORY

Version	Approved by	Date	Revisions
1.0	Queensland Art Gallery Board of Trustees	Feb 2011	<p>Previously endorsed by the Board of Trustees 27 November 2000</p> <p>Revised version endorsed by the Board of Trustees 14 February 2005</p> <p>Reviewed February 2011</p>
2.0	Queensland Art Gallery Board of Trustees	30 April 2018	<p>Major review included:</p> <p>Removal of procedures to a separate document</p> <p>Updating of museum policies and guidelines</p> <p>Insertion of new clauses for: insecure legal title; provenance; duplicates; and holding work not in line with collections or acquisitions policy</p>

### 8. LICENCE



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