

# PHILANTHROPIC GIFT ACCEPTANCE POLICY

Approved 1 November 2021  
Queensland Art Gallery Board of Trustees

## 1. PURPOSE

This policy sets out the principles to support Queensland Art Gallery | Gallery of Modern Art ('the Gallery' or 'QAGOMA') representatives and staff when accepting and managing philanthropic gifts.

## 2. SCOPE

This policy applies to the Queensland Art Gallery Board of Trustees and Queensland Art Gallery | Gallery of Modern Art (QAGOMA) staff with the delegation to receive philanthropic gifts on behalf of the Board (refer to s81 of the *Queensland Art Gallery Act 1987*; and the QAGOMA Delegation Manual Schedule 3).

This policy does not apply to sponsorship i.e. financial or non-financial support provided to the Gallery for specific purposes in return for a material benefit to the sponsor such as advertising, marketing, and publicity benefits. See Sponsorship Policy for sponsorship giving.

## 3. POLICY STATEMENT

QAGOMA recognises that fundraising plays a vital role in the development of the state art collection, the presentation of major national and international exhibitions, and public programs. Complex, dynamic relationships with private individuals and organisations play a critical role in today's philanthropic landscape. The Gallery seeks to build productive and enduring philanthropic relationships with benefactors. This policy, in conjunction with QAGOMA's Strategic Plan, Acquisitions Policy for Works of Art and the Named Acknowledgment Policy, will assist QAGOMA in managing the risks and maximising the benefits that flow from private benefaction and ensure good management and accountability.

In line with the *Human Rights Act 2019*, QAGOMA acknowledges the importance of respecting, protecting and promoting human rights. When making a decision under this policy the decision-makers must comply with that obligation.

## 4. DEFINITIONS

The following definitions apply to this document:

**Bequest:** is a gift of a monetary sum or property derived from the estate of an individual through a Will, given into the permanent possession of the Gallery.

**Cultural gift:** is a work of art, an object or a collection of items gifted through the Australian Cultural Gifts Program.

**Donation:** is a cash gift made in any form, including by cheque, money order, credit card or online, whether solicited or otherwise.

**Gift-in-kind:** is a work of art, an object, or a collection of items gifted through the QAGOMA Foundation.

**Life Insurance Policy:** a life insurance policy where the Queensland Art Gallery or Queensland Art Gallery Board of Trustees is named as both beneficiary and irrevocable owner of the insurance policy.

**Philanthropic gift:** an umbrella term used in this policy to encompass all philanthropic gift types, including donations, bequests, cultural gifts and gifts-in-kind, and any other gift type referred to in this policy.

## 5. POLICY ELEMENTS

### 5.1 PHILANTHROPIC ACTIVITIES GUIDELINES

The Gallery may accept unrestricted/restricted philanthropic gifts including those made with an expression of wishes that the contribution be used for a particular purpose within QAGOMA's strategic objectives from individuals, corporations, foundations and other entities.

The Gallery shall comply with all tax laws and other legal requirements regarding philanthropic gifts.

Potential and/or existing donors will be encouraged to seek their own personal, legal, financial, and tax advice. The Gallery cannot provide such advice.

No solicitation or proposal submitted for financial commitment on behalf of QAGOMA can be undertaken without the knowledge and prior approval of the Director or their delegate.

QAGOMA staff with delegated authority to receive philanthropic gifts may refer a decision to accept a donation to the Board of Trustees.

### 5.2 ACCEPTANCE CONSIDERATIONS

When considering whether to accept a philanthropic gift, the Gallery will consider the following factors:

- values, principles and purpose – whether acceptance compromises the purpose or any of the policies, core values, or ethical or moral principles that guide QAGOMA
- public relationships – whether acceptance may damage the public confidence in, or otherwise reflect negatively on, QAGOMA or Queensland Government
- form and administration – whether the philanthropic gift is offered in a form that QAGOMA can use without incurring substantial expense or difficulty, or compromising its operational priorities
- effect on future giving – whether acceptance will encourage or discourage future philanthropic gifts. The Gallery reserves the right in any philanthropic related document (e.g. donation or gift agreement), to broaden the purpose of the donation to be determined by the Director and Chair at a future date if the purpose of the donation no longer serves the purpose of the Gallery.

Gifts will not be knowingly accepted from the areas of businesses or corporations (or individuals who are their principal owners or former owners) involved with: arms manufacture, criminal activities, illicit drugs, or pornography.

The value of a person's or organisation's time or service is not considered a philanthropic gift.

Grants from industry, foundations, or governments that include contractual obligations are not considered as philanthropic gifts.

Court-ordered settlements or payments are not voluntary and cannot be considered a donation. Discounts on purchases (that are normally available as gallery discounts) are not considered donations.

Expenses incurred in the transfer of a donation to the Gallery are not counted towards lifetime giving. Investment earnings on gifts after they have been given to the Gallery are not counted towards lifetime giving.

The payment of membership fees that convey the right to attend events, receive literature, receive services, or be eligible for entitlements of any material value is not considered a donation. The payment of a basic fee for admission to an event or to a program, whether on behalf of the payer, a dependent of the payer, or someone designated by the payer regardless of whether or not the payment of the fee was voluntary is not considered a donation.

### **5.3 RIGHT TO DECLINE A PHILANTHROPIC GIFT**

The Gallery retains the discretion not to accept any form of benefaction from any entity for any reason.

The Gallery may not accept philanthropic gifts when the acceptance of which might harm its good reputation and standing, or which are too difficult, incapable of being realised, ineffective due to their size, costly to administer or are for purposes outside those of the Gallery's own.

If a philanthropic gift is accepted and it is subsequently determined that it has placed QAGOMA in a compromising position, QAGOMA reserves the right to return the donation.

### **5.4 ESTABLISHMENT OF CHARITABLE TRUSTS**

The Gallery may choose to accept a donation which will require the establishment of a charitable trust. The establishment of a charitable trust or acceptance of an existing trusteeship is a matter that the Gallery may seek legal advice on and refer to the Board of Trustees.

For Charitable Trusts established by the Board of Trustees, Gallery staff will develop a 'Trust Dossier' for Board approval to guide the future application of funds, provide the roles and responsibilities of the Board in managing the Trust, and important background information on the donor.

### **5.5 DONATIONS**

Donations may support an existing activity or establish a new activity aligned to the Gallery's strategic direction. Donations may be:

- (i) Specified – where the donor's intent has a clear and specific purpose
- (ii) Semi-specified – where the donor's intent is attributed to a broad purpose
- (iii) Unspecified – where there is no intent or purpose specified by the donor

The Gallery may require minimum amounts for donations intended to support a new activity.

Donations may be allocated, receive investment earnings and be quarantined according to their intended purpose through the Gallery's financial management processes.

Donated funds should be spent in accordance with the purpose of those funds and QAGOMA's Strategic Plan.

## 5.6 GIFTS OF WORKS OF ART

All proposed gifts of works of art to the Queensland Art Gallery Collection must be approved by the Director or the Board of Trustees in accordance with their financial delegations and the [QAGOMA Acquisitions Policy for Works of Art Policy](#).

Proof of ownership and provenance is a condition of acceptance for any artwork.

## 5.7 GIFTS OF REAL ESTATE

The Board of Trustees may choose to accept donations of real estate. Acceptance of such donations is within the Board's delegations as outlined in the [Queensland Art Gallery Act 1987](#).

## 5.8 GIFTS OF SHARES

As the Gallery is a statutory body of the Queensland Government, it is limited in the type of investments it is able to hold. Under the [Statutory Bodies Financial Arrangements Act 1982 \(SBFAA\)](#) the Gallery is not permitted to invest in shares without seeking approval of the Under Treasurer.

The Gallery may seek to obtain permission from the Under Treasurer in the future to accept gifted shares with the understanding that these will be liquidated on receipt and the liquidation amount will be recorded as the amount donated to the QAGOMA Foundation by the donor.

## 5.9 GIFTS TO THE QAGOMA RESEARCH LIBRARY

The Gallery may accept donations of books, ephemera and other items to the QAGOMA Library Collection. The value of such gifts as determined by an independent valuer, or through benchmarking undertaken by Library or Curatorial staff, may be credited to the donor's lifetime giving total.

## 5.10 LIFE INSURANCE

The Gallery may accept the gift of a life insurance policy where the Queensland Art Gallery Board of Trustees is named as both beneficiary and irrevocable owner of the insurance policy. The donor of the life insurance policy must agree to pay any future premium payments owing on the policy.

The Gallery will not undertake to secure insurance on the life of a donor not otherwise at the request of a donor, and will not accept ownership of policies subject to a loan or in connection with a "split dollar" or similar arrangement where the proceeds are to be divided between charitable and non-charitable interests.

## 5.11 BEQUESTS

Management of bequests will be informed by the Will. Foundation staff may consult representatives of the donor to find an alternative option, or redirect the donation, if the donor's intent cannot be applied according to its purpose or is ineffective due to the size of the donation.

## 5.12 RECORDING AND DOCUMENTATION

The Gallery will work with the donor (or representative) to record the purpose for donation. After a donation is accepted, Foundation staff will maintain a record of donor intent and may record donor consultation where applicable in accordance with the Gallery's privacy policies.

## 5.13 ACKNOWLEDGEMENT

Foundation membership will be offered to recognise philanthropic gifts valued at more than \$4000 or bequests to or above the value of \$8000. As membership is currently perpetual, the value of philanthropic gifts from existing Foundation members may be added to previous contributions and recognised at the corresponding Foundation membership category.

All Foundation members are formally acknowledged in the Foundation *Year in Review*, and donors of significant philanthropic gifts are recognised on donor boards in the Gallery.

Philanthropic gifts will also be recognised in accordance with the Gallery's current Foundation membership categories and the Named Acknowledgment policy.

The Gallery will request consent from a donor to publicly acknowledge their philanthropic gift. The Gallery will offer donors anonymity and respect the wishes of donors if this is requested.

No gift may be given anonymously (i.e. the Gallery does not know the source), and the donor's contact information and gift amount will be recorded in the Foundation's confidential donor database.

## 5.14 FINANCIAL MANAGEMENT PRINCIPLES

It is acknowledged that approved third party facilitators, such as fundraising websites, may deduct an administration fee from each donation they process on behalf of QAGOMA, and that fees for the management of funds of QAGOMA's endowed funds are deducted from those funds by QAGOMA's third-party fund managers.

## 5.15 CAMPAIGNS

The Gallery may convene a donation or campaign committee at the discretion of the Director. The structure, membership, term, and authority of said committee will be developed by Director and approved by the Board. The may include convening a committee to deal with one specific donation/gift-in-kind/bequest.

## 6. ROLES AND RESPONSIBILITIES

### BOARD OF TRUSTEES

- Approve philanthropic gifts in accordance with relevant delegations outlined in the [Board's Instrument of Delegation](#).
- Ensure the Gallery's forward planning considers fundraising objectives and reporting of outcomes in the annual report.
- Ensure inclusion of fundraising goals and strategies in the Gallery's Strategic Plan.

## DIRECTOR

- Approve philanthropic gifts in accordance with relevant delegation/s outlined in the QAGOMA [Delegation Manual](#)
- Reviews policy changes and endorses fundraising initiatives.
- Leads and promotes fundraising initiatives to attract gifts and donations with the ongoing support of staff.

## EXECUTIVE MANAGEMENT TEAM

- Approve philanthropic gifts in accordance with relevant delegation/s outlined in the QAGOMA [Delegation Manual](#)
- Support fundraising initiatives to attract philanthropic gifts.
- Ensures compliance of reporting responsibilities for fundraising objectives and goals.

## SENIOR LEADERSHIP TEAM

- Approve philanthropic gifts in accordance with relevant delegation/s outlined in the QAGOMA [Delegation Manual](#)
- Support fundraising initiatives to attract philanthropic gifts.
- Ensures compliance of reporting responsibilities for fundraising goals.

## STAFF

- Support fundraising initiatives to attract philanthropic gifts.

## 7. ADMINISTRATION

### 7.1 RELATED DOCUMENTS

- [Acquisitions Policy for Works of Art](#)
- [Australian Cultural Gifts Program](#)
- [Board of Trustees Instrument of Delegation](#)
- [QAGOMA Delegation Manual](#)
- [Named Acknowledgment Policy](#)
- [QAGOMA Strategic Plan](#)
- [Queensland Art Gallery Act 1987](#)
- [Sponsorship Policy](#)
- [Statutory Bodies Financial Arrangements Act 1982 \(SBFAA\)](#)

### 7.2 DOCUMENT OVERSIGHT

<b>Approval Authority</b>	Queensland Art Gallery Board of Trustees		
<b>Document type</b>	Governing		
<b>Document Owner</b>	Philanthropy Manager		
<b>Release</b>	External	<b>File reference</b>	QR/21/49051

<b>Approval date</b>	1 November 2021	<b>Next review by</b>	October 2024
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### 7.3 DOCUMENT HISTORY

Version	Approved by	Date	Revisions
1.0	Queensland Art Gallery Board of Trustees	June 2014	New policy developed in response concurrently with the Gallery's Sponsorship Policy in recognition of the need for a due diligence process before accepting external financial support.
2.0	Queensland Art Gallery Board of Trustees	October 2018	A review of the policy identified that it required significant changes to content, formatting and inclusion of references to related internal and external documents to make it consistent with Gallery policies, and to bring it in alignment with the Board Instrument of Delegation. The policy has been made more comprehensive in recognition of recent notified bequests and types of donations the Gallery has received i.e. shares, as well as related treatment and obligations.
2.1	Queensland Art Gallery Board of Trustees	November 2021	<p>Key changes:</p> <ul style="list-style-type: none"> <li>Renaming of the policy from 'Foundation Gift Acceptance Policy' – to a broader term acknowledging that gifts can come to the Board through more channels than just the Foundation.</li> <li>Introduction and definition of an umbrella term for different types of gifts: 'philanthropic gifts'</li> <li>Removal of the statement 'QAGOMA will not deduct processing or administration fees from donations' as QAGOMA has the ability to deduct management and administration fees from Charitable Trusts. Minor changes to the policy also include formatting in alignment with the Gallery's current Governing Documents template, which includes the addition of a Roles and Responsibilities section, updating of the Document Oversight and Document History format, and the addition of QAGOMA's <i>Human Rights Act 2019</i> statement.</li> <li>Change of policy release from internal to external (published on Gallery website) for greater transparency in negotiations with donors.</li> </ul>