

 **Acquisition – Provenance and Due Diligence Checklist**

In accordance with the Provenance and Due Diligence Research Policy and the Acquisitions Policy and informed by the Best Practice Guide to Collecting Cultural Material, the following checklist must be completed for all works before they may be considered for acquisition by the Acquisition Committee.

Copies of all documents and materials gathered in the course of this assessment and the completed checklist are to be filed in the artwork file, in accordance with the Provenance and Due Diligence Research Procedures.

Please attach a separate document outlining the details of multiple works related to this checklist.

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| Proposed Acquisition  |  |

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| Curatorial department |  |
| Artist  |  |
| Title  |  |
| Date  |  |
| Place of execution/origin  |  |
| Medium |  |
| Dimensions |  |
| Acquisition source (donor/seller etc.) |  |
| Method of acquisition |  |
| Purchase price (if a purchase) |  |

1. **Due diligence**
2. **Due diligence exceptions**

Is the artwork commissioned by the Gallery?

[ ]  Yes [ ]  No

If so, does the Gallery reserve the right of first refusal on its purchase under the terms of the Commission or Exhibition contract?

[ ]  Yes [ ]  No

If the answer is yes, please proceed directly to Section B – Risk Assessment and Approval.

1. **Details of current owner**
	1. Is the acquisition being negotiated directly with the current sole owner?

[ ]  Yes [ ]  No

If the seller or donor is not the sole owner:

* 1. Has the owner(s) been established?

[ ]  Yes [ ]  No

Please record the owner’s name and details

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* 1. In what capacity are they representing the owner (e.g. as joint-owner, agent, trustee, etc.)?

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* 1. Has the seller or donor provided evidence of their authority to represent the owner(s)?

[ ] Yes [ ] No – If so, please note details and attach evidence to this form.

* 1. Is the donor or seller the artist?

[ ]  Yes [ ]  No

1. If so, have they retained legal title?

[ ]  Yes [ ]  No

1. If so, has this been confirmed or corroborated? (E.g. an undertaking by the artist themselves, confirmation by the artist’s agent, or search of the Personal Properties Securities Register etc.)

[ ]  Yes [ ]  No

If the seller or donor is the artist and it has been confirmed that they have not disposed of legal title to the work, please proceed to Section B – Risk Assessment and Approval. (Please note, further due diligence may be required, based on the risk assessment.)

1. **Provenance account and documentation**
	1. When, from whom and by what method (purchase, gift, bequest etc.) was the work acquired by the current owner?

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* 1. Summarise the seller or donor’s account of the prior provenance of the work.

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* 1. Has any documentary evidence of the provenance been sourced from the donor or seller? (e.g. bill of sale or receipt, will, inventories, auction catalogues, exhibition records and catalogues, published references, photographic evidence, certificate of authenticity and correspondence).

 [ ]  Yes [ ]  No

List any supporting documentation.

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* 1. Are there any gaps, discontinuations or inconsistencies in the provenance history?

[ ]  Yes [ ]  No

If the answer to 3.4 is yes:

1. Please comment on the nature and potential risks associated with the gaps or discontinuities. Can they be explained, contextualized or accounted for? (See Provenance and Due Diligence Research Procedures for further details and examples).

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1. Is there reasonable cause for concern or suspicion arising from the gaps or inconsistencies in the provenance?

[ ]  Yes [ ]  No

1. Do any of the gaps or discontinuities correspond to periods of war, conflict, or political upheaval, natural disaster or areas known for cultural looting or illicit excavation (for example, but not limited to, Europe during the Nazi era 1933–1945, Afghanistan, Iraq, India, South East Asia etc.)?

[ ]  Yes [ ]  No

1. Was, or could the artwork have been acquired by the owner or a previous owner in Europe between 1933 and 1945?

[ ]  Yes [ ]  No

If answering ‘yes’ to b, c, or d, does the owner’s account and documentation of provenance provide evidence that the work was not unlawfully appropriated at this time?

[ ]  Yes [ ]  No

* 1. Has any additional information or documentation been obtained from other sources?

[ ]  Yes [ ]  No

1. If so, please record details and outline how this information supports or differs from the seller or donor’s account of provenance or if any concerns have been identified.

Additional sources may include: exhibition or loan histories; catalogues or academic references; copy of will sourced from Probate Registry etc.; expert advice from Gallery colleagues, external professionals including: museum professionals, academics, artists or artist’s families, collectors, relevant Government agencies and authorities, as well as legal advisers.

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* 1. Has there been any prior ownership dispute or claim on the work?

[ ]  Yes [ ]  No [ ]  Unsure

If so, has the donor or seller provided an account or evidence of any binding settlement or evidence that the claim has been extinguished on terms that bind all relevant parties?

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* 1. For Aboriginal and Torres Strait Islander works:
1. Is there evidence that in the case of purchases, the seller has the confidence of the community from which the work originates and a history of ethical dealing in Aboriginal or Torres Strait Islander art?

[ ]  Yes [ ]  No Please provide details

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1. If relevant, have representatives of relevant Aboriginal or Torres Strait Islander communities been consulted?

[ ]  Yes [ ]  No

Summarise the nature and extent of consultations undertaken to date and any outcomes:

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* 1. If required, have representatives of other relevant communities been consulted?

[ ]  Yes [ ]  No

Summarise the nature and extent of consultations undertaken and any outcomes:

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* 1. In reviewing the information about the donor, seller and/or owner and their account of provenance, are there any reasonable grounds for concern not already outlined that may need to be considered?

[ ]  Yes [ ]  No Please provide details:

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1. **Origin of work and import/export restrictions**
	1. Where was the work produced or where does it originate?

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* 1. Does the work come from an area known to have been subject to cultural looting or illicit excavation?

[ ]  Yes [ ]  No

* 1. In which other countries has the work resided?

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* 1. If relevant, has the work already been imported into Australia?

[ ]  Yes [ ]  No If so, please note the date of import.

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If the work was imported into Australia prior to 1987, please skip next sub-questions.

1. Are export controls in place or permits required for the export of the work from its country of origin or any intermediary countries?

[ ]  Yes [ ]  No

1. If export controls are in place or permits are required, if the work has already been exported, has proof or other corroborating evidence of legal export been sourced. Please include details of documentation sighted, or other professional or legal advice sought.

[ ]  Yes [ ]  No

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* 1. Is the artwork from a country, classification or type that appears on an ICOM Red List?

[ ]  Yes [ ]  No

1. **Purchase price and value (applicable to purchased works only)**

Is the selling price consistent with the expected market price for this work or comparable works?

[ ]  Yes [ ]  No

1. **Physical examination of the work (if relevant)**
	1. Is a condition report available or has one been undertaken by the Gallery?

[ ]  Yes [ ]  No

* 1. Where the work has been physically examined prior to being proposed for acquisition, please comment on any physical characteristics that may provide further information about the provenance of the work, including: markings, inscriptions, labels, annotations; accretions; mounts, binding, framing; evidence or lack therefore of prior repair, restoration or other interference; signs of handling, wear or age etc.

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* 1. Have any scientific examinations been undertaken to confirm the age, materials, or other relevant information about the work?

 [ ]  Yes [ ]  No

1. **External registers, databases and other references**
	1. Please list any external registers, databases or other sources consulted e.g. ICOM Red Lists, the Art Loss Register, Personal Property Securities Register, International Foundation for Art Research, UNESCO Database of National Cultural Heritage Laws

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1. **Other**
	1. Has the seller/donor been informed of the warranties and indemnities the Gallery will be seeking, as outlined in the Deed of Gift and Agreement of Sale forms?

[ ]  Yes [ ]  No

* 1. Does the seller or donor have any concerns about these undertakings?

[ ]  Yes [ ]  No

1. **Risk assessment and approvals**

Curator’s recommendation:

Proceed with the acquisition on the basis of the investigation

[ ]  Yes [ ]  No

OR

Undertake further investigation

[ ]  Yes [ ]  No

If further investigation is required, are there particular areas not already highlighted that require further investigation? (Please outline below)

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1. **Summary of provenance (for inclusion in Acquisition Proposal/Director’s Delegation)**

Summarise the provenance, outlining any concerns that have been identified and the conclusion of risk assessments.

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1. **Approval**

Due diligence has been reviewed and the following is recommended by the curator and curatorial manager:

Proceed with the acquisition on the basis of the investigation and risk assessment

[ ]  Yes [ ]  No

OR

Undertake further investigation

[ ]  Yes [ ]  No

Name and Signature

Curator Date

Curatorial Manager Date

Please note, for works where additional research has been required, please attach additional research to original Checklist form. In such cases final approval to proceed should be endorsed by the signatures of the curator, head curator, deputy director and director or her/his delegate.

For all works approved to proceed, please include the Provenance Summary in the Acquisition Proposal/Director’s Delegation.