

SUPER CHANGES NOT SO SUPER?

AMANDA WOODARD ASSESSES THE IMPACTS OF PROPOSED CHANGES THAT WILL SEE ART STRUCK OUT OF SELF-MANAGED SUPERANNUATION FUNDS.

Paintings are among the list of collectables that could be banned from self-managed superannuation funds. The recommendations of the Cooper Review into superannuation, due to go forward to the Federal Government, would force investors to phase out artworks from self-managed funds over a 10 year period – with penalties imposed by the ATO if they don't.

Arts accountant **Michael Fox** at Lowensteins Arts Management said that the proposals “came out of the blue, with no time for anyone to be consulted”. He believes if they are made law, the impact on art sales will be huge and that some galleries could even close. “We’re talking about around \$100 million purchased annually,” he says. **Ian Flanagan**, director of GFL Fine Art Gallery and Auctioneers in Perth, says that at its peak a few years ago, as much as 40 per cent of the artworks passing through GFL were bought by superannuation funds. Now that figure is more like 15 per cent.

The value of superannuation art holdings nationwide is certainly large. Lowensteins estimates there is around \$400 million worth of art in self-managed funds. “Quite often the sales made to super funds are the significant ones: the \$50,000 or \$100,000 paintings,” says Fox. He says not only will artists lose out but if galleries lose sales, it flows all the way down the line and impacts upon picture framers, art suppliers, carriers and the rest of the industry.

To suggest that people are simply using a more favourable financial system to do what they would do anyway – buy works of art – is false, he says. “With many of my clients they have money available through their super funds which simply isn't at their disposal through private means.”

Roslyn Oxley says from her gallery in Sydney that “about a third of my clients buy art for investment in their superannuation funds. It's going to have a serious impact for artists, as investors come in at the high and low ends.” The very reason people choose to invest in art, she adds, has been because it holds its value, unlike shares.

Chair of the review **Jeremy Cooper** has said: “Whichever way we look at it, SMSFs are here to stay, but we want them to focus more on investing for retirement savings, rather than related party transactions, collectables and leverage.

“Our preliminary recommendations are designed to improve the safety and integrity of SMSFs, while continuing to allow a high degree of self-determination and flexibility for trustees taking responsibility for their own retirement outcomes.”

With the resale royalties bill coming into force on 9 June 2010, Fox says the timing of the Cooper Review is particularly unwelcome and a campaign has been launched by the Australian Artists Association to coordinate an industry-wide response to reverse the proposals.

SAVE SUPER ART

THE ARTS INDUSTRY IS MOBILISING IN RESPONSE TO PROPOSED CHANGES TO SELF-MANAGED SUPER FUNDS. **MICHAEL FOX** REPORTS ON THE LAUNCH OF THE SAVE SUPER ART CAMPAIGN.

The Save Super Art campaign was formally launched at **David Bromley's** studio in inner city Melbourne on 16 June 2010 by **Tom Lowenstein** of Lowensteins Arts Management and artists **Lisa Roet**, **Jeremy Kibel**, **Matthew Johnson** and **David Bromley**.

Lowenstein, also the executive director of the Australian Artists Association, started his speech with the words he had written to **Jeremy Cooper**, chair of the Super System Review, in response to his two recommendations that self-managed super funds be banned from acquiring artworks and had to divest their collections by 2020: “In my 40-year involvement with the arts I have not found an issue which has unified the arts community more than your interim report's recommendation that SMSFs be banned from investing in art.”

He said the proposed ban on art investments would cost the commercial gallery sector about \$100 million a year in lost sales, force galleries to close and result in fewer exhibiting opportunities and reduced incomes for artists and their communities.

Lisa Roet took the occasion to remind those viewing her sculpture that there were other people involved in the process of creating these works and they would be affected along with her if she suffered lost sales and income – studio assistants, art carriers, photographers to name a few.

Jeremy Kibel spoke of a “cultural currency” that Australia as a society risked losing by adopting these changes. In a similar vein **Matthew Johnson** reminded those gathered that artists created objects for future generations to enjoy and that super funds created these possibilities. **David Bromley** said it was demeaning for a government report to conclude that smaller

“If galleries lose sales, it flows all the way down the line.”



Tom Lowenstein at the launch of the Save Super Art campaign at David Bromley's Melbourne studio. PHOTOS: MICHAEL BLAMEY. COURTESY: SAVE SUPER ART

“The bottom line is that I’m very committed to our artists and our arts industry.”

Peter Garrett, Federal Arts Minister
ABC Radio National, 15 June 2010

super funds were not to be trusted with their investments in the art market while larger funds were to remain unaffected.

Bromley's comments were backed up the following day by the chairwoman of the Self-Managed Super Fund Professionals' Association, **Sharyn Long**. “The Cooper Review shouldn't really be prescribing what kind of investment decisions self-managed super funds can or cannot make,” she told the *Australian Financial Review*.

What had brought these events to this head was the almost immediate art market reaction to the unexpected news, delivered by press release on 29 April 2010, of the aforementioned recommendations of the Cooper Review into Superannuation.

With what could only be described as unfortunate timing these proposals came less than a month before the introduction of the resale royalty scheme, which was already creating its own havoc in the sector. Galleries

and consultants immediately started reporting delayed, deferred and most likely totally lost sales as a result of the review.

Super fund investors ready to purchase before 9 June 2010 were suddenly confronted with the possibility that they would only be able to hold these works for 10 years or possibly less due to the flood of artworks that would enter the market. This would negate the conclusions **Roger Dedman** reached in his landmark 2009 study into Australian art as an investment: “Particularly in the light of the substantive increases from the beginning of this century, and the steadying of the last two years, a more positive approach to investment in art is justifiable. Carefully chosen Australian paintings, bought now at auction with the intention of holding them for at least five years, and preferably 10, can confidently be expected to produce a satisfactory rate of return when viewed purely as an investment.”

The GFL Fine Art Sale, held in Perth in June,

was clearly impacted by the Cooper Review recommendations according to director **Ian Flanagan**, who reported that not one sale was made to a SMSF whereas historically 15 to 20 per cent of the company's sales had been made in this way. “We fielded 30 to 40 calls in the lead up to the 1 June auction enquiring about the situation with art investments in SMSFs. The market is spooked by the Cooper Review recommendations to ban art investments in SMSFs,” he said.

It appears that at an early stage of the campaign – which really began in early May and coalesced into Save Super Art by the end of the month – the message is starting to get through to Federal Arts Minister **Peter Garrett**. The day before the formal launch Garrett told ABC Radio National: “I know there is a high level of concern about it and I understand that high level of concern. It's a fair point if the figures accurately reflect the likely impact on these galleries as a consequence.

The bottom line is that I'm very committed to our artists and our arts industry.”

For the sake of the Australian visual arts industry Garrett and the Federal Government need to go further, make a statement to rule out the Cooper recommendations and bring back some certainty to a market still coping with external volatility and the introduction of the resale royalty legislation.

The ability of SMSFs to invest in the art market has been important to its growth since the introduction of compulsory superannuation in 1993 and enabled many people to participate who would not otherwise have had the chance.

Incentives need to be maintained and not withdrawn to convince gallery owners and their stakeholders to remain in a difficult business but with great rewards both personally and for the wider Australian community.

For more information about the Save Super Art campaign visit www.savesuperart.org.au.