

31 July 2015

Senator the Hon George Brandis QC
Minister for the Arts
Level 2, 4 National Circuit
BARTON ACT 2600

By email: nationalexcellenceprogram@arts.gov.au

Dear Minister,

Draft Guidelines for the National Program for Excellence in the Arts

Live Performance Australia (LPA) welcomes the opportunity to comment on the Draft Guidelines for the National Program for Excellence in the Arts (NPEA) ("**Guidelines**").

ABOUT LPA

LPA is the peak body for Australia's live performance industry. Established in 1917 and registered as an employers' organisation under the Fair Work Act, LPA has over 400 Members nationally. We represent commercial producers, music promoters, major performing arts companies, small to medium companies, independent producers, major performing arts centres, metropolitan and regional venues, commercial theatres, stadiums and arenas, arts festivals, music festivals, and service providers such as ticketing companies and technical suppliers. Our membership spans from small-medium and not-for-profit organisations to large commercial entities. LPA has a clear mandate to advocate for and support policy decisions that benefit the sustainability and growth of the live performance industry in Australia.

LPA POSITION SUMMARY

1. LPA supports the **extension of arts funding to a broader range of companies** through the National Program for Excellence in the Arts (NPEA), and the opportunity it presents to provide funding support for new and innovative arts projects. We are, however, deeply concerned that diverting funds from the Australia Council to the NPEA will have a **significant negative impact on the small-medium sector**. Specifically, reducing organisational funding support will have adverse consequences on the capacity-building capability of small-medium companies.

We call on the Federal Government as a matter of urgency to address how it is going to ensure that the operational capacity of Australia's small-medium arts sector is supported in the short and long term. This is a primary concern not just for the small-medium sector, but the entire arts industry ecosystem.

Specifically, LPA recommends that the Australia Council be provided with additional funds to be allocated for this purpose.

2. We further note that in the absence of a national cultural policy or Creative Industries Plan there is no clear understanding of how the funding programs of the Australia Council and NPEA will complement each other to meet their combined strategic aims.

Therefore, a **national Creative Industries Plan** should be developed that clearly states strategic priorities and measurable goals including delivering arts excellence. The framework should clearly articulate how the funding objectives of the NPEA and the Australia Council complement each other.

3. We believe in its current form the Guidelines are **not rigorous, clear, transparent or independent enough** to provide for a fair or equitable substitute for the funding that has been diverted from the Australia Council.

LPA has provided 12 specific recommendations in our submission to ensure the NPEA is an effective and beneficial arts funding stream that can fairly and successfully support Australia's creative industries.

Should you have any queries regarding our submission, or would like to discuss these issues further, please do not hesitate to contact us via the contact details below.

Yours sincerely,



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Draft Guidelines for the National Program for Excellence in the Arts

LPA SUBMISSION

LPA's Submission provides specific comments on how we believe the draft NPEA Guidelines could be improved to better serve the industry, audiences, and development of Australian performing arts. The comments provided are based on feedback received from Members across our broad membership-base.

Our submission is organised under these main headings:

1. LPA Position
2. Effect of Federal Budget Changes on the Small-Medium Sector
3. A Creative Industries Plan
4. General Comment on the Draft Guidelines
5. LPA Member General Feedback on the Draft Guidelines
6. LPA Member Feedback – Funding, Eligibility and Assessment Criteria
7. Transparency and Accountability

1. LPA Position

LPA supports the establishment of the National Program for Excellence in the Arts (NPEA) provided the small-medium sector remains adequately supported and that the activities of the NPEA are complementary to those of the Australia Council in pursuit of an over-arching vision for the industry.

We note that a dual funding model, providing funding avenues through both the Government and a statutory body, is not unprecedented. A similar model has been in operation in Canada since 2001, where the Canada Council for the Arts is the primary arts funding body, and the Department of Canadian Heritage responsible for the arts portfolio provides a range of grant schemes, including the Canada Cultural Investment Fund (formerly the Canadian Arts and Heritage Sustainability Program) and the Canada Cultural Spaces Fund.

In principle, there is nothing to prevent such a model from delivering positive outcomes for Australia's arts community, and potentially improving on current industry outcomes.

That being said, there is a risk that establishing the NPEA could create an unnecessary duplication of funding opportunities in some areas, and leave other sectors of the industry under-funded.

Specifically, LPA shares the concern of many in the live performance industry that the loss of core operational funding for organisations in the small-medium sector could result in significant casualties, which could have a profoundly negative impact on the health of the industry in the medium to longer term. Small-medium arts companies are vital for the development of new and innovative work, and provide a crucial training ground for arts practitioners and administrators.

Without strong support and a degree of funding certainty, the important work of the small-medium sector will be compromised.

While it may not be the role or purpose of the NPEA to provide core operational funding to the small-medium sector, serious consideration should be given to the effect that diverting funds from the Australia Council will have on that sector – and how that effect can be mitigated, either through additional funding to the Australia Council or through other means.

2. Effect of Federal Budget Changes on the Small-Medium Sector

The funding cuts to the Australia Council have compromised delivery of the Australia Council’s Strategic Plan, a cornerstone of which was their revised grants program. This was to provide much anticipated six-year funding agreements for “arts organisations of significant regional, national or international standing... [that] demonstrate artistic achievement and ambition with a compelling six year strategic vision”, as stated on the Australia Council website.

The revised grants scheme was developed in response to the need to provide companies with greater organisational stability, as identified during their two-year review. The six-year grants process has now been cancelled by the Australia Council and will be replaced by four-year grants, with half as many grant rounds available¹. Many LPA Members had committed considerable resources into submitting funding applications to this grants program, with their long-term operational outlook now in limbo.

LPA has received consistent feedback from our small-medium Member companies that if the new Federal funding arrangements remain unchanged, the sector will suffer significant casualties. The Australia Council stated in its recent media release that it now has \$23 million per year less than expected to support its “grants model, current Key Organisations, national and international development activities, capacity building, research and operations.” As a result, the Australia Council has cancelled both its six-year grants program and a number of grant initiatives for individual artists.

Without core multi-year funding that provides companies with operational security, small-medium companies do not have the capacity to plan for any new productions or tours, which can take at least 2-3 years of forward planning. In this uncertain funding environment, many small-medium companies do not have the capacity to consider or plan future projects, much less commit the resources necessary to submit applications. Project-based funding, as promised by the NPEA, will largely only benefit companies that have already secured core organisational funds that can sustain their existence.

The live performance industry relies on companies and practitioners working together at various levels to build capability and skills that then transfer to other parts of the industry. Major companies are heavily reliant on the rest of the sector for skills development and the creation of new work, which often emerges from the small-medium sector.

¹ Australia Council (23 July 2015) *Australia Council outlines revised arts program* (<http://www.australiacouncil.gov.au/news/media-centre/media-releases/australia-council-outlines-revised-grants-program/>)

Major Festivals also rely on the small-medium sector, as the traditional source for new Australian works. A reduction in capacity for small-medium companies results in less Australian product for festivals to program. To make up for this shortfall festivals will need to invest additional resources into commissioning their own new work, or program more international productions at the expense of supporting more Australian work and Australian artists. Similarly, Australia's performing arts centres depend upon the small-medium sector as hirers or partners to present their innovative work. The viability of the small-medium sector is critical not only for the development of new work but also for future skills development.

The importance and role of the small-medium sector has long been understood and acknowledged by government. *The Report to Ministers on an Examination of the Small to Medium Performing Arts Sector* (March 2002), commissioned by the Cultural Ministers Council under the Howard Government, recognised the importance of a sustainable small-medium performing arts sector, stating²:

The Working Party found overwhelming evidence that the Small to Medium Performing Arts Sector is essential to the artistic vitality and the ongoing development of Australia's performing arts. It is the main source of new Australian works in the subsidised performing arts. The Sector provides access to the arts, offers many employment opportunities and in particular gives young and regionally based Australians opportunities to participate in the arts. The Sector also has a considerable economic impact.

The negative impact on the arts sector in the regions and smaller states is of particular concern given that small-medium companies are the primary source of Australian arts offerings and employment in these locations. The report further found that³:

The Small to Medium Performing Arts Sector makes a particularly important contribution to the cultural life of regional centres and smaller cities, often being the main arts organisations operating in those areas. By actively engaging local communities, Sector organisations promote the understanding and acceptance of artists and their work as integral to the well-being of their local communities.

Minister Brandis acknowledged in August 2014 the key importance of supporting arts and culture outside of our capital cities, stating "creative genius, artistic ambition, cultural endeavour...lives in smaller cities, in the towns, among people from metropolitan areas of Australia and country areas of Australia as well".⁴ These areas will suffer the heaviest casualties by a reduction in small-medium company capacity, in direct contradiction to the Federal Government's stated priorities.

Many companies that were reliant on the Australia Council's six-year grant program have postponed all future planning for the development of new initiatives, some stating that their future viability is in question. Federal funding for small-medium companies currently only consists of a

² Working Party of Cultural Ministers Council Standing Committee (March 2002), Report to Ministers on an Examination of the Small to Medium Performing Arts Sector, p.5.

³ Ibid.

⁴ Senator the Hon George Brandis QC (18 August 2014), *Speech at Launch of the Australia Council Strategic Plan*, Attorney-General's Department.

portion of their income, yet is of vital importance to leveraging and attracting further income through private avenues. Under current funding conditions the small-medium sector and individual artists will be less able to secure core organisational funding, triggering a rapid and significant reduction in operational and artistic capability.

LPA submits that this is an issue of genuine concern, and calls on Government to provide an urgent response to ensure that implementation of the NPEA does not result in an unintended rationalisation of the small-medium arts sector.

RECOMMENDATION 1:

As a matter of urgency, the Federal Government should ensure that the operational capacity of Australia’s small-medium arts sector is supported in the short and long term. This is a primary concern not just for the small-medium sector, but the entire arts industry ecosystem.

Specifically, LPA recommends that the Australia Council be provided with additional funds, to be allocated for this purpose.

3. A Creative Industries Plan

LPA supports the principle of diverse funding availability, but in the absence of a national cultural policy or Creative Industries Plan there is no clear understanding as to how the funding programs of the Australia Council and the NPEA will complement each other to best meet the needs of the live performance industry.

While a similar funding model exists in Canada, LPA has been advised by Patricia Dupuis, Manager of the Canada Cultural Investment Fund, that the “Canada Council and Canadian Heritage programs are designed to ensure complementarity and avoid duplication.”⁵

In the Canadian system, the Canada Council for the Arts has primary responsibility for funding artistic work by individual artists and arts organisations through operating and projects grants. The Department of Canadian Heritage, by contrast, provides support for professional training and organisations (through the Canada Arts Training Fund), for arts and heritage infrastructure, (through the Canada Cultural Investment Fund), festival and series support (through the Canada Arts Presentation Fund) and endowments and collaborative strategic initiatives to build business and financial resilience for arts organisations (the Canada Cultural Investment Fund).

This system is notable for the clear demarcation of responsibilities that exists between the Canada Council for the Arts and the Department of Canadian Heritage. It should also be noted that the programs run by the Department of Canadian Heritage do not generally require a judgment of artistic merit, but instead tend to fall into the category of industry support – focusing on elements such as training and infrastructure.

⁵ Email correspondence from Patricia Dupuis, Manager of the Canada Cultural Investment Fund to Holly Crain, Live Performance Australia Policy Advisor (25 July 2015)

LPA does not believe that Australia's arts funding model should imitate Canada's, but we do feel that a Federal Creative Industries Plan (such as that recently developed at the state level in New South Wales, and currently being developed in Victoria), is essential to set the parameters for activity by the NPEA and the Australia Council. This would ensure that the activities of the two funding streams are complementary and operate to serve the interests of the industry as a whole. A Federal Creative Industries Plan would also set a strategic vision which ensures that the two funding streams operate without unnecessary duplication.

The live performance industry is a significant industry, selling 17.93 million tickets in 2013, and generating \$1.479 billion in revenue.⁶ Arts and recreation, as a combined industry, is also a highly productive industry. The Productivity Commission recently reported that in the 2013-14 financial year the industry achieved 2.6 per cent more output with 5.6 per cent less labour – an impressive labour productivity improvement of 8.2 per cent, contributing to a multi-factor productivity improvement of 5.4 per cent.⁷ A Creative Industries Plan, which would include the live performance industry, would be an appropriate policy response to ensure continued growth and productivity gains in the sector.

RECOMMENDATION 2:

The Federal Government should develop a national Creative Industries Plan that clearly states strategic priorities and measurable goals including delivering arts excellence. The framework should clearly articulate how the funding objectives of the NPEA and the Australia Council complement each other.

4. General Comments on the Draft Guidelines

In broad terms, the Draft Guidelines lack clarity and detail. We appreciate that the NPEA has been designed to provide flexible, responsive funding, but without clear and transparent processes – and thorough assessment criteria - there is too much potential for perceived nepotism, or politically motivated funding. LPA appreciates that a balance needs to be struck, and that processes and assessment criteria which are too rigidly defined may well exclude worthy applicants – but we believe the current draft errs too much in the direction of flexibility and responsiveness, and provides too little guidance to applicants.

4.1 Set funding rounds

LPA believes that the proposed 'first come, first served' system for funding applicants fails to take into account the administrative burden of preparing applications, and will advantage well-resourced organisations over those with fewer resources. The system also prevents applications from being assessed comparatively, with funding being allocated to the strongest submissions on a panel review basis. This opens the NPEA to potential criticisms of bias, and raises the possibility that

⁶ Live Performance Australia (July 2014) *Live Performance Australia 2013 Ticket Attendance and Revenue Survey* (<http://reports.liveperformance.com.au/ticket-survey-2013/#intro>)

⁷ Productivity Commission, (July 2015), *PC Productivity Update*, p 12.

annual funding may be exhausted early, only for excellent projects to remain unfunded later in the year.

To avoid these outcomes while still retaining some flexibility, LPA recommends that set funding rounds be established by the NPEA and that some proportion of the NPEA's funds be ear-marked for flexible, responsive funding for special cases – outside of those funding rounds.

4.2 The role of assessors, the assessment process and composition of assessment panels

LPA has had the benefit of reading the draft submission to this process by the Australian Major Performing Arts Group (AMPAG), and supports **most** of the points made in that submission – although **we do not support** the AMPAG proposition to restrict access to the NPEA to not-for-profit organisations.

That being said, LPA does support the questions raised by AMPAG in relation to assessors, such as whether different assessors will be used for different art forms, whether assessors will be varied and rotated through various funding streams, and whether assessors will be qualified to assess particular projects.

The credibility and integrity of the application assessment process will be central to the successful implementation of the NPEA, and LPA urges the Ministry to provide more detail around this. The role and composition of assessment panels (including the number on each panel), how assessors are appointed and then retained (and for how long) are important questions that should be addressed by the Guidelines. LPA is of the view that at least one panel member on each panel should have a strong background in the art-form being assessed.

LPA also agrees with AMPAG that the Register of Independent Assessors should be published.

4.3 The requirement to show audience demand

LPA shares AMPAG's concern that the requirement to provide "written confirmation of audience demand" is problematic, and while the intention of the requirement may be sound it is difficult to see how it can work in practice. Applicants should, however, provide a statement describing the audience that they are proposing to reach.

RECOMMENDATIONS 3-5:

The Federal Government should:

- 3. Establish set funding rounds while still retaining some provision for flexible, responsive funding.**
- 4. Provide greater clarity and detail in the Guidelines, particularly around the role and composition of panels, appointments and duration of membership.**
- 5. Remove the requirement for written confirmation of audience demand and replace it with an applicant statement identifying the audience the proposed project is intended to reach.**

5. LPA Member General Feedback on the Draft Guidelines

A broad range of LPA Members have indicated that the funding streams of the NPEA may provide many exciting opportunities that have not been available to them previously.

Potential opportunities identified by LPA Members include:

- 5.1** Uncapped funding support for regional and international touring is a key opportunity, as organisations will be able to apply to cover the sell-off fee costs when touring, as opposed to funding through Playing Australia which currently only covers touring costs. This opens the door to a greater volume of touring in regional and remote areas (at least to those organisations that cannot afford the sell off to venues), providing regional performing arts centres with more options and presenting productions to regional audiences. Internationally it provides greater opportunity to increase Australia's creative industry profile in key international markets.
- 5.2** The endowment or strategic priorities stream may also provide an opportunity to fill the need for funding the development and creation of new work, which can require substantial seed investment over a secure multi-year period (at least 3 years).

Despite the recognition of potential benefits to the arts industry and audience access, significant concerns have been raised by LPA Members that should be addressed in the redraft of the Guidelines:

- 5.3** It is currently unclear how the broad breadth of the funding streams, particularly the 'Strategic Initiatives' will address strategic aims not currently covered by grants offered by the Australia Council. Duplication between the dual funding avenues will result in inefficient duplication and an unnecessary administrative and excessive red-tape burden on the Ministry for the Arts and the industry. The NPEA must complement work done by the Australia Council to cover the whole sector, not repeat it.
- 5.4** Organisations require greater clarity on what the long-term objectives, measureable goals, stated outcomes and assessment priorities are for the NPEA as a whole and for each funding stream. To assist in achieving this, hypothetical examples of what projects could potentially be funded in each stream should be included in the Guidelines. The strategic objectives should be based on evidence of contemporary practice, including wide consultation with experts and stakeholders, to effectively address identified needs within the arts industry and widen audience access to the arts. LPA notes that this need would be addressed by a Creative Industries Plan.
- 5.5** The development of separate Guidelines for each funding stream would provide greater cohesion between the funding and assessment processes with the strategic aims of each individual stream. By way of example, the Department of Canadian Heritage has developed separate guidelines for their funding components. The Canadian Cultural Investment Fund, for example, has separate guidelines for Endowment Incentives and Strategic Incentives.

5.6 Further clarification on what financial restrictions apply (if any) to what is considered an endowment (i.e. principal amount kept intact and only investment income used). Organisations should not be restricted to only being able to use the investment income leveraged from other financial partners, as this may restrict the ability to invest the capital needed in particular projects when needed. Building the reserves of companies by matching dollars for reserves may produce more effective outcomes than building endowments, as it could enable arts companies to take artistic risks and remain financially stable.

RECOMMENDATIONS 6-9:

The Federal Government should:

- 6. Ensure that the NPEA does not duplicate the funding activities of the Australia Council.**
- 7. Clarify the long-term objectives and measurable goals of each funding stream, and provide guidance on the sorts of projects that may be funded by each project.**
- 8. Provide separate Guidelines for each funding stream.**
- 9. Widen the allowable use of endowment funds beyond investment income, and provide further clarity on how the Endowment Incentives stream will operate.**

6. LPA Member Feedback - Funding, Eligibility and Assessment Criteria

In principle the NPEA potentially provides exciting new opportunities for a broad range of organisations. The funding opportunities appear broad and flexible, allowing the needs of a project to be assessed on a case-by-case basis rather than being limited by generalised restrictions. In particular, the availability of uncapped funding provides the flexibility for projects to be realised and supported in their entirety.

However, the processes and procedures of the NPEA require greater rigour and transparency to deliver fair and effective support for the arts industry. The NPEA needs to provide equitable opportunity for all arts organisations, from independent small-medium organisations to commercial entities, to be assessed on merit in accordance with the assessment criteria and strategic aims of the program.

LPA Members have raised the following concerns in regard to the funding mechanisms, eligibility and assessment criteria:

- 6.1** The assessment criteria should be revised to provide greater clarity, rigour and fairness. This includes providing precise definitions of currently ambiguous and subjective assessment criterion, such as 'value for money', 'audience appeal and demand', 'relevance and likely appeal to audiences and communities' and 'likely ongoing benefits of partnerships'. A strict understanding of how the assessment criteria will be equally applied in each applicant's case will assist in removing concerns in regard to the Guidelines making the NPEA vulnerable to subjective or preferential decision-making.

6.2 Each funding stream should have separate assessment criteria, as the current criteria applied across all funding streams is too generalised, and does not accurately reflect the intended aims of each funding stream. For example, the criterion ‘support and partnerships’ should only be considered as part of the assessment for the Endowment Incentives stream, as the level of private financial support is only relevant to the delivery of this stream. The criteria should be weighted, so the relative importance of each criterion is clear to applicants when preparing their applications.

RECOMMENDATIONS 10 -11:

The Federal Government should:

- 10. Revise assessment criteria to provide greater clarity, rigour and fairness. In particular, ambiguous and subjective terms such as ‘value for money’ and ‘likely appeal’ should be defined.**
- 11. Devise separate assessment criteria for each funding stream, and weight those criteria so their relative importance is clear to funding applicants when preparing their applications.**

7. Transparency and Accountability

LPA voices its strong objection to the notion that the Minister may obtain an exemption under paragraph 5.7 of the Commonwealth Grant Rules and Guidelines, and suppress publication of any successful applicant in the Department’s grants register. LPA can foresee no circumstance in which such a suppression would be acceptable. It is fundamental that all successful applications be publicly published, to ensure the transparent and accountable disbursement of public funds.

RECOMMENDATION 12:

The Federal Government should guarantee that the details of all successful funding applications will be made public, and published in the Department’s grants register.