

A new National Cultural Policy

Submission by Live Performance Australia
22 August 2022

Objective

To deliver a **bold, ambitious vision** with a **strategic framework for investment** in culture and creativity **for the next 10 years**

Overarching principles

- **Value** culture and creative industries as central to our nation's identity, prosperity and wellbeing
- **Invest in, protect and sustain** our cultural assets (people, places, stories and First Nations' Songlines)
- **Social relevance** – public investment = public benefit; policy framework reflects contemporary Australia
- **Whole of government strategy** – embed cultural policy objectives across government portfolios
- **Public investment** models support 21st century cultural objectives **in a global context**

Implementation

Deliver the National Cultural Policy through a **permanent, increased strategic investment** in Australia's cultural future

- **Whole of government strategy**
 - Establish a performance framework, with defined KPIs, for government departments to report on their contribution to National Cultural Policy objectives and targets annually
 - Embed cross-portfolio investment streams to deliver National Cultural Policy priorities
 - Realign an effective working relationship between Federal and State/Territory Ministers and their departments
- **Establish a standalone Department of Creative/Cultural Industries**
 - Refocus the Office for the Arts on the development of strategic policy for the cultural and creative industries, and coordinating whole of government engagement with the National Cultural Policy and delivery against priorities
 - Outline a clear policy mandate and ensure there is no duplication of resources and investment across government agencies
- **Expand the remit of the Australia Council for the Arts**
 - The Australia Council for the Arts is the national agency responsible for delivery and implementation of National Cultural Policy priorities, including strategic investment in key sectors and initiatives, as well as ongoing support for artists and organisations through its discretionary grant programs
 - Strengthen the Australia Council's engagement across the wider creative and cultural industries landscape, including with the commercial sector, in achieving its objectives
- **Establish a specialist agency/arm focused on developing strategy and investment in the contemporary music industry**

Industry context for a new National Cultural Policy

A vibrant arts and entertainment industry delivers significant economic, social and cultural benefits for all Australians.

It creates jobs and supports a wide range of individual artists, sole traders and small and large businesses; brings us together from diverse backgrounds for shared experiences; and underpins the cultural vitality of communities, from the remotest parts of the country to the centre of our largest cities.

From an up and coming band playing at the local pub through to theatrical productions that tour regional performing arts centres, or the mainstages of our biggest theatres and concert halls, live performance engages and entertains Australians of all backgrounds and interests.

Before Covid, the live performance industry was a dynamic ecosystem of small, medium and large companies, not-for-profit and commercial businesses employing thousands of performers, artists, creatives and technical crew.

The industry contributed \$36.5 billion to Australia's economy in 2019. The live performance industry is a catalyst for many other sectors, particularly in the visitor economy, and draws on a wide range of skills and expertise.

70 per cent of attendances and ticket sales revenue for live performance were driven by the commercial sector, predominantly in live music and theatre.

The sustainability and growth of our live performance industry requires a National Cultural Policy which takes a strategic approach to public and private investment in skills, industry capability and the creation of new work.

Impacts of COVID-19

- Industry is yet to stabilise following significant impacts of Covid-19 disruption
- Industry is likely to contract further, restructuring and resizing of industry will continue over next 12-18 months, prior to entering the rebuild phase
- Recovery will be slow without government action and investment
- Major impacts of Covid-19 on live arts and entertainment industry:
 - Billions of dollars in lost revenue, company reserves depleted
 - Significantly diminished industry capability; chronic skills shortage especially in crewing, technical and production roles; thousands of people lost; high burnout
 - Artists, creatives and arts workers not recognised as 'essential'; many have left the industry
 - Investment pipeline has been massively disrupted and Australia is not competitive globally for future investment
 - Production and touring costs have increased by 30-70% across the board
 - Consumer confidence and engagement have been undermined
 - Compromised community arts access
 - Reduced diversity of Australian works

Industry challenges and opportunities

	Challenge	Opportunity
First Nations	<ul style="list-style-type: none"> • ‘Nothing about us, without us’ • Embedding culturally appropriate or accessible practices requires expertise and resources; it costs money 	<ul style="list-style-type: none"> • Empower First Nations to: <ul style="list-style-type: none"> – Produce self-determined work of national significance – Foster an ecosystem of First Nations creative workforce
A place for every story	<ul style="list-style-type: none"> • Under-representation of stories from diverse groups • Creating quality new work requires greater development time 	<ul style="list-style-type: none"> • Need for greater diversity and inclusion (First Nations, regional, youth, CALD, disability, etc) • ‘Walk the talk’ – invest in a broader range of work that reflects contemporary Australian audiences
Centrality of the artist and arts worker	<ul style="list-style-type: none"> • Education pathways limited and underfunded • Intermittent nature of employment and lack of sustainable career path opportunities • Lack of business development and managerial skills (e.g. financial, governance) amongst entrepreneurs and small business operators 	<ul style="list-style-type: none"> • Recognition of arts and cultural work as a critical contributor to social and economic wellbeing • Arts and Culture have the power to positively influence mental health, well-being and resilience across all Australian communities
Strong institutions	<ul style="list-style-type: none"> • Market failure in events insurance industry, biggest ongoing risk is business interruption due to artists, cast and crew getting Covid • Increased production costs (e.g. wages, staging, touring, etc) and costs of doing business (e.g. compliance, marketing); up by 30-70% across the sector • Skills shortages across most roles – particularly technical, production and crew • Difficulties attracting talent (better salaries and job security in other industries) / lack of talent in the pipeline • Declining public funding in arts and culture and lack of company reserves, leading to instability in not-for-profit sector 	<ul style="list-style-type: none"> • Create jobs and sustainable career paths • Build greater collaboration between not-for-profit and commercial sectors • Turbo charge national capability to deliver economic and social benefits of an ambitious National Cultural Policy
Reaching the audience	<ul style="list-style-type: none"> • Need to rebuild consumer confidence post-COVID • Regional accessibility and equity • Regional and international touring is very expensive and costs are increasing • High costs of travel and freight prohibit many commercial producers touring shows regionally and outside major metro areas • Playing Australia program is limited; eligibility criteria exclude many parts of industry • International touring has decreased; unstable geo-political environment • Embedding digital technologies is expensive; many companies are trying to extend content production beyond ‘live’ 	<ul style="list-style-type: none"> • Use new technology to connect and engage with more diverse audiences • More work could reach more Australians outside major cities with targeted support • Creativity is Australia’s greatest soft power asset – building a global audience for Australian stories and creative talent

Industry challenges and opportunities – Strategic gaps

	Challenge	Opportunity
Strategic Investment Plan	<ul style="list-style-type: none">• Absence of Cultural Policy framework means there is currently no strategic plan for investment• Lack of government understanding and expertise in the commercial sector• Lack of coordination across Commonwealth, state and territory and local government investment in arts and culture	<ul style="list-style-type: none">• Strengthen government understanding of all business models, particularly commercial• Closer alignment between policy making and investment agencies to deliver Cultural Policy objectives
Young people	<ul style="list-style-type: none">• Youth arts and companies have been underfunded• Young people don't see a career in the arts and entertainment industry• Schools aren't prioritising arts and culture	<ul style="list-style-type: none">• Children and young people are our future audience and workers – cultivate stronger youth participation rates in arts and creative industries; design a pipeline throughout education system (early childhood education and care, primary, secondary and tertiary), with viable pathways to employment• Incorporate arts into STEM agenda
Contemporary music	<ul style="list-style-type: none">• No national government has developed a long term plan for contemporary music• Current government investment and resourcing is very low compared to other industry sectors	<ul style="list-style-type: none">• Greater strategic focus on contemporary music sector, which is one of the fastest growing global industries, a large cultural exporter and a significant domestic creative industry
Sustainability	<ul style="list-style-type: none">• Audience and workers expect industry to be more socially and environmentally responsible	<ul style="list-style-type: none">• Revise operational models and practices to reduce, respond to and manage environmental and climate change impact• Assist industry to establish a shared resource base – e.g. sets, costumes• Future infrastructure investment should include best practice models to reduce carbon footprint

Immediate investment and support

- 1** Address **critical skills shortages** by:
 - Categorising occupations in the live performance industry that are **in Shortage** on the national **Skills Priority List**
 - Subsidising **traineeships** (technical, production, crew)
 - Providing grants for **industry-led skills development initiatives**
 - Establishing a grants program for venues and companies to access **short courses for retraining and reskilling staff**
- 2** Establish dedicated **First Nations Performing Arts Commissioning Fund**
- 3** Provide an immediate and **permanent uplift** to the **Australia Council's** budget appropriation
- 4** Establish a temporary **Live Entertainment Business Interruption Fund** to underwrite investment risks due to Covid-19 for the next 12 months (refer Attachment 1)
- 5** Additional funding for **Support Act** for mental health support and crisis relief for artists, crew and arts workers, and to develop sustainable cultural and behavioural change programs in relation to mental health, well-being and safety at work

Strategic investment

Overarching principles

Value culture & creative industries

Invest, protect, sustain

Social relevance

Whole-of-government

Public investment in global context

LPA is a party to the Australian Contemporary Music Industry joint submission and broadly supports the initiatives outlined in that submission.

LPA also supports the joint submission by BlakDance Australia, Moogahlin Performing Arts, Yirra Yaakin Theatre Company, Ilbijerri Theatre Company, Marrugeku and NAISDA

First Nations

- Support **self-determined First Nations arts and culture** as identified in submissions by First Nations organisations
- Develop a 10-year national **First Nations Arts & Skills Capacity Building Plan**
- Fund support for **embedding cultural processes and protocols**
- Establish **First Nations music creation studios**

A place for every story

- Establish **major seed fund for original Australian works of scale** – focus on collaboration between festivals, commercial and not-for-profit organisations; domestic/international touring
- Establish **development fund** to commission diverse stories and facilitate greater diversity in the creative development process
- Establish an investment stream for **young people's work**, informed by a Young People's Advisory Board

Centrality of artist & arts worker

- Refer to initiatives identified for immediate investment and support
- Partner with industry on development and implementation of a **National Skills and Careers Pathway** framework
- Support **Business development and management education programs** for entrepreneurs and small business operators

Strong institutions

- Extend **tax incentives** to pre-production costs of live theatre to enable Australian producers to attract investment in competitive global market; cost neutral when incentives set at 25-40% (refer Attachment 2)
- Establish a government agency/arm focused on developing strategy and investment for **contemporary music industry** nationally
- Establish a **Reserves Rebuild Fund** to enable companies to rebuild reserves
- Extend the **National Performing Arts Partnership Framework**
- Increase investment in the **four-year funding program**

Reaching the audience

- Embed music and performing arts into **education curriculum** - early childhood, primary, secondary and tertiary/TAFE
- Establish a **National Touring Fund** to support regional touring and market development, including allocation to offset costs of travel and freight
- Establish a **Regional Strategic Framework** to support investment, innovation and revitalisation of regional Australia
- Establish an **International Touring** program for Australian work
- Establish **collaborative programs and projects between Australian and Indo-Pacific** artists, creatives and producers
- Export live music through expanding market reach of **Sounds Australia**; establish **Music Export Development** fund
- Provide a **Digital Innovation program** to: support digital trials that extend audience reach; enable companies to diversify content production beyond 'live'

About Live Performance Australia

Live Performance Australia (LPA) is the peak body for Australia's live arts and entertainment industry. Established over 100 years ago in 1917 and registered as an employers' organisation under the *Fair Work (Registered Organisations) Act 2009*, LPA has almost 400 Members nationally.

We represent commercial and independent producers, music promoters, performing arts companies, venues (performing arts centres, 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 acknowledges the Traditional Owners of Country where we live, work and play. We pay our respects to them, and their Elders, past, present and emerging.

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LIVE ENTERTAINMENT BUSINESS INTERRUPTION FUND

Proposal for consideration

1. Purpose

To outline a proposal for a Live Entertainment Business Interruption Fund (BIF) which will support reactivation of the live entertainment industry and a pipeline of events for Australians to enjoy. The BIF will offset risks associated with event cancellations or postponements due to a COVID-19 outbreak or re-introduction of COVID-19 related government restrictions, with industry contributing a percentage of cost exposure to the fund.

2. Background

In November 2020, LPA presented the Federal, state and territory governments with a detailed proposal for a Live Entertainment Business Interruption Fund, estimated at \$100-\$500 million based on six risk scenarios. LPA has subsequently had several discussions with the NSW, Victorian and Queensland governments to garner support for the proposal. These states have expressed willingness to discuss with the Federal Government how such a fund could be jointly established. LPA has now reviewed costings for the three year period 2021-2023 based on two risk scenarios with an estimated range of \$130-\$200 million, refer below.

3. Key issues

Key issues affecting event organisers' ability to reactivate include:

- **High commercial risk** – leading to a reticence by event organisers to mount shows, thereby affecting the events pipeline and limiting opportunities for other businesses in the live performance ecosystem (e.g. suppliers) to reactivate.
- **Lack of insurance** – COVID-19 is no longer covered as an insurable event in insurance cover and therefore increasing risks for event organisers.
- **Changing government restrictions** – particularly in relation to:
 - **venue density and format restrictions** – which impacts on the commercial viability to present events
 - **interstate and international border restrictions** – which affects touring shows, concerts and festivals; as well as events that rely upon talent or product from other Australian jurisdictions.
- **COVID-19 outbreak** – resulting in events having to be cancelled (or postponed).

4. Live Entertainment Business Interruption Fund

The BIF will provide indemnification for costs or revenue if, due to COVID-19 related issues, a live event is cancelled, postponed, or negatively affected by the re-introduction of government restrictions (i.e. venue capacity, border closures, or someone involved in the production, concert, festival or tour tests positive for COVID-19 leading to the event shutting down) or a slower than anticipated easing of government restrictions.

The BIF needs to be based on a user nominated declared value, which can be either the irrecoverable lost costs and profit or the estimated lost potential revenue. The event organiser would nominate which option to insure. A cap could be placed on the level of cover. Industry feedback suggests that the ideal level of cover ranges from \$25,000 to \$20 million.

The BIF would solely cover costs/losses (inclusive of all costs associated with bringing about the process of event cancellation/postponement or delivering the event in a modified way) arising from COVID-related issues, such as:

- ‘sunk’ costs (e.g. production costs; supplier costs; performance/artist fees; venue hire; infrastructure (i.e. sound, lighting, audio); travel; freight; marketing; consultants/plan writing; advance licensing and royalties);
- additional costs incurred directly because of any aforementioned circumstance (e.g. wages for performers, artists, creatives, crew and touring personnel, accommodation, rehearsals, additional marketing);
- profit.

HOW WILL THE FUND WORK?

If presenters seek coverage through the BIF, they should be required to pay a fee calculated at 1% of the level of coverage required.¹ For example, if the requested coverage is \$4 million, the fee would be \$40,000. These contributions should be made:

- for new events: within 1 week of tickets for the event going on sale (including pre-sale)
- for events already in market: within 60 days of the BIF’s establishment

Both the Federal and State/Territory government could contribute to the BIF. Alternatively, the BIF could operate as a standalone Federal or State/Territory government program.

There should be no ‘excess’ if a payout is required.

COSTINGS

LPA estimated the cost of the BIF based on six scenarios. These scenarios considered how fast live performance activity would return (strong, gradual, cautious) and the likelihood of a COVID-19 related incident (declining and high probability).

Assuming two scenarios where there is a declining probability of a COVID-19 related incident, and pre-COVID levels of activity returns in 2023 (with activity returning more strongly over three years in one scenario and more gradually in the other), the estimated cost of the BIF is \$130 - \$216 million. Refer to calculations overleaf.

¹ Screen Australia’s fee for access to the Temporary Interruption Fund is 1% of coverage required for screen production costs.

ESTIMATED COST TO GOVERNMENT, ASSUMING STRONG & GRADUAL RETURN OF LIVE ACTIVITY, & DECLINING PROBABILITY OF COVID INCIDENT

	\$m				
Total Direct Output of the Live Performance Industry and the Venue Based Live Music Industry	5,586				Refer Note (a)
Estimated average event costs as a percentage of revenue	85%				Refer Note (b)
Estimated costs of delivering live music and major event program 2019	4,748				
SCENARIO: Strong return of live activity; declining probability of COVID incident	2021	2022	2023	Total	
Estimated % of market size vs. 2019	50%	75%	100%		
Estimated costs of delivering live music and major event program	2,374	3,561	4,748		
Estimated non-recoverable portion of cost	70%	70%	70%		
Potential maximum payout	1,662	2,493	3,323		
Probability of vaccine that eliminates COVID risk	50%	95%	95%		Refer Note (c)
Probability of COVID-related incident in any given event (before benefit of vaccine)	30%	20%	10%		
Probability of payout	15%	1%	1%		
Estimated payout	249	25	17	291	
Premium rate	1%	1%	1%		
Estimated premiums collected	(16.6)	(24.9)	(33.2)	(74.8)	
Total estimated funding required	233	-	(16.6)	216	
	\$m				
SCENARIO: Gradual return of live activity; declining probability of COVID incident	2021	2022	2023	Total	
Estimated % of market size vs. 2019	33%	66%	100%		
Estimated costs of delivering live music and major event program	1,567	3,134	4,748		
Estimated non-recoverable portion of cost	70%	70%	70%		
Potential maximum payout	1,097	2,194	3,323		
Probability of vaccine that eliminates COVID risk	50%	95%	95%		Refer Note (c)
Probability of COVID-related incident in any given event (before benefit of vaccine)	30%	20%	10%		
Probability of payout	15%	1%	1%		
Estimated payout	165	22	17	203	
Premium rate	1%	1%	1%		
Estimated premiums collected	(11.0)	(21.9)	(33.2)	(66.1)	
Total estimated funding required	154	-	(16.6)	137	

Note:

(a) Direct output used as a proxy for industry revenue; Source: EY Preliminary Findings for LEIF on economic cost of COVID-19 on Australia's Live Entertainment Industry.

(b) Rough estimate across all business types (0-30% margin typically, therefore take average at 15% profit margin)

(c) Probability estimates based on feedback from medical professionals. 2021 probability estimate adjusted to account for roll out of vaccine

INVESTMENT SUPPORT FOR THE LIVE PERFORMANCE INDUSTRY: Tax incentive proposal

Rationale

The live performance industry contributes over \$4 billion annually to the Australian economy. It employs almost 40,000 people nationally, supports more than 500 performing arts companies around Australia plus hundreds of venues, producers and music promoters. It also attracts more than 25 million people to shows in capital cities, regional centres and country towns. However, it is becoming increasingly more difficult for Australian producers to stage new productions due to the high costs of pre-production and difficulties in attracting the required level of investment.

Australian producers are now competing for investors in international jurisdictions that offer significant tax incentives (e.g. UK and USA). Within Australia, live performance producers compete against other industries, notably film and TV, where a 40% producer tax offset for film and 20% tax offset for TV production exists. These tax incentives allow producers to offset pre-production costs on qualifying expenditure. There is an urgent need for live performance producers to access tax incentives to attract the level of investment required to produce and stage world-class shows, support more jobs and drive industry growth.

Benefits of investment incentives



Economic impact of investment incentives

Investment incentives will stimulate economic activity. The level of economic activity generated increases as the level of investment incentive increases.



Incremental to base case	10% tax incentive	25% tax incentive	40% tax incentive
New productions	22	347	555
Industry output (industry turnover)	\$229.5m	\$760.6m	\$1,216.9m
Industry value add (wealth generation)	\$100.1m	\$337.2m	\$540.1m
Employment (FTE)	863	2,906	4,650

Source: EY (2016), Investment support for the live performance industry, Report for Live Performance Australia, August 2016

Government return on investment – cost neutral

There is a small net positive return on investment to government by providing investment incentives on pre-production costs for live productions.

	10% tax incentive	25% tax incentive	40% tax incentive
Investment incentive outlay by government (Incentives provided to producers)	\$37.7m	\$94.3m	\$150.9m
Additional tax revenue received by government	\$28.5m	\$95.9m	\$153.4m
Net (cost)/revenue to government	(\$9.3m)	\$1.6m	\$2.5m

Source: EY (2016), Investment support for the live performance industry, Report for Live Performance Australia, August 2016

Tax incentive schemes



UK Theatre Tax Relief

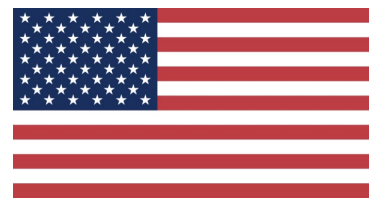
45%

Tax relief for non-touring productions

50%

Tax relief for touring productions

- Following the economic and cultural success of creative sector tax relief in the UK, particularly in film, TV and video games, the Theatre Tax Relief (TTR) scheme was introduced as part of the Finance Act 2014 ("Act") and came into effect on 1 September 2014.
- The TTR scheme is intended to encourage and support investment in the production and touring of UK live dramatic works (including plays, operas, musicals, ballets and circus), with the objective of maintaining the sustainability of live performance in the UK.
- This model provides a clear policy precedent for the extension of tax-based incentives into the live performance industry.
- The TTR scheme currently entitles production companies to claim 45% of its total qualifying pre-production costs for non-touring productions, and 50% for touring productions.
- Both commercial and publicly-funded (subsidised) productions are eligible and can benefit from the scheme, as trading subsidiary arrangements effectively enable not-for-profit organisations to access the scheme.
- Return on costs can be re-invested into new works, or passed on to investors.
- In 2020-21, a total of £74 million of theatre tax relief was granted in relation to 1,070 claims.
- Since the introduction of the TTR scheme in 2014, over 15,000 live productions have benefited, receiving back £354 million of pre-production expenditure.



USA Tax Relief for live theatrical productions

100%

Federal deduction for investment

20 – 35%

State based tax relief

- The UK Government is not the only country to have recognised the need to remain globally competitive. The US has a legacy of state-based tax incentives for theatrical productions. These apply in Illinois, Louisiana, New York State (not including New York City), and Rhode Island.
- The provisions range from 20% - 35% tax credits for qualifying expenditure by production companies.
- The common purpose of these incentives is primarily to increase jobs and economic outputs by increasing the State's competitive position for incentivising theatrical producers to bring productions to their state.
- In December 2015, the US government passed federal legislation that establishes equal tax treatment for live theatrical productions as is provided for film and TV.
- It allows a 100% deduction for investment in live performance by the investor from their income in the year of the investment.
- The legislation allows investors to immediately recoup their investments prior to taxes being assessed on profits earned. This is intended to deepen the pool of interested investors in commercial theatrical productions.



Film and TV Producer Offset

40%

Tax relief for feature films

20%

Tax relief for non-feature films
(TV, mini-series, documentaries)

- In 2007 the Producer Offset was introduced as part of the Australian Screen Production Incentive (ASPI), a package of measures to boost support for the Australian film and television industry.
- It provides a refundable tax offset (rebate) for producers of Australian feature films, television and other projects.
- Feature films are eligible for a 40% rebate of qualifying expenditure, and other programs such as TV, mini-series and documentaries are eligible for a 20% rebate.
- Screen Australia conducted a review of the Producer Offset in 2017, ten years after it was introduced. The report found that the Producer Offset "unquestionably" provided critical financial support for addressing the challenges of raising revenue to meet production budgets.
- Additionally, the report found that the Producer Offset improved the equity share retained by producers in their film and television projects.
- Improved equity share has allowed producers enhanced leverage to attract private investment from new and existing sources. This directly supports producers building sustainable production businesses.

Source: Screen Australia (Nov 2017), *Skin in the Game: The Producer Offset Ten Years On*