



8 April 2013

Committee Secretary  
Senate Rural and Regional Affairs and Transport Legislation Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Dear Committee,

**Re: Australia Council Bill 2013**

I would like to draw your attention to a number of elements of the Australia Council Bill 2013 and how this proposed legislation falls short in its support of the vision espoused in the newly released *National Cultural Policy: Creative Australia*, which continues the spirit of the engagement with the arts embraced by Gough Whitlam and Paul Keating.

The creative vision shown by successive generations of Federal Labor Governments has been aligned to the pursuit of excellence in the arts and to the expression of a pluralist national identity and widespread access to and participation in the arts by the Australian community.

The new legislation dramatically changes the functions of the Australia Council and in so doing does not support the principles on which Federal Labor Governments, including the current Labor Government, have built their vision for an Australian cultural identity.

***Functions removed from the 1975 Act***

1. The new Bill removes the function specified in the old Act that the Australia Council promote the general application of the arts in the community, with no mention of the community in the new Bill. This means that, under this legislation, the Australia Council will no longer have any responsibility for Arts in the community.

*Creative Australia* acknowledges that cultural rights have been recognised in international covenants.<sup>i</sup> However, the policy also states that our responsibilities as a nation go beyond these and that we have a responsibility to ensure that our citizens have opportunities to express their cultural identity and to 'enjoy, draw inspiration from and co-create their culture'.<sup>ii</sup> The *Creative Australia* Policy also articulates the need to ensure all Australians have the opportunity to be involved with the arts as creators as well as audiences.<sup>iii</sup>

A key function for the Australia Council, included in the 2013 Act, is to support and promote the development of markets and audiences for the arts. This is a substantial shift from community engagement and the commitment to recognise citizens as creators.

Artslink Queensland is this state's member of Regional Arts Australia and, as such, is dedicated to developing community engagement. We would argue that "excellence in art"

cannot exist without community engagement - not just as an audience for the arts, but as creators and participants. This is particularly critical in regional Australia.

2. The new Bill removes the function specified in the old Act that the Australia Council foster the expression of a national identity by means of the arts. With no mention of national or cultural identity in the new Bill the Australia Council will have no responsibility for identity and culture.

*Creative Australia* aims to ensure that 'Australian identity and stories are not swamped in a globe awash with cultural products, that the full diversity of our society is represented'.<sup>iv</sup> Yet extraordinarily the new Bill does not seek to enshrine this function into the work of Australia's principal arts funding body.

3. The new Bill removes the function specified in the old Act that the Australia Council uphold and promote the rights of persons to freedom in the practice of the arts. With no mention of the freedom of practice of the arts in the new Bill the Australia Council will have no responsibility to uphold and promote freedom of artistic expression in this country.

### ***Functions not included in the 1975 Act and needing inclusion in the 2013 Act***

Nowhere in the 2013 Act is there any mention of Aboriginal and Torres Strait Islander culture and its primacy in Australia's heritage and identity. While this did not appear in the 1975 Act, given the current discussions about the constitution and the development of Australia's understanding of the importance of the topic, I would have expected that a new piece of legislation establishing the responsibilities of its major arts agency would address this.

Goal One in *Creative Australia* is to 'Recognise, respect and celebrate the centrality of Aboriginal and Torres Strait Islander cultures and to the uniqueness of Australian identity'.<sup>v</sup> With no acknowledgement of this in the 2013 Act and as with other key issues where the legislation remains silent, the Australia Council is perhaps enabled but is certainly in no way obliged to honour this policy goal.

### ***Why legislative obligations are imperative***

Successive Federal Labor Governments have recognised that the right of the citizen to cultural expression and engagement should be at the heart of our thinking about why and how governments fund the arts.

These omissions from the new legislation, specifying the functions of the Australia Council, our principal funding body for the arts, place our cultural rights and principles at risk.

Those drafting the new Bill have completely overlooked the fact that, despite the high level of engagement and participation by Australian citizens in a range of arts activity, the vast majority do not have an opportunity to engage with the output of the subsidised arts funded by the Australia Council.

Under the proposed legislation, there is no obligation for the Australia Council to find ways to

translate the goals and values of our new National Cultural Policy into action: that is, to find ways to overcome the educational, financial, social and cultural barriers to citizens' as cultural producers, and to promote their active and critical engagement with new art and with their cultural heritage.

While it is always easy to present and argue that new legislation is "enabling" and therefore does not need to be descriptive or prescriptive and that the topics omitted can be dealt with through the Cultural Policy, and although these issues are given some prominence in the new policy and through the Strategic Plan of the Australia Council, legislation is where the good intentions are given their authority. Clarity of intention is vital for any legislation.

Policies and strategic directions are good intentions only, and Aboriginal and Torres Strait Islander culture, community engagement in and with the arts, and cultural identity are so fundamental to this nation that they must be enshrined in the legislation. It is neither appropriate, nor in any way desirable, that such fundamental tenets of arts policy should be debated every time a government develops a new policy and every time the Australia Council develops a new Strategic Plan. This approach leaves these critical topics totally unsupported in law and dependent on the goodwill and commitment of the people developing the directions at any given time.

Amending the new Bill to include these items would ensure transparency and accountability into the Australia Council's strategies and ensure that its actions align seamlessly with our new National Cultural Policy.

Yours sincerely,

**Arthur Frame AM**

*Chief Executive Officer / Artistic Director*

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<sup>i</sup> United Nations Convention on the Protection and Promotion of Diversity of Cultural Expression

<sup>ii</sup> Creative Nation page 29

<sup>iii</sup> Creative Australia pages 31 and page 43

<sup>iv</sup> Creative Australia page 43

<sup>v</sup> Creative Australia page 6.