

# Appendix – Delegations

## Appeals Committee Delegation

Given that the *Australia Council Act 1975* provides for Committees to be constituted under section. 17A(1); and section 7 of the Act authorises the Council to delegate to a Committee, either generally or as otherwise provided by the instrument of delegation, any of its functions and any of its powers under the Act (other than its power of delegation or the power to appoint Committees); The Australia Council, pursuant to section 7 of the *Australia Council Act 1975* hereby delegates to the Appeals Committee the powers set out in Part 1 of this instrument subject to the conditions set out in Part 2 of this instrument.

### Part 1: Powers delegated

1. To consider and determine appeals from decisions made by the Chairperson and the Chief Executive Officer of the Council to rescind a decisions made by a Board, Committee, Officer or Employee on a grant application or other funding proposal, where the decision by the Chairperson and the Chief Executive Officer is made under the delegation dated ...[date when signed];
2. To do anything incidental to (1) above.

### Part 2: Conditions of delegation

1. The Appeals Committee shall at all times comply with general directions of the Council given under section 7(2) of the Australia Council Act to the committee;
2. The Appeals Committee shall not uphold an appeal where the Council has received legal advice that the project outcomes contemplated in the grant application or other funding proposal may not comply with all applicable laws or could reasonably be deemed in the judgment of the appeals committee to have the effect of bringing the Council into disrepute;
3. The Appeals Committee shall comprise:
  - any two of the non-Board Chair Councillors

- the Deputy Chairperson of Council (or Chairperson, if the Deputy Chairperson has participated in the decision to rescind subject to an appeal)
- a Board Chair Councillor (not involved in the decision previously).

4. The Appeals Committee shall be chaired by the Deputy Chairperson of the Council, or the Chairperson if the Deputy Chairperson cannot participate in the appeal hearing because of prior participation in the decision.
5. An appeal shall be in writing, signed by the Chair on behalf of the Board or the Committee, or by the Officer or Employee.
6. A decision of the Appeals Committee is final and shall be made not more than fourteen days after receiving notice of an appeal from a Board, Committee, Officer or Employee.

### Part 3: Guidelines for Appeals Committee

1. The Appeals Committee shall be convened and hear an appeal expeditiously.
2. The powers delegated to the Committee shall not be exercised in a manner which could reasonably be deemed to have the effect of bringing the Council into disrepute;
3. Where the Appeals Committee rejects an appeal of a decision, the Committee shall advise the Board, Committee, Officer or the Employee concerned as soon as its decision is made and shall give reasons for that decision;
4. The Appeals Committee shall report on the proceedings of each of its meetings to the next meeting of the Council, Board or Committee.
5. The Appeals Committee shall provide the Council or a Board, Committee, Officer or Employee with such reports and information as the Council may request from time to time or direct under section 7(2) of the Act.

## Decisions Review Committee Delegation

Given that the *Australia Council Act 1975* provides for Committees to be constituted under section. 17A(1) and section 7(1)(d) of the Act authorises the Council to delegate to a Committee, either generally or as otherwise provided by the instrument of delegation, any of its functions and any of its powers under the Act (other than its power of delegation or the power to appoint Committees)

The Australia Council, pursuant to section 7 of the *Australia Council Act 1975* hereby delegates to the Decisions Review Committee the powers set out in Part 1 of this instrument subject to the conditions set out in Part 2 of this instrument.

### Part 1: Powers delegated

1. To consider and determine requests for review of decisions on grant applications or other funding proposals made by a Board, Committee, Officer or Employee.
2. To refer accepted requests for review of decisions back to the Board, Committee, Officer or Employee concerned for reconsideration and decision.
3. To do anything incidental to 1. to 2. above.

### Part 2: Conditions of delegation

1. The Decisions Review Committee shall at all times comply with general directions of the Council to the Decisions Review Committee given under section 7(2) of the *Australia Council Act*.
2. The Decisions Review Committee shall report on the proceedings of each of its meetings to the next meeting of the Council.

### Guidelines for Decisions Review Committee

1. Where the Decisions Review Committee rejects an application for a review of a decision, the Committee shall advise the applicant within 28 days of the decision and shall give reasons for that decision.
2. The advice of rejection of an application shall state that the Committee's decision is final.
3. When referring a decision on a grant application or other funding proposal back to a Board Committee, Officer or Employee for reconsideration, the Committee may provide the Board or Division with such comments on matters arising from the application for review as the Committee thinks appropriate.

4. The powers delegated to the Committee shall not be exercised in a manner which could reasonably be deemed to have the effect of bringing the Council into disrepute.
5. The Decisions Review Committee shall provide the Council or a Board, Committee, Officer or Employee with such reports and information as the Council may request from time to time or direct under section 7(2) of the Act.

## Generic Art Form Board Delegation

Given that the *Australia Council Act 1975* provides for Boards to be constituted under section. 20; and section 7 of the Act authorises the Council to delegate to a Board, either generally or as otherwise provided by the instrument of delegation, any of its functions and any of its powers under the Act; and recognising that duly constituted Boards give effect to the established principles of peer assessment and decision-making at 'arm's length' from political processes.

The Australia Council, pursuant to section 7 of the *Australia Council Act 1975* hereby delegates to each of the Community Cultural Development, Dance, Literature, Music, New Media Arts, Theatre and Visual Arts/Craft Boards the powers set out in Part 1 of this instrument subject to the conditions set out in Part 2 of this instrument.

### Part 1: Powers delegated

1. To make grants and loans of money and to provide scholarships, fellowships, awards, or other benefits on such conditions as it sees fit;
2. To manage buildings or facilities or assets;
3. To administer such gifts, devises or bequests as specified by the Council;
4. To co-operate with the States and local governing bodies and with other persons and organisations concerned with the arts;
5. To do anything incidental to (1), (2), (3) and (4) above.

### Part 2: Conditions of delegation

1. The powers shall be exercised by each Board solely for the purposes of the programs allocated to the Board by the Council;
2. [Board] Expenditures and forward commitments shall not exceed the limit of funds allocated or approved by the Council in respect of that Board;

3. The Board shall at all times comply with specific directions of the Council to the Board given under section 21 (3) of the Australia Council Act;
4. In exercising the powers delegated by this instrument the Board shall, subject to the Council's guidelines on the exercise of discretions, comply with all relevant Council plans, policies, protocols and procedures as in force at the date of the exercise of the powers.

#### **Guidelines for Boards**

1. The Board shall provide such reports and information as the Council may request from time to time or direct under section 21(1) of the Act.
2. In the exercise of the powers the Board shall seek prior approval from Council for implementation of any matters that would result in major changes to Council plans, policies, protocols or procedures that may arise while exercising the delegated powers.
3. The powers shall not be exercised in a manner which could reasonably be deemed to have the effect of bringing the Council into disrepute;
4. Any policy issues affecting more than one Board that arise in the exercise of the powers shall be the subject of consultation with the relevant area(s) of Council, and in the event of disagreement any of the Boards or administrative units concerned may refer the matter to the Council for consideration and direction or determination.

### **Major Performing Arts Board Delegation**

Given that the *Australia Council Act 1975* provides for Boards to be constituted under section 20 and section 7 of the Act authorises the Council to delegate to a Board, either generally or as otherwise provided by the instrument of delegation, any of its functions and any of its powers under the Act and recognising that:

- (1) the Major Performing Arts Board has been charged by the Commonwealth Minister for the Arts and the Cultural Ministers Council with implementing the recommendations of the Major Performing Arts Inquiry.
- (2) the Australia Council has signed a Memorandum of Understanding (MOU) with the Department of Communications, Information Technology and the Arts to implement the outcomes of the Inquiry.

- (3) implementation is carried out by the Major Performing Arts Board acting jointly as equal partners with the relevant state funding agencies.

The Australia Council, pursuant to section 7 of the *Australia Council Act 1975*, hereby delegates to the Major Performing Arts Board the powers set out in Part 1 of this instrument subject to the conditions set out in Part 2 of this instrument.

#### **Part 1: Powers delegated**

1. To make grants and loans of money and to provide scholarships, fellowships, awards, or other benefits on such conditions as it sees fit.
2. To manage buildings or facilities or assets.
3. To administer such gifts, devises or bequests as specified by the Council.
4. To cooperate with the states and local governing bodies and with other persons and organisations concerned with the arts.
5. To exercise all such powers as are vested in the Council by the Australia Council Act that are necessary for the carrying out of the functions to be performed by the Board that are specified in the Charter for the Major Performing Arts Board attached to this delegation, and the functions to be performed by the Board for carrying out the recommendations of the Major Performing Arts Inquiry.
6. To do anything incidental to 1., 2., 3., 4. and 5. above.

#### **Part 2 Conditions of delegation**

1. The powers shall be exercised by the Board solely for the purposes of the programs allocated to the Board by the Council.
2. Board expenditures and forward commitments shall not exceed the limit of funds allocated to the Board.

#### **Guidelines for Board**

1. The Board shall provide such reports and information as the Council may request from time to time or direct under section 21(1) of the Act.
2. Within the context of the conditions of delegation, the Board shall seek prior approval from Council for implementation of any matters that would result in major changes to Council plans, policies, protocols or procedures that may arise while exercising the delegated powers.

3. In the exercise of the powers, the Board shall provide prior and timely advice to the Council of matters or decisions that may materially affect other Boards or any functions or standing policies of the Council and shall not exercise the powers unless the Council approves.
4. The Board shall liaise with other Boards in line with an agreed set of protocols for the entry and exit of companies to the Major Performing Arts Board. In the event that a disagreement arises either of the Boards may refer the matter to the Council for resolution.
5. Any policy issues affecting more than one Board that arise in the exercise of the powers shall be the subject of consultation with the relevant area(s) of the Council, and in the event of disagreement any of the Boards or administrative units concerned may refer the matter to the Council for consideration and direction or determination.
6. The powers shall not be exercised in a manner which could reasonably be deemed to have the effect of bringing the Council into disrepute.

#### **Charter for the Major Performing Arts Board**

1. To decide (in line with the specific agreed protocols) which companies should be designated as major companies.
2. To determine the category to which each company should be assigned.
3. To maintain the funding model as agreed and to advise on adjustments every three years.
4. To agree on the terms of performance agreements with state government funding agencies and to negotiate them with the companies in a tripartite arrangement.
5. To decide whether a company should be put on notice, the conditions for such notice, whether these conditions have been met, and whether the company should have its major company status withdrawn.
6. To work with the companies to improve their management and governance practices.
7. To take or facilitate such other initiatives as may improve the artistic vibrancy, access and financial viability of the companies.
8. To provide advice to the Australia Council, as required, on issues relating to the performing arts in general and the major companies in particular.

9. To perform specific monitoring tasks on behalf of the federal and state governments as required.

10. To report to the Implementation Committee established by the Commonwealth Minister for the Arts on progress in implementing the Inquiry's recommendations.

### **New Australian Stories Committee Delegation**

Given that the *Australia Council Act 1975* provides for Committees to be constituted under section 17A(1); and section 7(1)(d) of the Act authorises the Council to delegate to a Committee, either generally or as otherwise provided by the instrument of delegation, any of its functions and any of its powers under the Act; and recognising that duly constituted Committees give effect to the established principles of peer assessment and decision-making at 'arm's length' from political processes.

The Australia Council, pursuant to section 7 of the *Australia Council Act 1975* hereby delegates to the New Australian Stories Committee the powers set out in Part 1 of this instrument subject to the conditions set out in Part 2 of this instrument.

#### **Part 1: Powers delegated**

1. To make grants and loans of money and to provide scholarships, fellowships, awards, or other benefits on such conditions as it sees fit;
2. To administer such gifts, devises or bequests as specified by the Council;
3. To co-operate with the States and local governing bodies and with other persons and organisations concerned with the arts;
4. To do anything incidental to (1), (2), and (3) above.

#### **Part 2: Conditions of delegation**

1. The powers shall be exercised by the Committee solely for the purposes of the programs allocated to the Committee by the Council;
2. Committee expenditures and forward commitments shall not exceed the limit of funds allocated or approved by the Council in respect of the Committee;
3. The Committee shall at all times comply with specific directions of the Council to the Committee given under section 21 (3) of the *Australia Council Act*;

4. In exercising the powers delegated by this instrument the Committee shall, subject to the Council's guidelines on the exercise of discretions, comply with all relevant Council plans, policies, protocols and procedures as in force at the date of the exercise of the powers.

#### **Guidelines for the Committee**

1. The Committee shall provide such reports and information as the Council may request from time to time or direct under section 21(1) of the Act.
2. In the exercise of the powers the Committee shall seek prior approval from Council for implementation of any matters that would result in major changes to Council plans, policies, protocols or procedures that may arise while exercising the delegated powers.
3. The powers shall not be exercised in a manner which could reasonably be deemed to have the effect of bringing the Council into disrepute;
4. Any policy issues affecting more than one Committee that arise in the exercise of the powers shall be the subject of consultation with the relevant area(s) of Council, and in the event of disagreement any of the Committee or administrative units concerned may refer the matter to the Council for consideration and direction or determination.

# Acronyms

**AAA**

Arts Access Australia (formerly Disability in the Arts Disadvantage in the Arts Australia – DADAA)

**AbaF**

Australia Business Arts Foundation

**ABS**

Australian Bureau of Statistics

**ACMAC**

Australia Council Multicultural Advisory Committee

**ACTC**

Australian Capital Tourism Corporation

**AFC**

Australian Film Commission

**AFTRS**

Australian Film, Television and Radio School

**AICC**

Australian International Cultural Council

**AMA**

Arts in a Multicultural Australia

**AMD**

Audience and Market Development

**APAP**

Association of Performing Arts Presenters

**ATSIA**

Aboriginal and Torres Strait Islander Arts

**ATSIAB**

Aboriginal and Torres Strait Islander Arts Board

**CAC**

Commonwealth Authorities and Companies

**CCD**

Community Cultural Development

**CCDB**

Community Cultural Development Board

**CEO**

Chief Executive Officer

**CHASS**

Council for the Humanities, Arts and Social Sciences

**CINARS**

Commerce international des arts de la scene/International Exchange for the Performing Arts

**CMC**

Cultural Ministers Council

**CP**

Community Partnerships

**DCITA**

Department of Communications, Information Technology and the Arts

**DDA**

Disability Discrimination Act

**DFAT**

Department of Foreign Affairs and Trade

**EEO**

Equal Employment Opportunity

**EPIC**

Emerging Producers in Community

**FECCA**

Federation of Ethnic Communities Council of Australia

**FOI Act**

Freedom of Information Act 1982

**GMS**

Grants Management System

**MAMAS**

Multicultural Arts Marketing Ambassadors Strategy

**MAPD**

Multicultural Arts Professional Development

**MMM**

Maker to Manufacturer to Market

**MPAB**

Major Performing Arts Board

**MPAI**

Major Performing Arts Inquiry

**NAS**

New Australian Stories

**NATSIAP**

National Aboriginal and Torres Strait Islander Arts Policy

**NESB**

Non-English speaking background

**NMA**

New Media Arts

**NMAB**

New Media Arts Board

**PCR**

Policy Communication Research

**PICA**

Perth Institute of Contemporary Arts

**RAA**

Regional Arts Australia

**RAPN**

Regional Arts Promoters Network

**VACB**

Visual Arts/Craft Board

**VB**

Venice Biennale

**VIP**

Visiting International Publishers

**YAG**

Youth Arts Group

**YPA**

Young People and the Arts