

Mr Romlie Mokak
Commissioner
Productivity Commission
4 National Circuit Canberra
ACT 2600

29/08/2022

Dear Commissioner,

Re: Aboriginal and Torres Strait Islander visual arts and crafts study

Thank you for the opportunity to meet with you and your team today. We are pleased to provide this response to your draft report on Aboriginal and Torres Strait Islander Visual Arts and Craft.

Firstly, NAVA commends the recommendation to introduce new legislation that that strengthens protection for aspects of Indigenous Cultural Intellectual Property (ICIP) used in visual arts and crafts.

Regarding the recommendation of mandatory labelling of inauthentic products, NAVA again raises concerns regarding stylistic and conceptual appropriation of Aboriginal and Torres Strait Islander art and designs, which result in both cultural and economic harms and support the recommendations of the Fake Art Harms Culture campaign launched in 2016 as a collaboration between the Indigenous Art Code, Arts Law Centre of Australia and the Copyright Agency. Further to this, NAVA asserts the need for consumer education.

As revealed in the draft report, total funding through the Indigenous Visual Arts Industry Support (IVAIS) program since 2015–16 has declined in real terms by 5%. Since 2016-17, funding to the Aboriginal and Torres Strait Islander Arts Program under the Australia Council has also fallen in real terms by 5%.

The agency of the Aboriginal arts sector requires strong investment in First Nations mid-career and leadership roles. Investing in First Nations-led institutions, industry centres, and spaces which provide training and development, will support First Nations people in these roles. Support must also extend to skills training for artists and arts workers to represent First Nations communities on boards and Aboriginal advisory groups.

Almost every state and territory has plans to build a First Nations gallery or cultural centre. The drive for content for these institutions will increase pressure on First Nations visual arts and craft practitioners and Indigenous art centres that have not had an increase in funding for some time.

NAVA continues to call for the expansion of peak bodies to all states and territories with increased investment and support to develop and grow local artists and support their careers across Tasmania, Victoria, New South Wales, Western Australia and the Australian Capital Territory.

NAVA recently hosted a series of workshops centred on the Australian Government's National Cultural Policy consultation framework. These meetings were a chance for the visual arts, community to brainstorm, collaborate, and share ideas for arts policy. We were pleased to provide our submission after extensive conversations, consultation and collaboration with over 250 Members and subscribers. Recommendations to the First Nations pillar are as follows:

- Boost Indigenous Visual Arts Industry Support (IVAIS) funding for Indigenous arts organisations (art centres, cultural centres, knowledge centres, language centres, Aboriginal museums, galleries and Keeping Places), peak bodies, and support agencies to provide appropriate support across all states and territories and all urban, regional and remote communities.
- Increase the number of targeted First Nations arts worker and leadership roles across small-to-medium arts organisations and the arts sector more broadly. Prioritise cluster hiring, especially for larger organisations with greater capacity.
- Introduce and support targeted programs focused on creating and retaining First Nations employment, supporting micro businesses and strengthening existing businesses, as well as funding designated First Nations roles for visual arts peak bodies and touring agencies sector-wide.
- Invest in First Nations-led education, training, mentorship and skills development programs to support First Nations employment and representation in middle-tier jobs, leadership roles, boards, and Aboriginal advisory groups.
- Invest in First Nations-led infrastructure including local art and cultural centres, studios, small-to-medium arts organisations and galleries across all urban, regional and remote communities.
- Permanently increase funding for existing peak sector bodies, support agencies and service organisations to expand professional development programs for artists and arts workers
- Provide funding to enable First Nations-led organisations to take advantage of new prevalent market opportunities within Australia and abroad.
- Commit targeted financial support for independent self-determined First Nations artists and practitioners.
- Invest in First Nations-led education and training programs for visual artists and craftspeople.
- Cultural Safety and First Nations participation in arts and culture
- Introduce programs to increase First Nations engagement with the visual arts and craft sector, especially for vulnerable First Nations people such as those coming in and out of incarceration.
- Ensure public investment is tied to equity and industry standards for First Nations people.
- Encourage and facilitate cultural safety and awareness training for galleries and arts organisations.
- Implement programs to support truth-telling in galleries and museums. This includes reviewing processes on collection and display of First Nations works and materials, decolonising dominant perspectives and introducing inquiry-based learning for visiting schools.
- Ensure public investment for projects that claim to be consulting and collaborating with Traditional Owners is genuine and appropriate.

Please find attached notes from NAVA's workshops as discussed today. Do not hesitate to contact me for further information I can provide.

Best regards,
Penelope Benton
Executive Director



Notes from NAVA Workshop for National Cultural Policy: First Nations First

Tuesday 2 August 2022

This session was facilitated by Clothilde Bullen, Wardandi (Nyoongar) and Badimaya (Yamatji), Chair of the NAVA Board and Head of Indigenous Programs/Curator at The Art Gallery of Western Australia (AGWA). Clothilde facilitated as a guest on Wadjuk country, and pays respects to her ancestors and those in Boorloo WA, and all of the ancestral people from the countries on which all attendees joined.

National Cultural Policy is being developed this year. A short period of consultation is currently open until 22 August, and it is critical to amplify First Nations voices. Working with strategy and policy is fundamental to enacting structural change.

NAVA strongly encourages everyone in the visual arts, craft and design sector to draw on the recommendations below as a starting point for your own submission. We need to come out in numbers to ensure our ideas and recommendations for arts policy are loud and clear.

Workshop recommendations

- Increase the number of targeted First Nations arts worker and leadership roles across small-to-medium arts organisations and the arts sector more broadly. Prioritise cluster hiring, especially for larger organisations with greater capacity.
- Invest in First Nations-led education, training, mentorship and skills development programs to support First Nations employment and representation in middle-tier jobs, leadership roles, boards, and Aboriginal advisory groups.
- Introduce and support targeted programs focused on creating and retaining First Nations employment, supporting micro businesses and strengthening existing businesses, as well as funding designated First Nations roles for visual arts peak bodies and touring agencies sector-wide.
- Boost Indigenous Visual Arts Industry Support (IVAIS) funding for Indigenous arts organisations (art centres, cultural centres, knowledge centres, language centres, Aboriginal museums, galleries and Keeping Places), peak bodies, and support agencies to provide appropriate support across all states and territories and all urban, regional and remote communities.
- Provide funding to enable First Nations-led organisations to take advantage of new prevalent market opportunities within Australia and abroad.
- Commit targeted financial support for independent self-determined First Nations artists and practitioners.
- Invest in First Nations-led education and training programs for visual artists and craftspeople.
- Invest in First Nations-led infrastructure including local Art and Cultural Centres, studios, small-to-medium arts organisations and galleries across all urban, regional and remote communities.
- Action legislative reform as recommended by the Fake Art Harms Culture campaign.

- Provide targeted support to increase engagement with the visual arts and craft sector for vulnerable First Nations people, such as those coming in and out of incarceration.
- Ensure public investment is tied to equity and industry standards for First Nations people.
- Provide cultural safety and awareness training for galleries and arts organisations.
- Support truth telling in galleries.
- Governments and institutions that are publicly funded need to have RAP plans.
- Before approving public funding for arts and cultural projects that claim to be consulting and collaborating with Traditional Owners, confirm that has genuinely occurred.

Discussion

First Nations Employment

A lack of Aboriginal arts workers in these spaces means we don't have control over our own spaces, destinies and economies.

There is an urgent need for middle tier development in arts centres. We need to strengthen employment opportunities and develop consistent training in order to build the capability of people filling these roles. Access to networking, peer-to-peer learning, as well as the development of curatorial thinking, is critical.

While there is an increase in First Nations people in leadership roles and young people upskilling through leadership courses, there is a whole missing tier of qualified First Nations people in the middle. Many small-to-medium visual arts organisations do not employ Aboriginal people and don't have RAPs (Reconciliation Action Plans) or Aboriginal advisory boards. Of the organisations that have allocated funds for First Nations staff, there isn't enough people ready to fill these roles. Without First Nations people represented in these spaces and in mid-career roles, First Nations people are misrepresented and have no agency. The middle tier in the small-to-medium arts sector is a fertile ground for development and First Nations practitioners are missing out.

The agency of the Aboriginal arts sector requires strong investment in First Nations mid-career and leadership roles. Investing in First Nations-led institutions, industry centres, and spaces, which provide training and development, will support First Nations people in these roles. Support must also extend to skills training for artists and arts workers to represent First Nations communities on boards and Aboriginal advisory groups.

Many small-to-medium visual arts organisations don't have a single Aboriginal worker or Aboriginal advisory group. I'd like to see a guiding cultural policy implemented in each state and territory including requirements for cultural competency training to support the employment of Aboriginal people.

Workplaces need to consider and offer more flexible ways of working, including working remotely or offline some of the time. This could help community mob be able to remain on home country wherever that is.

I could sense there's a fear from the gallery's point of view they're going to do something wrong or be offensive and we are not sure what we need to put forward to help guide that as well as the artists.

That was one of the things that that small to medium organisations were asking for, they haven't employed Aboriginal people because they're pretty much terrified of making a mistake and doing the wrong thing, and there are no guidelines to support that, given it's 2022 it's pretty extraordinary that people can't go as a human being I'm going to speak to you about what your needs are when you come in to an organisation, it's a good point and there needs to be some state based guidelines for each one

Policy and protocols, there often isn't enough funding for advisory groups, it's a glaring omission, work done not funded correctly that feeds in to we had a longer discussion about retention strategies in the middle tier and the fact that staff are isolated as the only Indigenous person on staff, longer term strategic around and beyond individual roles so that people in those roles aren't isolated and a single person is making feeling unsafe culturally making decisions for many many people beyond what the scope or burden of that individual role should be so just about the lack of training which many of the other groups have brought up, protocols and policy and wanting to develop the skills in the sector long term by investing in not just the role, but also the infrastructure around the role. Recognising there's no one fit that allowance needs to be made for different unique needs and ways for Aboriginal owned and structured groups to find each other and support each other as well as brother and sister institutional links to other places around the world, it happens now but it's potentially not in such an organised manner and it may be more efficient than starting from scratch each time.

Indigenous arts organisations

There is simply a need for an increase in funding. It is well overdue. Art centres are a proven model for success and have demonstrated that they provide numerous benefits to communities in areas of health, wellbeing, income, jobs, training, skills development, age care, youth programs, intergenerational knowledge exchange, access to country, access to technology and essential services - and the list goes on.

Many artists in remote and regional areas operate in different landscapes and contexts to those living in the suburbs and cities. In many areas including urban spaces, there is no central place where Aboriginal people can come together to learn, develop their practice, and showcase their work.

There are no arts centres in New South Wales. We have cultural centres, knowledge centres, language centres, museums, Aboriginal museums, galleries and Keeping Places. Most of them also work with artists, even if they're a museum. Awareness and education on the definition of an art centre is needed, in order for IVAIS funding to reach these organisations. There is a diversity of experience and in the way we are set up across different areas and people need to be mindful of that language.

We need funding for urban artists and the organisations to support them. We need funding to attract, train, pay and retain arts workers. Some organisations, funding bodies and institutions snap up good First Nations workers because they can afford higher wages.

New South Wales, Victoria, Tasmania and the ACT do not get the same deal as Northern Territory, Western Australia, South Australia and Queensland.

The First Nations arts scene in Tasmania needs to get the ground support to be able to participate on a national scene.

A lot of First Nations organisations are competing for resources and use of state run spaces. Targeted investment is needed to provide First Nations-led spaces such as arts and cultural centres with facilities and spaces.

Market opportunities within Australia and abroad

New market opportunities for First Nations artists and art centres are more prevalent now than ever before. Channels for online sales have opened opportunities to reach new markets within Australia and abroad. There has been a substantial increase in the amount of First Nations artists work appearing on products. Almost every state and territory has plans to build a First Nations gallery or cultural centre.

However this places significant pressure on organisations that have not seen an increase in core funding to meet the growing demand. Additional funding is required to adequately resource art centres to access and take advantage of these opportunities.

Culturally safe workplaces and spaces

Arts organisations, especially publicly funded institutions, need to have RAPs. Cultural competency training is essential to creating safe space. We need suitable training in workplaces around engaging and listening to Aboriginal and Torres Strait Islander voices through truth telling.

Education and training

We need training, peer learning and networking to prepare First Nations artists and practitioners when working in the industry. For many people English is a third or fourth language. For some people, they don't have the writing skills.

Organisations are asking First Nations artists to quote the exact amount of money for an artwork in advance, which is difficult when the process of making an artwork is so free-flowing. It is difficult to price a work before it has been made. There needs to be some form of guideline for bigger businesses and organisations to be able to fall on when it comes to approaching us as artists.

There needs to be more skills training programs to help First Nations people become educators. This will have a big impact in terms of creating culturally safe training and pathways for First Nations practitioners. It will also support cultural competency for non-First Nations entering the industry.

There are few First Nations arts writers, and First Nations art is mostly written about by people without lived or shared experience. Arts writing within the First Nations community should be supported to foster deeper critical engagement with First Nations narratives and storytelling – the gamut of cultural output.

Recognising artists as workers

We need to recognise artists as workers. Those in remote communities who are required to participate in the community development program, the CDP, are currently struggling to have their work recognised as artists under the requirements system.

Local Council engagement

Strengthen relationships between local council art departments and First Nations artists. This requires consulting, valuing, engaging and providing opportunities for local First Nations people and art all year round and not to set specific times of the year such as NAIDOC week.

Working with councils, and understanding where the galleries are, where they can put their art. Developing artists in a way because First Nations people are artists that's a part of our culture but they don't sit in the arts space so translating that across for them and developing their art in a way that they don't know what they can or cannot do what's available.

Targeted support for engaging vulnerable First Nations people

We have a lot of people in gaols that do beautiful art and some of our places like Bathurst has a gallery at the gaol. When they come out they don't have anywhere to go, there's no structure or support so they end up back in gaol.

The torch down in Melbourne is a really good model. They work with people coming out of incarceration and it's amazing <https://thetorch.org.au/>

Consulting and collaborating with First Nations practitioners

Good consultation processes need appropriate lead time. Whether that's embedding that in our cultural extras with institutions, how we do that for a long lead because that is then going to inform proper truth telling for artists, maintaining the integrity for the artist and story so, strong on the idea that the policy must address the issues of time that we don't necessarily have to capture directly from the artists or the community. There is another way that we can capture consultation processes that hasn't been put in to these pillars - there are other ways that we can embed that and guide those, not just the ones that we do at the moment, there may be other ways so video, capturing for example or oral capturing and things like that.

Arts practice advocating for and pushing money into artists, being able to develop their way that's appropriate for them. Offering opportunities for collaboration between other artists not just Aboriginal, artists who are not Aboriginal in these spaces to develop practice.

Making sure that this process if it is a national process or cultural policy then it's about us then it needs to be about us and so it needs to provide us with the maximum amount of opportunity to participate in the process fully, and also the submissions with regard to those different ways of putting in submissions, such as video, audio, not just relying on the written word.

A good example is that TAFE offer Aboriginal community consult and so they would go out and find out what training they need, go and develop it and then they'd deliver. If we could have something in the arts, a basic initial beginning so you can articulate what it is specifically the information you require. Have that articulated and target that. And then we

can take it to the next level. And that begins that tier and you have that people employed in those areas make sure they're professional, make sure they're skilled, and don't put them in places where they're vulnerable.

Youth arts

Youth doesn't have any support in the arts. They have rap songs but they need to have other stuff as well. They have to have cultural learning and behaviour that they need within the arts.

Then there's the wellbeing where grief and loss is a big thing in our community with suicide, we have had terrible losses lately and there's no real look at the ways to do that in an arts sense, that's appropriate to what's happening. We need a plan in place on how we are going to do this. One of the things is having leaders, having that middle tier of First Nations arts workers. We need that army. We need good foot soldiers.

It is crucial that we have conversations about embedding process for identifying people as First Nations into models. Often they come to community via art projects first, not from community. Community are concerned about this issue of who is identifying and because the government is the one funding projects, we have to think about what is their role in addressing this concern as part of funding.

Policy and protocols - there often isn't enough funding for advisory groups - this is a glaring omission - valuable contributions of First Nations artists not being properly recognised and remunerated

Retention strategies - people don't want to be siloed as the only aboriginal person on staff - its gets exhausting and roles are untenable. Feeling culturally unsafe as you are making decisions for many people. Not correct to be isolated. Increasing staff numbers...

Usual scenario: Orgs might have funding for a staff member but no ongoing true investing into those communities. There is a lack of training. Needs to be long term investment to develop the skills of the sector across various. More detailed planning around the existence of the position, not just what is involved in doing the role. Recognise the double workload of the role and culture on mid-tier artworks who are a sole First Nations employee in an org.

Recognise there is no one fit in policy and practices - allowance needs to be made for differing needs - we have unique needs across the continent.

Find ways for Aboriginal owned and operated spaces/structures/groups to find each other and support each other (cross-sector support mechanisms)

Develop and support creating brother/sister institutional links to other places (FN orgs beyond Australia) around the world. It happens now, but not in an organised manner. This may be more efficient in not reinventing/starting from scratch each time.

Acknowledge that mid-tier arts orgs have been hammered over the last decade under the previous government and are suffering. Referring to small to medium institutions are operating on smaller budgets <\$1mill. Raised that there is an opportunity here not to be

missed because now, under the change in government and policy, they have desire to rebuild. This could be an opportunity to rebuild differently than before, taking into account better policies and practices for First Nations engagement/employment.

- Artist and arts worker training and mentorship pathways. We need training and mentoring pathways from Aboriginal workers.
- Governments and institutions that are publicly funded need to have RAP plans.
- RAPs, to bring First Nations people in to engage with Councils, minimum councils, that is Australian Government funding
- Our Council have so few First Nations people working on council, to try and get that training is important to make a safe place.
- Cultural competency training is essential to creating safe space, otherwise there is reluctance, especially if working alone.
- **Engaging our voice in truth telling.**
- Aboriginal grants program at the City of XXX, having trouble getting people to apply for the grants program.
- We have a number of Indigenous artworkers, receive funding from IVAIS for funding, but difficulty in finding suitable training program that matches with the upskilling needs of the Indigenous staff and arts workers. Principle of training is good is the delivery of it is where it goes astray. We need an artist/arts worker development program that meets the needs of the arts worker. And it will be most useful coming from a First Nations person who has lived this experience.
- Need a cultural policy from the top that requires art centres to have cultural training, tied to funding, and their lack of awareness of how to approach indigenous artists.
- Education and artworking - not bridging between people that are artists while incarcerated and having community support once released.
- Support for engaging with vulnerable people within the sector for example people in and coming out of incarceration.
- Dedicated, specific funding that isn't taken away, is sequestered just for visual arts.
- Motive - commissioning agents, local, state govt, delivery partners etc may be requesting these for perhaps the wrong reasons, as a visual distraction to short comings in other key areas such as employment, healthcare and health outcomes, imprisonment of first nations people. My concern is that public art commissioning is being used as a greenwash visual distraction in some cases
- Consultation - or lack of, sometimes these decisions are being made without asking First Nations communities if they even want these very large public artworks
- Cultural safety - artists can be unknowingly trust into unsafe environments where they are out of their depths and unsupported
- Community politics - artists can be left to deal with community/Elder/RAP consultation - which if it goes wrong can leave them in very difficult situations for years to follow
- Inconsistent consultation - on projects where there is consultation there is no guidelines for how much, timelines, consultation rates. Some RAPs are charging huge sums, others less, this will lead to arguments between language groups and commissioning agents and potentially result in legal battles

Notes from the first NSW Aboriginal visual arts practitioners to be heard at the workshop: What does the NSW Aboriginal visual art sector look like in the future? (Sustainable growth)

11am - 12pm AEDT, Tuesday 1 December 2020

Introduction

This conversation has been floating around for so long.

We have a problem in regard to lack of visibility for NSW Aboriginal visual arts practitioners and we need to make change.

Important to add your voice to these inquiries and consultations and tell personal stories to give context to your perspectives and contributions.

Telling your story

Dennis Golding, Kamilaroi/Gamilaraay artist spoke of his experience living in an urban environment. Growing up at The Block in Redfern, which started to emerge as an Aboriginal community from the late sixties. This was a place for connection. A place for healing. A place for protest and it was the birthing place of civil rights movements for Aboriginal families.

He recognised and acknowledged the history of Aboriginal controlled organisations, such as the legal service and the childcare services being part of that community and having a story connected to this place. Very inspired about what we can tell as story-tellers through our artistic practices and how we can visualise our culture and identity in new ways.

Went to art school to do painting, having this idea that painting is what you do to be an artist but realised through tertiary education that there's no limits of what you can do. So branched out into other mediums, such as photography, video installation and sculpture. Also at university, he found a great interest in curating, through mentorship with leading curators and educators in the curatorial field because it is another form of storytelling.

Dennis also spoke of his experiences of gentrification. Families, communities being removed or evicted from their homes. These continuing practices of removal and dispossession inform his practice.

What's needed to support sustainable growth

Hannah Donnelly, Wiradjuri writer and producer, reflected on structural things she's seen from some of the work she has done over the years, noting an under investment by the federal government in the South-East Aboriginal arts sector.

Hannah noted that the model in other states and territories is really successful, self-determined, First Nations led Aboriginal art centres supporting critical engagement and development, and artistic output for local communities.

In NSW, the Aboriginal Arts Development Officers (AADO) or other First Nations roles in the regions fill this role in different ways but they don't have enough support at a state and federal level.

It's important to think about comparable investment in communities here. One way to do that could be looking at existing organisations that are engaging in cultural enterprise development and artistic outcomes.

The presence of artists in this part of Australia is really strong. It's important that South-Eastern stories and narratives are told, shared and celebrated.

General points raised in discussion

Finding a structure that fits NSW.

The NSW model works for NSW but it's not recognised.

Artists here are quite successful, that's also not recognised.

There's a diverse range of artists creating incredible works and their practices are critical.

It was acknowledged that Boomalli has played a critical role in the development of many artists' practices and careers offering professional development help with writing grant applications, artist statements, what paint to use, the dos and don'ts, etc.

Boomalli doesn't get funding to support artists enough. A lot of scope for growth here.

Discussion about connection to other artists and in some ways art school can provide that sense of community and networking experience but the experience of university for First Nations practitioners can also be traumatic.

Going through art school doesn't make us any less or more legit as an artist.

Tokenism needs to be gone.

Still a frontrunner in how things are assessed.

Indigenous art is a colonial construct.

Urban based artists get categorised as urban because we don't come from the central desert.

Not much has changed in 30 years, there is still a big focus on early career and very late career artists, while mid career practitioners are largely ignored. There's a massive gap which means the practice of being a career artist is not sustainable. We need to get rid of the age definitions.

It was noted that young people are really immersed in the 21st Century technologies and this influences how they produce their art. It's still Aboriginal. But it's not recognised the same.

To wrap up it was discussed that there's a lot more questions than answers. It was noted it's important to raise these questions in your submissions to the consultation as areas for the government to invest in for research and development.

Notes from the first NSW Aboriginal visual arts practitioners to be heard at the workshop: Building blocks for a stronger NSW Aboriginal visual arts sector (Capacity building)

11am - 12pm AEDT, Thursday 3 December 2020

Introduction

A reality for NSW is that for the last decade only four organisations in NSW have accessed IVAIS funding, which is 334k out of 21 million, 1.71%.

NSW voice needs to be heard and we need to do this strategically.

Important to add your voice to these inquiries and consultations and tell personal stories to give context to your perspectives and contributions.

Create NSW wants to hear about what they need to take on board, to be part of the solution, and from these conversations continue to connect and inform their approach.

Regarding capacity building and career pathways, how do we build and extend those pathways, what are those skills, what are the frameworks, what works for us?

Telling your story

April Phillips, Wiradjuri-Scottish illustrator, researcher and visual arts educator, talked about her experiences working and living off country, that making regular visits back to Wagga to learn her language and connect with community was building her as a person as well as her practice.

April noted that it is hard to measure the building of capacity, how do you validate trips back to country? She noted the pressure of having to produce something, especially within the constraints of a funding timeline.

April recently ran a VR/AR creative lab on the far south coast that had no pressure for an exhibition, no set outcome and no promises. This was one of the best decisions they made as it changed the dynamic of capacity for learning and growing. The project still had incredible outcomes, but these were open ended and not set on timeframes.

What's needed for a stronger NSW Aboriginal visual arts sector - capacity building

Nicole Foreshow, Wiradjuri artist, writer and curator spoke about the importance of defining the 'arts and culture sector'. When considering money, economics, and grant applications - how does the industry framework, institutions and artists work within arts and culture as a duality?

Nicole spoke more about the authority and ability of those who are judging her work and deciding on whether she should be given money, especially within the context of dispossession and disempowerment.

There is a uniqueness in Sydney - federally funded institutions, festivals that are national and international - is there a peak advisory body that works in those different spaces? What does that gateway look like?

Nicole posed the question of what freedom means to a maker, especially within the context of the duality of arts and culture. How does that feed into making art and authoritative power? Nicole's work is ephemeral and is difficult for institutions to acquire as it is made of organic material and breaks down over time. What does support mean in this context?

NSW suffers from identity issues, are we in the business of contemporary art practice or are we in the ring?

There is an opportunity for a statewide agreement that looks at the national impact of this consultation paper. When raising any questions, it has to come from the people.

General points raised in discussion

Capacity refers to the individual and is a western term, need to be thinking about sustainability and not allowing anyone to be left behind.

The artform boards involved in grant assessment are not ideal when there are so many cultural layers at play.

IVAIS can only fund new people if others are defunded or there is new money

The impartiality model doesn't always work.

Other states tend not to understand the NSW model or manner of business, especially with regard to not having art centres.

Lack of leadership in NSW, who is responsible and accountable for advocacy and reform?

Critical to this question is the intimate relationship between art and culture.

No art centre in Dubbo, small galleries - no permanent Aboriginal exhibition spaces, no board representation, it feels very isolating and without real support or shared inspiration places.

Elders are essentially running their own art centres in NSW, self managed and self run.

Need an entity, a brokerage, someone to advocate, someone who is going to fight for IVAIS funding.

How do we have creative freedom, how do we navigate through the space of dogmatic authority?

Australia Council just announced some movement with regard to NIACA, but this is a national body, and does not assist in NSW representation. There is no centralised communication, no linking up.

Need to develop opportunities to come together and work out plans, we can't move forward until we have come together in shared realities.

Needs to be more Aboriginal owned and run enterprises.

Organisations that are not NFPs struggle to find opportunities to apply for.

ACHAA is on the way to being an autonomous peak body through a lot of complex funding.

There is not one model of business in NSW.

This is a pivotal point in time, as in climate/politics/health, arts and culture deserves the same opportunity - the solution has to be big and broad.

How do we come together to create a system of support?

A core focus needs to be looking at the definition of an arts and craft centre and broadening it to capture artists who have galleries in NSW.

Lismore and Ballina art gallery in the Northern Rivers are about the only opportunities to exhibit in this area. There are a lot of people working separately, wish there was a cultural centre to enable artwork to be done collaboratively and to create connection. Have to search out activities and events.

How do we form a collective power base? How do we create a cultural tsunami? So that government at the federal, state and local levels cannot ignore us.

Notes from the third NSW Aboriginal visual arts practitioners to be heard at the workshop: How do we make the NSW Aboriginal visual arts sector more visible and better valued? (Access to market)

11am - 12pm AEDT, Tuesday 8 December 2020

Introduction

We have a problem in regard to lack of visibility for NSW Aboriginal visual arts practitioners and we need to make change.

In the last decade only four organisations in NSW have accessed IVAIS funding in the total amount of \$334K out of \$21 Million available, which equates to 1.7%.

It is important for NSW artists to see the value in raising their voice. It's time to break the stereotyping that occurs when people think of Indigenous arts and resituate all artists and art forms as part of the visual arts sector in its totality.

Telling your story

Peter Cooley, First Hand Solutions Aboriginal Corporation CEO spoke about the context in which the Blak Markets emerged, the organisation's integral aims and function, and the development of the festival's model.

Peter noted that during the 60s and 70s, people would predominantly go to La Perouse to invest their money into the Aboriginal businesses located there and take the time to learn from those people and hear their stories. Shell works and wood carvings were particularly specialised in this area. During the 80s this became non-existent and people stopped contributing to the existing local economy. This is the context that sparked 'Blak Markets'. Launched in 2014 the markets aim to attract people back to Aboriginal visual arts and the artwork being produced in the La Perouse area, in particular.

Peter detailed that the Blak Markets Model was developed out of extensive research around the space and consisted of self-funded trips across Australia to look at different businesses in the arts and crafts space to see what was ineffective or unsuccessful. He identified three main factors that became evident: Location, Marketing, and Insurance. These three factors were integrated into the Blak Markets Model which reflects a festival style model, where lots of artists attend, accompanied by cultural activities, performances and other programming. The research indicated that patrons that engaged in these interactive experiences, such as workshops and discussions, were more likely to buy from the artists.

Peter spoke about the success of their 2019 festival and that there were 15,000 people engaged in the two-day event, generating \$700K from direct sales, not including commissions and sales that occurred after the event. While they do receive some funding, it is far less than the big art fairs receive.

Peter stressed the vitality of partaking in the inquiry and letting the govt know what is happening in the sector and the support required, financial or otherwise, to make the sector more viable and sustainable.

What's needed to assist practitioners engage with new markets

Kyra Kum-Sing, Malera Bandjalan, Mitakoodi curator at Boomalli Aboriginal Artists Cooperative introduced the cooperative and discussed the digital shift and funding obstacles.

The organisation was founded 33 years ago and was established around the needs of Sydney-based and broader NSW artists, specifically to enable them to have their own space and to have control over the exhibitions they produce. The cooperative has a member base of 50 artists from a vast range of NSW language groups.

Kyra spoke about how 2020 has made Boomalli change the way they think about marketing, and that COVID escalated the delivery of a virtual gallery space for the cooperative, which has been in the works for two years. Kyra noted that the use of a digital platform for promotion has been great for the artist and has helped maintain their presence and income.

Kyra stated that the biggest obstacle has been creating a sustained income for the gallery and staying open due to this. As everyone is competing against one another for funding, she suggested that there should be consistency and recurrent funding to help maintain and assist in the gallery staying open for artists, audiences, and communities.

It is important for Aboriginal organisations to be able to have control of their own creative practices and affairs, and are informed about their rights. Visibility and awareness is important to help sell the work of local artists and continue to strive.

General points raised in discussion

Protection of intellectual property and knowledge around the artworks is needed. Artworks are embedded with stories from country, families and communities, and this heritage needs to be protected. Fake art is devaluing the work of First Nations artists, and there is an increasing nervousness from buyers around whether the artworks they are purchasing are fake.

Authenticity needs to be ensured and maintained.

There are many struggles and thwart funding seems to be the most common denominator with the conversation.

Various models are valid, whether it is a platform and enabler, or an art centre.

Trialling other formats is important, such as online platforms like an Etsy online shop. Which provides another platform and opportunity where artists can put their own products on the website and be responsible for selling their works. Giving the artists their own agency and autonomy.

IVAIS used to only fund two art centres in NSW, but this has now expanded. There is a recognition to pour more money into NSW important to contribute to this consultation.

It is often difficult to secure funding and takes a great deal of time, effort and resources. For one case, it took three years and three applications before they received support, but meant that another well-deserving party lost theirs.

At the moment, funding is land-locked and 99% tied up. This should not deter you from applying for funding however, as if you don't try, you definitely don't get funding. The only way to get new people funded is if parties drop off, or if levelling occurs in NSW.

The question was raised around whether there is another model that works better for annual or biannual funding, especially since it is a competitive process? Would a different structure be more effective?

Aboriginal culture in NSW is often only recognised as an economic space within the scope of tourism. The NSW 2040 economic plans do not mention Aboriginal art or creativity.

Long-term funding arrangements can provide organisations with stability, security and provide more opportunities to artists.

Continuing to commit organisational resources to funding applications that are rejected can be deflating, a bigger pool of funds would assist with this.

More people want to be informed about Aboriginal knowledge, culture and authenticity, so why not support and engage the people who have this knowledge?

Continuity with the application process is needed, as the continuously changing process and requirements is an obstacle and challenge.

A greater importance needs to be placed on the social outcomes, such as the impact on the community and families, and taking care of culture.

Leveraging has grown as a tactic significantly. If you can find a little bit of funding, it can help leverage other funding sources to also invest.

Sharing knowledge and techniques around other means of support could be more valuable for building relationships with the government at this time with funding not being as easily accessed or available.

Notes from the fourth NSW Aboriginal visual arts practitioners to be heard at the workshop: How do we protect the NSW Aboriginal visual arts sector? (Legal Protection)

11am - 12pm AEDT, Thursday 10 December 2020

Introduction

This is the final of four workshops that NAVA and Create NSW have hosted in collaboration to help boost the submissions specifically from the NSW First Nations arts sector before next Friday's deadline on the 18 December.

There are numerous ways to contribute to the inquiry including: writing a submission as an individual or teaming up with friends or your colleagues or entirely organisation, and the survey option, which might be a little bit more comfortable as well.

It is important for NSW practitioners and South-East mob to be heard on this platform for a number of reasons. Without an existing NSW peak body for First Nations arts unlike other states and territories, the NSW arts sector risks being under represented during this consultation which is why these workshops have been implemented. Together we can ensure the voices of stakeholders across New South Wales Aboriginal visual arts sector are highly visible and part of this national conversation about Indigenous arts.

The focus of this workshop is specifically around how we protect the NSW Aboriginal visual arts sector from a legal perspective, and this is the final of the four themes in the government's consultation paper.

Legal protections

Charisma Cubillo, Larrakia Lawyer at Terri Janke and Company, an Indigenous-owned law firm which has been operating since 2000 spoke about the evident holes in the Copyright Act and Trademark Act that don't always protect Indigenous people and their work in the arts sector. In particular, she identified that the protection for copyright is only valid for 70 years past the death of the owner, which doesn't apply to a lot of Indigenous practitioners whose work is ongoing and timeless.

She went on to discuss that the majority of works in the public domain are not protected, an example she used was rock art, which is not protected under copyright law. Protocols and contracts are often used to navigate these types of situations.

Charisma discussed that development of these laws to better protect artists has been unfortunately quite slow, but people are becoming more educated about the issues and that has had impact. The best way to address this issue is to use protocols and contracts, and make

sure you are getting legal advice around contracts and your rights. Running workshops is another effective way to educate artists about their rights with intellectual property and ICIP.

Telling your story

Bibi Barba, Woka Woka, Cammeraygal and Gadigal and Yuin (salt water woman) is an artist who has been painting for 35 years professionally and is currently studying law at the University of Technology Sydney. She also currently works alongside Peter White in the Aboriginal strategy and community engagement, and her role is to create a voice and platform for the NSW visual arts sector, and to engage with the world international copy organisation, part of the Indigenous common law.

Bibi reflected on her own case of having her artwork appropriated by a commercial hotel overseas and reiterated the importance of prior informed consent before using an Indigenous artist's artwork, and not to take anything without first gaining this permission. There are stories linked to these creative outputs, that have sustained the Indigenous community for tens of thousands of years. Bibi stated that this is a universal problem and can be seen by different cultures around the world having their culture appropriated without consultation or engagement with the community. This raises questions about how artists need to protect themselves both domestically and internationally. Collaboration is wonderful because if done properly, it can benefit the community. In an environment where people think it is okay to take, it is increasingly important for artists to protect themselves, especially through protocols and contracts. The government needs to continue learning how to assist with this and have procedures in place, as the existing process and legislation has a long way to go.

Bibi provided an exemplar of ACCC Fake Art as diminishing and deteriorating our culture, as it takes away the economic stimulus to the community and artists, as most people will just buy the cheap fake version, rather than spend money on an authentic piece.

Appropriation of Cultural Heritage

There was discussion surrounding appropriation of cultural heritage and that the reason Indigenous art may be more targeted in this area is because it might be harder to track down where the work is from, people are not educated, have a lack of care, or don't understand the cultural connection tied to the work and the deeper meaning and messages behind it, which can be devastating on communities. There are a lot of cases where appropriate or inappropriate use of Indigenous heritage is misused. There is also a lot of appropriation from the tourist industry in advertising without consultation or collaboration with Indigenous communities.

General points raised in the discussion

Copyright infringements are more public outside of the South-East.

Questions raised around who has the right to pointillism, motifs, designs and symbols. This necessitates the need for background research, in particular in a contemporary urban art world. It is the responsibility for dealers in shops and galleries to make sure work is authentic and to consult the Indigenous art code.

NSW will have a local summit prior to the NIACA event in 2021

This consultation is an international gateway to NSW and is for all Aboriginal artists and Islander artists to have an equal footing to the sector.

An Indigenous art code should be mandatory, especially for dealers and people need to comply with certain standards. There needs to be ongoing respect and care for the art work.

Artists don't know what their rights are and what they should be.

While not mandatory there are a whole lot of other codes that certainly can be used as an analogy, there's one called the Kimberly process, which is for diamonds, which the idea is you are able to trace or required to be able to trace the diamond from the source all the way to the dealer.

Blockchain is being tested to protect provenance.

The Australia Council Protocols for using First Nations Cultural and Intellectual Property in the arts give you a good understanding of what ICIP is and the clauses that should be in contracts to make sure you are protected in that sense. While ICIP is not recognised under law, you can enforce it in contracts and of course the signing party is obligated to enforce those rights in the contract once they sign.

You have to check yourself, you have to say to yourself, I'll go home to country, I'll make sure I can do this and this and the Elders have been asked permission has been sourced.

You have to make sure the cultural protocols are in place.

When councils and organisations use artists for public works that are off country, it can be an issue. There's a preference especially for public works, local or on Country mob, because it's about place for us, it's about representing, and for some organisations it can be an issue, or there is more acceptance if you've got a connection to that Country. This is an issue that needs to be raised as part of this consultation so work can be done.

The questions in the consultation paper are kind of two pronged in the sense that you try and look at it from an Aboriginal person's cultural practitioner artist perspective, and then you're looking at it from the consumer, the user's perspective as well.

For some artists living in regional NSW there's a need for more education and understanding about rights. Access is a really big problem for us because most of the places are in the city - Create NSW, NAVA, the Indigenous Art Code, Arts Law. If we don't know them or of them we're not going to get the help we need - there's no fast-track way to get an answer. Relationship building with those organisations based in the city is important for us and spending time here and getting to know our artists and letting our artists get to know you. We need to strengthen our networks, our cultural networks so we know you and you know us as well as our needs.

To wrap up, Georgia Mokak from NAVA offered to have a look at your drafts before you submit them or invited people to call if you've got any questions.

Bibi Barba also offered that Create NSW are here to help also, any questions you have, or can help you with submissions, so please call if you need help.