

Submission to the National Cultural Policy Consultation

Office for the Arts, Australian Government

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Key concepts: regional cultural anchor institutions, community-governed institutions, place-based cultural ecosystems, governance capability as cultural infrastructure, ring-fenced governance grant component, risk-scaled acquittal standard, Regional Cultural Anchor Fund, multi-year operational funding, IP governance as Pillar Four infrastructure, copyright literacy programme, Arts Law Centre of Australia, tiered copyright licensing architecture, statutory commons licence, small creator compulsory licence, moral rights waiver reform, mandatory collective licensing for AI training, reverse evidentiary rule, Australian nexus test, CAIRG legislative design mandate, ICIP parallel governance track, community-led ICIP co-design, AI and generative systems threat to moral rights, North Queensland, Townsville Art Society

Central Submission

Regional cultural policy should support the institutions, people and infrastructure that allow cultural capability to be built, retained and renewed over time.

Introduction

This submission is made from North Queensland. It speaks from the experience of regional cultural organisations that sustain participation, hold assets, coordinate volunteers, develop talent, maintain civic identity and carry governance obligations that are formally identical to their metropolitan equivalents but structurally unsupported.

The submission does not rehearse the ground already being covered by the Copyright and AI Reference Group (CAIRG) process. The small claims forum, the voluntary and collective licensing options for AI training, and the copyright status of AI-generated outputs are all before CAIRG and will be addressed in that forum. This submission addresses five matters that are not.

Each recommendation is addressed to the next National Cultural Policy because cultural policy, not copyright law alone, is the vehicle through which these structural gaps can be closed.

Part One: Regional Cultural Capability

Recommendation 1: Recognise Regional Cultural Anchor Institutions

The next National Cultural Policy should define and recognise regional cultural anchor institutions as a distinct and valued part of Australia's cultural infrastructure.

The Problem

Regional cultural organisations often carry responsibilities that exceed their formal scale. A regional cultural organisation may simultaneously serve as an artistic body, a volunteer hub, an education partner, a civic institution, a talent pathway and a local employer. Policy has not kept pace with this reality.¹

The project-grant model treats regional organisations as producers of discrete outputs. It does not treat them as institutions. The result is a sector that generates substantial cultural value for communities whilst remaining perpetually fragile. Each funding cycle requires new applications and new acquittals. Each collaboration must be renegotiated from scratch. Volunteer committees carry legal, financial, artistic, employment and reputational obligations that would be distributed across professional teams in larger institutions. When capability disperses, through the loss of a key committee member, a funding gap or a single compliance event, it does not return automatically.²

This is not a failure of commitment by regional organisations. It is a mismatch between policy design and institutional reality.

In a North Queensland context, a single regional cultural organisation may be asked to do many things at once: present performances or exhibitions, provide pathways for young artists, support school engagement, coordinate volunteers, maintain local cultural assets, employ casual creative workers, partner with councils and community groups, and carry the formal governance obligations of an incorporated body. Its cultural contribution is therefore not limited to the events it produces. It lies in the continuity, relationships and local capability it holds for the region.

The Policy Ask

The next National Cultural Policy should:

- Define regional cultural anchor institutions as organisations that sustain cultural life in a place over time by performing coordinating, participatory and continuity functions within their region. Recognition should be based on criteria including continuity of operations, a place-based cultural role, volunteer and civic coordination, talent development, asset stewardship, education partnerships and demonstrated regional reach. They must be community-governed institutions, independent of government in their board composition and operational decision-making.
- Create funding streams for anchor functions, including cultural production, talent development, participation, institutional continuity, ecosystem coordination and civic identity; and

- Recognise volunteer contribution and in-kind cultural labour as components of the measurable value generated by regional cultural organisations, with acquittal frameworks adjusted accordingly.

Recommendation 2: Fund Institutional and Governance Capability

The next National Cultural Policy should establish multi-year support for regional cultural anchor institutions and make executive and governance capability explicit eligible purposes in Commonwealth arts funding, with a ring-fenced grant component calibrated to each organisation's circumstances.

The Problem

Short-term project funding is necessary but insufficient. It supports activity without supporting the conditions that make activity sustainable. Regional organisations need planning stability to retain relationships, develop staff and volunteers, strengthen governance and build audience and education pathways over time.

Volunteer governance is a strength of regional cultural life. It reflects community ownership and legitimacy. But it should not be mistaken for unlimited organisational capacity. Modern cultural organisations are expected to manage finance, risk, insurance, child safety, workplace obligations, fundraising, privacy, digital systems, contracts and public reputation. These expectations are proper. They require capability. Policy should treat governance and executive support as cultural infrastructure, not as overhead to be minimised.³

The ACNC identifies duties including reasonable care and diligence, acting honestly and fairly in the charity's best interests, disclosing conflicts, responsible financial management and avoiding insolvent operation.⁸ Further, that charities must demonstrate compliance steps appropriate to their size, purposes and activities, and that larger charities or those with vulnerable beneficiaries may need additional steps.⁹

No existing Australia Council or Office for the Arts funding standard addresses this. Existing capacity-building grants are discretionary and supplementary. They do not embed governance development as a standard condition within project funding.

The Policy Ask

The next National Cultural Policy should:

- Establish multi-year operational support for regional cultural anchor institutions, deliverable through a dedicated Regional Cultural Anchor Fund or through a clearly identified stream within existing Creative Australia programmes;
- Make the following purposes explicit eligible costs in relevant Commonwealth arts funding programmes: core operations and administration; executive and governance support roles; governance development including committee training, risk registers, delegations and succession planning; financial management capability; fundraising and partnership development; and evaluation and impact reporting; and
- Require Commonwealth arts funding bodies to allocate a ring-fenced governance capability component within each grant, scaled to the organisation's size, risk profile

and governance maturity rather than set at a uniform rate, non-transferable to project expenditure, with acquittal tied to demonstrated governance development outcomes rather than expenditure records alone.

This is not a new programme. It is a funding standard and an eligibility expansion that activates a market of capable existing suppliers. The Office for the Arts should publish eligible purposes and acquittal standards. It should not be the provider.

Part Two: IP Governance as Cultural Infrastructure

Recommendation 3: Formally Recognise IP Governance as Cultural Infrastructure

The next National Cultural Policy should formally recognise intellectual property governance, copyright law, licensing architecture, collecting society design and dispute resolution mechanisms, as components of cultural infrastructure within Pillar Four, alongside physical and built infrastructure.

The Problem

The same structural failure that leaves regional organisations without governance support leaves them without IP and legal infrastructure. An arts organisation that cannot navigate the copyright system, that cannot identify its compliance obligations, respond to an infringement claim or access legal advice when a dispute arises, is not merely a less well-resourced version of a metropolitan institution. It is structurally excluded from the same activity. The compliance burden falls most heavily on the organisations least equipped to carry it: regional and remote organisations operating without legal teams, governance staff or professional advisers.

The absence of an accessible small claims forum for copyright disputes compounds this exclusion. But even where a forum exists or is established, regional organisations will remain unable to use it effectively without the copyright literacy, legal guidance and governance frameworks that this recommendation seeks to provide. Accessible enforcement infrastructure and accessible legal capability are not alternatives. They are preconditions for each other.

Current reform processes recognise parts of this problem, but they do not resolve it. CAIRG is considering fair legal avenues for using copyright material in AI, certainty for AI-generated material and less costly enforcement, including a potential small claims forum.¹⁰ The Government also describes the orphan works scheme as providing greater legal certainty where copyright owners are unknown or unlocatable, while allowing owners later identified to assert rights and receive reasonable payment.¹¹ These are important reforms. But they remain framed primarily as copyright reform, licensing design and enforcement architecture. They do not, of themselves, provide the practical governance infrastructure that small-to-medium and regional cultural organisations need to manage rights, obligations and disputes in practice.

Revive acknowledges that digital tools and platforms are raising questions about creative rights and fair remuneration, and commits to supporting creators' ability to benefit from their work. The next National Cultural Policy is the opportunity to move from acknowledgement to architecture. The missing step is to recognise IP governance itself, copyright literacy, licensing pathways, collecting society design, ICIP protocols, AI use policies and accessible dispute resolution, as cultural infrastructure. The distinction matters because it determines which agency is accountable, which budget line is relevant, and which organisations are treated as the primary constituency.

The Policy Ask

The next National Cultural Policy should:

- Formally define IP governance, including copyright law, licensing frameworks, collecting society design and accessible dispute resolution, as cultural infrastructure within Pillar Four;
- Require the Office for the Arts to develop and publish model governance frameworks for copyright compliance, ICIP protocols and AI use policies, available to small-to-medium arts organisations as publicly funded resources. These frameworks should address: how to identify and manage copyright in works received through open calls and community programs; how to respond to an infringement claim without legal representation; minimum standards for AI use policies in organisations commissioning or displaying creative work; and ICIP due diligence protocols for organisations that exhibit, collect or commission First Nations work; and
- Direct the Office for the Arts to develop a copyright literacy and governance support programme for small-to-medium arts organisations, administered in partnership with Arts Law Centre of Australia, collecting societies and community legal centres, with delivery pathways accessible to regional and remote organisations that cannot practically attend metropolitan training.

These measures can be delivered largely through existing programme architecture, with targeted resourcing and clearer eligibility standards. They would direct the relevant cultural policy agency to treat legal and governance infrastructure as part of the cultural infrastructure mandate.

Recommendation 4: A Legislative Design Mandate for CAIRG

The next National Cultural Policy should recommend that the Copyright and AI Reference Group be given formal terms of reference to produce legislative design options, an exposure draft or drafting instructions within a defined timetable. This would shift the process beyond advisory status and support development of a tiered licensing architecture for AI training, with a legislative timeline coextensive with the Policy's own implementation horizon.⁷

The Architecture in Plain Terms

The tiered architecture proposed in this submission distinguishes four copyright governance settings by the characteristics of the relevant use rather than the identity of the

actor. What follows is a plain-language explanation of each tier, intended to assist policy readers who are not copyright specialists. The full architectural proposal, including the act-based allocation logic, institutional design, staged implementation sequence and ICIP interface rules, is developed in the accompanying working paper.⁷

Tier 1, Statutory Commons (Non-Commercial Community Use)

Tier 1 is for the everyday creative activity that sustains cultural life in communities: exhibitions open to the public, art society displays, school programs, community festivals and similar non-commercial circulation of creative work. Under the current law, even these low-risk activities carry formal copyright exposure that most regional and volunteer-run organisations have no practical means to manage. Tier 1 addresses this by creating a legislated permission framework, a statutory commons licence, that applies where a use is non-commercial, attribution is given, and the work has been enrolled by the creator through an opt-in digital register. No work enters the framework without the creator's choice to do so. Accredited community nodes, regional art societies, public galleries, local cultural institutions, would assist creators with registration and provide a first point of contact for disputes. The logic of Tier 1 is to make the law match what community cultural life actually looks like, rather than requiring volunteer committees to navigate a system designed for commercial publishers.

Tier 2, Small Creator Compulsory Licence (Transformative and Derivative Use)

Tier 2 is for creative work that builds on existing work, collage, remix, adaptation, commentary, derivative artistic practice, at a small scale and outside the reach of ordinary commercial licensing. This kind of transformative practice is central to contemporary visual arts and to the development of emerging artists, but Australian law currently offers no workable pathway for it. Fair dealing is narrow and purpose-specific. Tracking down rights-holders and negotiating individual licences is often impossible in practice, and US-style fair use, which turns on open-ended judicial assessment, provides no certainty for working artists. Tier 2 operates through a structured prior-notice and rate-setting mechanism: a creator who wants to make transformative use of another's work lodges notice with an administering body before first publication. If no objection is raised by the rights-holder within the prescribed period, the use may proceed on payment of a prescribed rate. Rights-holders retain the ability to object on specific grounds, material distortion, false implication of endorsement, or substantial market substitution risk, but cannot withhold consent at will. The architecture gives working artists certainty of access while preserving the rights-holder's entitlement to payment and attribution.

Tier 3, Standard Commercial Licensing (Ordinary Market Transactions)

Tier 3 preserves the familiar world of negotiated market licensing: a gallery licences reproduction rights for a catalogue, a publisher contracts to reproduce an artist's work, a commercial platform pays for content. Standard property rules and negotiated contracts remain appropriate where rights-holders can be identified, transaction costs are manageable and the parties have reasonably comparable bargaining positions. The point of the multi-tier architecture is not to remove market licensing but to confine it to the settings

in which it actually functions. Tier 3 also introduces stronger protections against blanket moral rights waivers, which are currently routinely extracted from artists through standard-form contracts as a condition of any engagement. Under the proposed model, a moral rights consent would be ineffective unless it identifies the specific act, medium, duration and commercial setting with reasonable clarity, preventing artists from being asked to sign away all moral rights in perpetuity before a commercial relationship even begins.

Tier 4, Mandatory Collective Licensing for AI and Platform Extraction

Tier 4 addresses the most urgent and structurally asymmetrical category: the ingestion of large quantities of creative work by AI developers and platform operators for model training and similar computational purposes. Individual enforcement is practically impossible at this scale, a single artist or regional arts organisation has no realistic means of identifying whether their work has been used, tracking the relevant platform or pursuing a legal remedy. Tier 4 solves this by replacing individual enforcement with collective administration. A mandatory collective licence would be triggered whenever a platform ingests Australian copyright works for model training or equivalent computational extraction at scale, defined by reference to Australian rights-holders or commercial targeting of Australian markets. Platforms within scope would owe payment into a collectively administered pool distributed to rights-holders through an accredited collecting society. A reverse evidentiary rule applies: where a rights-holder raises a credible concern about ingestion of an opted-out work, the platform bears the burden of demonstrating lawful exclusion or licensing. Mandatory licensing is not a novel import into Australian law, statutory licences already operate for educational institutions, retransmission and accessible formats under the Copyright Act 1968 (Cth). The AI training context is the next setting in which structural market failure and extreme power asymmetry justify public rate-setting and collective administration. Tier 4 is the most important tier for regional and small-to-medium cultural organisations precisely because it is the only tier that does not require legal capacity, negotiating power or institutional resources to participate. Membership of the licensing pool is automatic. The architecture does the work that individual rights-holders cannot.

The Problem

CAIRG is currently an advisory body. It produces recommendations the Government may accept, modify or set aside. There is no accountability for outcomes, no legislative timeline and no institutional consequence if the process stalls.

The October 2025 decision to reject the text and data mining exception was correct. But it created an architectural obligation: if AI companies must pay, a practical system for payment must be built. An advisory process without a legislative mandate cannot build it. The EU is legislating. The United Kingdom stepped back from a workable solution after creative sector pressure. Canada is mid-process. Australia has made the right philosophical choice. The next National Cultural Policy is the vehicle for converting that choice into

architecture, but only if CAIRG is given the mandate to produce draft legislation, not merely a report.

The Policy Ask

The next National Cultural Policy should:

- Formally endorse the CAIRG process and recommend that CAIRG be given a legislative design mandate, not merely advisory status, to develop the tiered licensing architecture, with the Tier 4 mandatory collective licence as the priority deliverable;
- Commit the Government to introducing legislation within a defined period, coextensive with the Policy's own implementation horizon, rather than leaving the legislative timeline open-ended; and
- Require tiered architecture designed to serve organisations across the full spectrum of institutional scale, with regional, remote and small-to-medium organisations structurally present in the distribution of licensing revenue, not peripheral to it.

The difference between an advisory body and a body with a legislative design mandate is the difference between input into a process and accountability for an outcome.

Recommendation 5: A Parallel ICIP Governance Track as a Pillar One Priority

The next National Cultural Policy should elevate, resource and integrate the existing ICIP legislative process as a Pillar One implementation priority.

The Problem

The *Copyright Amendment Act 2026* (Cth) imposes a higher standard of diligent search for works containing ICIP. That is a genuine advance. It is not a solution to the structural problem.⁴

The copyright system's foundational assumptions, individual authorship, fixed works, defined terms of protection and alienable rights, are incompatible with the nature of ICIP as living, communal, intergenerational cultural knowledge. No calibration of evidentiary standards within the existing framework can resolve that incompatibility. A work may simultaneously be out of copyright and carry cultural obligations the law does not recognise. Treating public domain status under copyright as equivalent to free availability of First Nations cultural material is not a neutral legal position. It is a governance choice with structural consequences.⁵

Cultural organisations across North Queensland that exhibit, collect or commission work by First Nations artists navigate these questions routinely, without adequate guidance, without accessible legal infrastructure, and without a governance framework that reflects the custodial nature of the obligations involved.

The Policy Ask

The next National Cultural Policy should:

- Adopt a positive ICIP protection framework as a Pillar One priority, developed in genuine co-design with First Nations communities and governing bodies;

- Establish that this parallel track is to be designed separately from the CAIRG process and separately from any mainstream copyright reform process, with First Nations communities as the primary design authority;
- Commit dedicated resourcing and a defined implementation timeline to the co-design process; and
- Establish a clear rule, applicable under both the licensing architecture and the orphan works scheme, that public domain status under copyright does not extinguish ICIP obligations, and that any work with ICIP elements carries the elevated due diligence standard regardless of copyright term.

This submission does not prescribe the design of the parallel track. That authority belongs with First Nations communities.

Summary of Recommendations

No.	Recommendation	Pillar
1	Define and recognise regional cultural anchor institutions as part of Australia’s cultural infrastructure, with dedicated funding streams, a community-governance requirement, and recognition of volunteer contribution.	Four
2	Establish multi-year support for regional cultural anchor institutions and embed a risk-scaled, ring-fenced governance capability component within Commonwealth arts grants.	Four
3	Formally recognise IP governance as cultural infrastructure within Pillar Four and direct the Office for the Arts to develop model compliance frameworks, with specified content, and a copyright literacy programme delivered through Arts Law Centre of Australia, collecting societies and community legal centres.	Four
4	Give CAIRG a legislative design mandate to develop the tiered licensing architecture for AI training, with a legislative timeline coextensive with the Policy’s implementation horizon.	Three
5	Elevate, resource and integrate the existing ICIP legislative process as a Pillar One implementation priority, ensuring that First Nations communities remain the primary design authority and that the process is kept distinct from CAIRG and mainstream copyright reform.	One

Conclusion

These five recommendations share a structural logic. They address the same underlying problem from two directions: the institutional fragility of regional cultural organisations, and the legal and governance infrastructure those organisations need but do not have. Both failures are structural. Both are addressable through policy choices this consultation is directly positioned to influence.

None of these recommendations duplicates the work of CAIRG. None is present in Revive’s existing commitments. Each identifies a gap in the current policy architecture, a mandate not yet named, a standard not yet embedded, a category not yet defined, or a process not yet established. Each is achievable within the current reform cycle.

The recommendations also follow a logical sequence. Recommendations 1 and 2 are foundational: they establish the institutional and governance capacity that makes everything else possible. A regional organisation that cannot sustain its committee, retain its coordinator or manage its compliance obligations is not in a position to benefit from improved IP frameworks, however well designed. Institutional capability comes first. Recommendations 3, 4 and 5 build on that foundation. Recommendation 3 equips organisations to navigate the IP system in their day-to-day operations. Recommendation 4 builds the legislative architecture that makes that system function fairly at scale. Recommendation 5 ensures that First Nations cultural authority is not subsumed into that architecture but governs it, in parallel, on its own terms. Taken in that order, the five recommendations form a coherent programme rather than an incidental list.

The urgency is not uniform. Tier 4 of the licensing architecture is time-critical, platform extraction becomes entrenched quickly and each passing year makes retrospective remedy harder. The ICIP co-design process is equally urgent, but for a different reason: it requires lead time that compressed timelines cannot provide without damaging legitimacy. Recommendations 1 and 2 can begin through administrative action within existing programme architecture, without waiting for legislation. That sequencing matters. It means the Government can act immediately on the recommendations that require no new law, while committing to the legislative work that will take longer to complete.

If Australia is to have a place for every story, regional communities need the capacity to sustain the institutions through which those stories are made, shared and renewed. Rights without remedies are aspirations. Protections without infrastructure are gestures.

Notes

¹ *Regional Arts Australia, The Role of the Creative Arts in Regional Australia: A Social Impact Report* (2023).

² *Community Arts Network WA, Stats and Stories: The Impact of the Arts in Regional Australia*.

³ Sean Johnson, 'The Company Secretary's Legal and Strategic Standing' (2025) 31 *James Cook University Law Review* 6.

⁴ Office for the Arts, *Protecting First Nations Traditional Knowledge and Traditional Cultural Expressions* (2026) <arts.gov.au>.

⁵ Law Council of Australia, *A New Legislative Framework to Address and Protect Indigenous Cultural and Intellectual Property* (2024).

⁶ Creative Australia, *Where Community Meets Creativity: Mapping Community Arts and Cultural Development Activities across Australia* (2025).

⁷ The full architectural proposal, including the act-based allocation logic, institutional design, staged implementation sequence and ICIP interface rules, is developed in Sean Johnson, 'A Multi-Tier IP Management System for Copyright' (Working Paper, SSRN, May 2026).

⁸ Australian Charities and Not-for-profits Commission, *Governance Standard 5: Duties of Responsible People*.

⁹ Australian Charities and Not-for-profits Commission, *Governance Standards*.

¹⁰ Attorney-General's Department, *Copyright and Artificial Intelligence Reference Group (CAIRG)*.

¹¹ Attorney-General's portfolio, *Important reforms to Australia's copyright framework pass the Parliament* (1 April 2026).

Public Availability and Consent

This submission may be made publicly available. The authors consent to attribution.

Co-Signatory Consent

Townsville Art Society Inc is a regional cultural organisation that directly experiences the institutional challenges and opportunities addressed in this submission. As a long-standing cultural anchor institution in North Queensland, the Society endorses the recommendations presented herein.

We, Marisa Battaglini (President) and Elise Edler (Treasurer) of the Townsville Art Society Inc, hereby consent to this submission and agree to be co-submitters.

Date: 22 May 2026