

Questions the next National Cultural Policy should address on AI, creative practice, copyright and IP

This submission was prepared by photographer and digital media artist [Teddy Horton](#) and arts marketing consultant [Elliott Bledsoe](#) to stimulate thoughtful and critical engagement with AI by arts and culture.

The Towards a new National Cultural Policy public consultation paper raises many important considerations for the future of arts and culture in Australia. However, artificial intelligence (AI) is only alluded to despite its rapid development and deployment, and the significant disruption to many domains as a result. The next National Cultural Policy should explicitly address AI as one of the defining cultural, economic and ethical issues facing artists and audiences.

AI is not only a technical issue or a copyright issue; it is now a creative practice issue, a labour issue, a First Nations cultural rights issue, a public infrastructure issue and an environmental issue. It also raises many important questions about how Australian stories will be made, attributed, distributed and valued in the future.

What this submission includes are some provocations to deepen and broaden the discussion of AI in the arts. While some topics for further interrogation are flagged, it is by no means an exhaustive and comprehensive overview of the benefits and challenges for arts and culture that AI represents.

1. AI as a legitimate and emerging creative practice

How or will the next National Cultural Policy recognise artists, designers, writers, musicians, filmmakers, game makers and interdisciplinary practitioners who use AI as part of their creative process?

How will the National Cultural Policy and other policy mechanisms distinguish between AI as a tool used by artists to extend and enhance their creativity and when AI-generated content has been used to replace or substitute artists or when AI systems were trained on artists' work without transparency or consent?

What kinds of AI-enabled creative practice should be supported through arts funding, research, experimentation, residencies, public programs and cultural infrastructure? What changes to programs and eligibility may be needed to facilitate this?

How will the National Cultural Policy, other policy mechanisms and targeted investment in access and capacity building ensure that small-to-medium arts organisations, regional artists, First Nations artists and independent practitioners are not left behind as AI tools reshape creative production and back office administration?

2. Copyright, consent and training data

While Australia's current Attorney-General has indicated the Australian government will not pursue a text and data mining exception to copyright, other AI and copyright questions remain.

Should artists, writers, musicians, performers and other creators have the right to know whether their work has been used in AI training datasets? How feasible is enforcement of such a right in the context of large multinational AI companies?

Should consent, licensing and payment be required before copyrighted works are used to train commercial AI systems? How could such a scheme work in the context of the international copyright system?

How will the National Cultural Policy and other policy mechanisms protect Australian creators from having their work scraped, copied, imitated or commercially exploited by AI companies without permission?

What copyright settings are needed to ensure that innovation in AI does not come at the expense of artists' livelihoods, moral rights and creative control? Likewise, how can Australia support and encourage AI development and innovation locally? Can both objectives be pursued effectively at the same time?

3. Fair remuneration and new licensing models

What mechanisms are needed to ensure that artists and cultural workers are remunerated when their work contributes to the development, training or commercial value of AI systems?

Should Australia develop voluntary or mandatory collective licensing models, rights registries, cultural data trusts, preference signals or other shared infrastructure to help creators manage their rights in relation to AI?

How can individual artists, particularly those without legal or commercial support, negotiate fair terms with technology companies, platforms and institutions using AI? What information and research might be needed to fully understand the extent of the imbalance in bargaining power in such negotiations.

What role should collecting societies, Creative Australia, Screen Australia, music bodies, writing organisations and other sector agencies and organisations play in AI-related negotiations, licensing and remuneration?

If AI developers make payments for the use of Australian copyright material in training data what organisations will that money flow through? What transparency, disclosure and accountability will be in place around monies in, management, calculations and disbursement of fees? Who will be the beneficiaries of such a scheme? How will those beneficiaries be identified and compensated? Will it be all Australian copyright owners or a select group of creators and

copyright owners? How will that selection be made and justified given the broad scope of copyright-protected material?

4. Attribution, provenance and transparency

Is attribution required when using copyright material in AI training data? What clarity is needed to determine how moral rights interact with the use of Australia copyright material for AI training? How can the jurisprudential purpose of moral rights practically and technically be achieved in the context of AI?

In what situations, if any, should AI-generated or AI-assisted creative work be labelled, disclosed or otherwise made transparent to audiences, funders, publishers, commissioners and other stakeholders? How should cultural institutions, publishers, broadcasters, galleries, festivals and funders distinguish between human-made, AI-generated, AI-assisted and fully synthetic work?

Should Australia support provenance technologies, watermarking, metadata standards or content credentials to help protect artists and inform audiences?

How can transparency requirements avoid impacting artists who use AI experimentally or critically, while still preventing deceptive or exploitative uses?

5. First Nations content, Indigenous Cultural and Intellectual Property (ICIP) and Indigenous Data Sovereignty (IDSov)

How will the National Cultural Policy, stand-alone legislation to protect ICIP and other policy mechanisms protect First Nations cultural and intellectual knowledge from being scraped, replicated, simulated or misappropriated by AI systems? What safeguards are needed to prevent AI-generated imitations of First Nations art, language, voice, story, design, ceremony or cultural expression?

How will First Nations communities exercise cultural authority and IDSov over cultural data, language data, images, recordings and other materials that may be used in AI systems?

Should AI systems trained on First Nations cultural material be subject to specific consent, governance and benefit-sharing requirements?

How can the principle of First Nations First be extended into digital, data-driven and AI-enabled creative, cultural and other environments?

6. Artists' voices, likenesses and styles

What protections are needed for performers, musicians, writers, visual artists and other creators whose voice, image, style, movement, language or creative identity can now be simulated by AI? Should artists have a right to prevent unauthorised AI imitation of their distinctive creative

style, voice, persona or performance? In what area or areas of law might such a right or rights sit?

How will the National Cultural Policy and other policy mechanisms respond to synthetic voice, deepfake performance, AI-generated music, style mimicry and automated content production?

What legal and ethical protections are needed for deceased artists, culturally significant artists, and artists whose work is closely tied to community identity?

7. Creative labour and workforce impacts

How will the National Cultural Policy and Creative Workplaces address the impact of AI on creative employment, commissioning, contracting and income security? What protections are needed to stop AI being used primarily as a cost-cutting tool to replace artists, writers, illustrators, composers, editors, designers and other cultural workers? How and when should fair work principles apply when AI tools are introduced into creative workplaces?

What new skills, training and professional development will artists and arts workers need to work critically, ethically and effectively with AI? How can such training be developed specifically for the context of arts and culture?

How can the National Cultural Policy and other policy mechanisms support artists to become active shapers of AI culture, rather than passive subjects of technological disruption? How can artists and arts workers' voices be heard in AI ethics and policy fora and across AI regulatory activities federally and at a state or territory level?

8. Funding, eligibility and public investment

Should publicly funded arts projects be required to disclose how AI is used in the creation, production, marketing or distribution of work or other funded outcomes? What, if any, disclosure or transparency requirements can or should be put in place when people are applying for or reporting the outcomes of funding? Should Creative Australia, Screen Australia and other government agencies develop specific AI practice guidelines for applicants, assessors and funded organisations? Should guidelines apply when public funding supports AI-assisted creative projects?

Should public arts funding prioritise AI projects that are artist-led, transparent, ethical, culturally safe and respectful of copyright?

How can funding programs support experimentation with AI while avoiding the displacement of artists by automated content production?

9. Cultural infrastructure and public institutions

What role should national collecting institutions, libraries, galleries, museums, archives and broadcasters play in protecting Australian cultural data from exploitative AI use?

How or should public cultural collections be made available for commercial AI training? What if the AI system is for research or creative experimentation? If collections data is being used as training data under what consent, licensing and access conditions should such use be made? Alongside copyright, what, if any, considerations should be taken into account when determining if or when Australia's cultural collections can be used to train AI?

Should Australia develop public-interest AI tools, datasets or platforms for artists, rather than leaving the field entirely to commercial technology companies or open-source AI projects?

How can cultural infrastructure support ethical AI experimentation and development, especially across regional, remote, First Nations, culturally diverse, disability-led and community-based arts practices?

10. Audiences, authenticity and trust

How will the National Cultural Policy and other policy mechanisms help audiences understand the difference between human-made, AI-assisted and synthetic cultural content? What public literacy programs are needed so communities can engage with AI-generated culture in informed ways? How or will such initiatives tie into similar pursuits to create a media and digitally literate community and to bridge the digital divide?

What does authenticity mean in an age where images, voices, performances and stories can be generated or simulated?

How can audiences be protected from misleading or deceptive AI-generated cultural content while still allowing artists to use AI creatively, critically and playfully?

11. AI's materiality and environmental impact

AI is fundamentally tethered to the physical world and its materiality has significant and accelerating impacts on land use, resources such as energy and water and the environment. The environmental impact and resources usage of AI is generally known in the community but an abstraction exists between individual AI use and the environmental and resource cost of a prompt. There are one-off, highly intensive activities such as training a model as well as the cumulative energy cost of billions of daily user queries. Both must also be known and understood. What role can arts and culture play in helping people better understand these impacts?

Many parts of Australia experience periods of high water stress. Water usage by data centres can come into conflict with community water needs, especially in periods of drought. Many parts

of Australia also experience extreme weather such as bush fires, floods and heat waves. How can data centre design adapt to these extremes?

Data centres are powered by specialised hardware like Graphics Processing Units (GPUs) which require minerals, precious metals and rare earth elements, involve multi-stage mass-production manufacturing and have complex supply chains characterised by consolidation and bottlenecks. How might arts and culture respond to geopolitical and environmental costs of the hardware supply chain behind AI?

What skills, processes and software are needed so arts organisations are able to audit the hidden environmental costs of embedding AI into their operations or creative output? Should this be a condition of funding?

How can Creative Australia, Screen Australia and other agencies help artists, arts workers and arts organisations to ask and answer whether an AI task is worth the resource cost?

12. Australian stories, discoverability and platform power

How will Australian stories remain visible when global platforms increasingly use AI to recommend, generate, summarise and distribute cultural content?

Could AI-generated 'slop' flood digital platforms and make it harder for Australian artists to be discovered? As AI-based information and content substitutes continue to grow, how can audiences be encouraged to engage with human creativity?

What, if any, obligations should streaming services, social media platforms, app stores and generative AI platforms have to support Australian cultural content?

How can Australian artists benefit from AI-enabled distribution and discovery without losing control over their work? What skills and technologies may be needed to realise that ambition?

13. Valuing arts and culture and human creativity

AI doesn't create something from nothing. AI platforms do not operate in a vacuum. They are trained on billions of images, songs, videos, audio and texts created by humans. They also need new, high-quality data to stay up-to-date. How can artists' and AI developers' interests be better aligned? Is an artistic or general universal basic income (UBI) a viable alternative to a copyright-based permissions approach to allowing copyright material to be used to train AI?

Because AI systems are probability engines relying on statistical probability to predict 'what is next' and produce outputs based on that, what risk is there to the value of arts and culture and human creativity? Is AI really flattening aesthetics and cultural expression?

Is excluding certain kinds of creative expression from AI training data risking erasure? If so, what creative expression is at greater risk? Indigenous cultural practice, minority cultures and niche aesthetic movements very likely.

Is AI really homogenising culture? If so, what role does bias and an overemphasis on English inputs play in this? How can arts and culture address those gaps?

Will AI's gravitation towards the average fundamentally change audiences, tastes and the likelihood of engaging with a diversity of arts and cultural expression? How do we ensure experimentation and risk taking in creative practice continues to thrive? And how do we ensure there is an audience for that art?

AI has removed the friction from creating and, in some cases, can produce content that is 'good enough'. How will the National Cultural Policy and its centrality of the artist pillar respond to this challenge to the value of arts and culture and human creativity.

14. Ethics, regulation and whole-of-government alignment

How will the National Cultural Policy align with economic policy, copyright reform, AI regulation, education policy, industry policy, digital platforms regulation, First Nations rights and data sovereignty and other relevant policy domains?

Should the next National Cultural Policy include a specific national framework for AI and culture?

Who should be responsible for monitoring the cultural impacts of AI over the life of the next National Cultural Policy?

How will artists, arts organisations, rights holders, First Nations communities and audiences be included in AI policy development?

What urgent interim protections and policy interventions are needed while broader copyright and AI regulations are developed?

15. Leveraging and aligning with the National AI Centre and related AI regulatory work

The next National Cultural Policy could establish a clear link between cultural policy and Australia's national AI capability, including the National AI Centre and related AI adoption programs. These services already support practical and responsible AI use across industry, but the cultural sector needs tailored guidance that reflects the specific realities of creative work: copyright, consent, attribution, artist remuneration, First Nations cultural and intellectual property, synthetic media, audience trust and the value of arts and culture and human creative practice.

How will the next National Cultural Policy connect with Australia's National AI Centre and related national AI adoption programs?

How can the National AI Centre help artists, arts organisations and cultural institutions understand and adopt AI responsibly? Should the National Cultural Policy or other policy mechanisms establish a formal partnership between the Office for the Arts, Creative Australia and the National AI Centre? Could the National AI Centre support the development of a Creative and Cultural AI Adoption Framework tailored to the arts and cultural sector?

What practical guidance could the National AI Centre provide for artists and organisations on copyright, consent, attribution, disclosure, remuneration and responsible AI use?

How could national AI services help develop arts-specific resources such as contract clauses, licensing templates, risk assessment tools and AI-use disclosure statements?

How can AI adoption support be made accessible to small-to-medium arts organisations, independent artists, regional practitioners, First Nations artists and community-based cultural organisations?

How can the National AI Centre help ensure that AI is understood not only as a productivity tool, but also as a field of creative practice, experimentation and cultural innovation?

How can national AI capability help protect artists and rights holders from exploitation while still supporting ethical AI innovation?

How can the cultural sector be formally included in Australia's broader national AI planning, so that cultural rights, creative labour and Australian stories help shape the country's AI future?

AI is a set of interrelated [wicked problems](#) which makes responding to its harms and risks complex and guilt free harnessing of its benefits and potential difficult. Its impacts are complicated, interconnected, extractive, sometimes difficult to fully see and understand and continually evolving. And it is or has been enmeshed into a wide range of industries and social systems. It is characterised by its scale, speed, forward momentum, not having 'right' or 'wrong' answers and that simple, definitive solutions are not possible. As Australia considers how to grapple with that complexity, what can we learn from artists and cultural practitioners?