

CREATIVE AUSTRALIA

VENICE BIENNALE 2026
GOVERNANCE REVIEW



BLACKHALL & PEARL

The Review Process

On 14 March 2025, the governance advisory firm Blackhall and Pearl was appointed by the Australia Council Board of Creative Australia to review the governance and decision-making process for the Venice Biennale 2026.

The terms of reference for the review were to:

- Review the governance and decision-making processes and procedures undertaken by Creative Australia, including its Board, by which the artistic team was selected to represent Australia at the Venice Biennale 2026 and associated decisions.
- Review the relevant policies, processes and procedures related to the end-to-end selection process for the Venice Biennale 2026.

For clarity, the terms of reference and scope of the review covered the decision of the Board of Creative Australia to exercise its powers to rescind the original selection, and the processes around that decision.

In undertaking the review, the Review Panel from Blackhall & Pearl was asked to focus on:

- Developing constructive, practical recommendations for the Board and management to ensure robust policies, processes and systems are in place for future selection processes;
- Identifying any interpretations, misunderstandings or failings in the approach taken; and
- Identifying any gaps or weaknesses in the underlying governance, discovery, risk, and decision-making processes that contributed to the approach taken.

The review has examined whether the processes and governance practices that supported critical decisions were adequate, and how those processes and practices might be improved in future. This was not a review of the merits of the decision to select the Artistic Team, nor of the decision to rescind that selection.

During the review the Panel has sought to engage with as many people as possible who have an informed perspective on this and previous Biennale processes. The Panel has been greatly helped in its review by current and past members of the Board, current and past employees of Creative Australia, and members of the broader creative community. The Panel appreciates everyone's preparedness to speak confidentially but openly. The Panel gained valuable insights from all participants and it was rewarding to observe the enthusiasm and commitment that all showed for seeing the purpose and objectives of Creative Australia fulfilled. The Panel was provided promptly with any documentation requested. We acknowledge the Board's direction to the Panel to write our review report candidly and fearlessly.

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Glossary

Act	<i>Creative Australia Act 2023 (Cth).</i>
ARC	The Audit and Risk Committee of the Board.
Artistic Team	Mr Khalid Sabsabi, artist, and Michael Dagostino, curator, announced on 7 February 2025 as the Australian Representatives to the Venice Biennale.
Biennale	The International Art Exhibition of La Biennale di Venezia. Unless otherwise stated, the reference is to the planned 2026 Biennale.
Board	The Chairman and Directors of the Australia Council Board of Creative Australia. The Chief Executive Officer is also a member of the board.
Communications Team	The staff members within the Public Affairs and Communications Function of Creative Australia.
EOI	An Expression of Interest following a request by Creative Australia to artists to submit an application for selection for the Venice Biennale.
Executive	The senior leadership team at Creative Australia, including the Chief Executive.
Launch	The announcement of the Artistic Team for Venice Biennale 2026 at a press conference held in Western Sydney on Friday 7 February 2025.
Minister	The Commonwealth Minister for the Arts.
OFTA	Office of the Arts within the Federal Department of Infrastructure, Transport, Regional Development, Communications and the Arts.
Panel	The Partners of Blackhall & Pearl who undertook the review. Details are provided in Annexure 2.
PGPA	<i>Public Governance, Performance and Accountability Act 2013 (Cth).</i>
Terms of Reference	The terms of reference for this review, set out in full in Annexure 1.
Visual Arts Team	The staff members within the Arts Investment Function of Creative Australia with responsibility for visual arts, as at the time of the decisions subject to review.

1. Key Findings

- The process used for the selection of Australian Representation at the 2026 Venice Biennale was generally the same as that used for the selection of Australian Representation at the 2024 Venice Biennale, when Archie Moore's exhibition *kith and kin* at the Australia Pavilion was awarded the prestigious Golden Lion for Best National Participation.
- While the process was generally the same, the external social and political context, particularly in late January-early February 2025, was profoundly different.
- There was no single or predominant failure of process, governance or decision-making that resulted, ultimately, in the decision to rescind the selection of award-winning multidisciplinary artist Khaled Sabsabi and curator Michael Dagostino as the Australian Representatives for the 2026 Venice Biennale.
- There were, however, a series of missteps, assumptions and missed opportunities that meant neither the leadership of Creative Australia, nor the Board, were well placed to respond to, and manage in a considered way, any criticism or controversy that might emerge in relation to the selection decision.
- While much the same (previously successful) process was followed, inadequate briefing to the Board led to limited Board understanding and oversight of the systems and processes used in the selection process.
- There was also a lack of clarity around the roles and accountabilities for managing the selection process, including for identifying and preparing for any potential risks associated with the announcement.
- There are unresolved tensions within Creative Australia between upholding a key statutory function of promoting freedom of expression in the arts, and broader responsibilities and accountabilities, including for promoting the proper use and management of public resources and promoting the achievement of the purposes of the entity.
- Ultimately, both the decision to select the Artistic Team, and the decision to rescind that selection, were matters of judgement. Judgements are exercised at a particular time and in a particular context and the Panel has therefore sought to contextualise the Biennale decision-making in this report.
- The review has also examined whether the processes and governance practices that supported those judgements were adequate, and how they might be improved in future.

2. Introduction

In no small way, geopolitics and social cohesion issues have intersected in recent years with national cultural, religious, environmental and identity beliefs. These have ignited strong expressions of opinion and contention, leading to a greater division of views in Australia, as elsewhere.

The arts community has not escaped this and because artists will often seek to challenge existing paradigms, in many ways they and their works have become a focal point for controversy.

The express wish of Federal Parliament to encourage and uphold freedom of artistic expression¹ and to support arts practice that reflects the diversity of Australia², a wish supported by many artists themselves, has collided with other obligations, expectations and stakeholder interests. As with conflicts everywhere in society, many are hurt, including emotionally, financially and reputationally.

For those in arts administration whose role it is to weave a path between different expectations and interests, the experience can feel like threading a needle in a high wind. Decision-makers may face hostility and ridicule, whatever decision they make. Many current and past Creative Australia staff members report receiving considerable, and abusive, feedback on decisions made by them, or others at Creative Australia³.

In this fraught environment, which affects a spectrum of bodies governing arts, sports, not-for-profit enterprises and for-profit corporations, there is no governance structure or decision-making process that delivers a risk free, magic bullet solution to navigating the controversial issues that emerge on a regular basis, often suddenly. Nor is there a perfect process that results in decisions that satisfy all stakeholders.

But what is possible is to set a framework that assists decision-makers to grapple with such issues. In simple terms, this requires an organisation to step back and try to determine the likely issues and risks that it may face, and consider these through the lens of its stakeholders. This in turn requires a nuanced and thoughtful examination of the factors, perspectives and reactions that are likely to emerge, and careful consideration of how the organisation can best respond. In certain circumstances, it may require seeking expert advice.

1 Section 11(1)(e) of the *Creative Australia Act 2023*.

2 Section 11(1)(d).

3 While it is beyond the scope of our review, but consistent with the mandate of Creative Workspaces to “*promote and enable fair, safe and respectful workplaces in the arts and culture sector*”, the Executive at Creative Australia will need to satisfy itself that all employees, but especially those of First Nations and/or recent migrant heritage, receive the support they need to undertake their roles and responsibilities.

What is critical is that the organisation is well-prepared and, as far as possible, not taken by surprise. This was fundamentally not the case with Creative Australia.

If there is a dominant theme in the findings of this report, it is that much pain, anger, damage and anxiety could have been avoided if Creative Australia had been appropriately prepared for what, inevitably, was going to be a controversial decision – not controversial for any reason caused by the artist or curator, or any collection or particular piece of work, but controversial because of the broader fraught environment within which the decision was being made.

The failure of Creative Australia to be adequately prepared is not the fault of any one person or group of individuals. In the Panel's opinion, there were multiple oversights, misunderstandings, missteps and assumptions made that contributed, and there is no single causal factor that resulted in the outcome.

Creative Australia's performance in this matter also needs to be seen in the context of an organisation whose remit and responsibilities have expanded significantly since it came into existence in 2023, replacing the Australia Council. This has placed considerable pressure on Creative Australia's leadership and staff, and stretched already limited resources.

Creative Australia

Creative Australia is the principal arts investment and advisory body of the Australian Government. Its overarching purpose is to champion and invest in arts and creativity to benefit all Australians.

Creative Australia is a Commonwealth entity that works closely with arts bodies and individuals in Australia, whilst being accountable to the Federal Parliament through the Minister and the Department. This duality can at times be a source of tension, as discussed later in this report.

Creative Australia was established in 2023, as part of the Australian Government's *National Cultural Policy—Revive*. It succeeded the long-standing Australia Council.

Creative Australia's functions are set out in detail in section 11 of its enabling legislation, the *Creative Australia Act 2023* (extracted in Appendix 1).

In addition, Creative Australia is subject to a range of other Acts of Parliament, notably the *Public Governance Performance and Accountability Act 2013* (Cth), which describes the duties that must be complied with by its directors and officers, in language which closely mirrors statutory obligations imposed on company directors and officers under the *Corporations Act 2001* (Cth). These are critical duties, particularly when considering the scale and importance of Creative Australia and the public funds that it disburses.

Among the duties imposed on the Board and management of Creative Australia are a requirement to ensure the proper use and management of public resources⁴ and to establish and maintain an appropriate risk oversight and management system⁵ (see Appendix 1).

It is important to note that the objectives and functions of Creative Australia set out in the *Creative Australia Act 2023* do not override the responsibilities of Creative Australia set out in the *Public Governance Performance and Accountability Act 2013*.

To state this plainly, the role of Creative Australia in promoting creativity and the arts sector in Australia in no way abrogates its responsibilities to the Minister, Parliament and through them, to all Australians for the appropriate use of taxpayer funds.

While Creative Australia has a wide range of functions and responsibilities, much of its decision-making responsibility covers direct investment in arts and creativity, particularly through grants to artists and arts organisations. In 2023-2024, the value of Creative Australia's direct investment in artists and arts organisations was \$234.7 million⁶. This represents an increase in investment from the previous year of over 20%.

At the same time as managing a significantly increased investment pool, in 2023 Creative Australia also took on the functions of Creative Partnerships Australia. Since then, Creative Australia's role has expanded further to include the establishment of a First Nations Board as well as Music Australia and Creative Workplaces. The latter is charged with promoting and enabling fair, safe and respectful creative workplaces, and is guided by its own board, the Creative Workplaces Council.

Creative Australia is also developing a Creative Futures Fund and working on the creation of Writing Australia, to bolster Australian literature and its markets, locally and globally.

This significant increase in activity and breadth of responsibilities has placed a strain on Creative Australia's resources. While staffing levels have increased with the increased responsibilities⁷, throughout our review, staff, senior leaders and Board members noted that the organisation was 'stretched'. As we discuss later, we see this as having been a contributing factor to shortcomings in the Biennale selection process.

4 Section 15(1)(a).

5 Section 16.

6 *Creative Australia Annual Report 2023-24*, Table 2 – Investment overview, p 20.

7 Staffing levels increased from 105.8 full-time equivalents (FTE) on 30 June 2023 to 141.2 FTE on 30 June 2024, noting this increase included the transfer of 18 positions from Creative Partnerships Australia. *Creative Australia Annual Report 2023-24*, p 95.

La Biennale di Venezia

The International Art Exhibition of La Biennale di Venezia, often shortened to the 'Venice Biennale', has a long, distinguished and not uncontroversial past.

As La Biennale di Venezia describes it⁸:

The International Art Exhibition, the “great mother” of all the Biennale activities, was organised for the first time in 1895 and immediately became one of the most important art exhibitions in the world. A prestige which is maintained today for the ability of La Biennale to anticipate new trends in art and, at the same time, to present works and artists of every period under renewed perspectives. Countless Masters have been invited to present their works at the International Art Exhibition; important critics and art historians curated the main exhibitions and the National Pavilions: a very long list of central figures in the history of 20th-century art that contributed to generate and develop the “pluralism of voices” which has characterized La Biennale di Venezia since its birth.

The Biennale has regularly attracted criticism, even condemnation. At the very first Biennale in 1895, a work by Giacomo Grosso was heavily criticised, with calls for its removal from the exhibition. The work became a sensation and was later awarded a prize after a popular vote⁹. The use of the 1974 Biennale exclusively to protest the Pinochet Government in Chile attracted criticism from both left and right political perspectives. La Biennale di Venezia has also withdrawn works in the face of protest, only to reinstate them a few days later. These controversies highlight that, at its cutting edge, art can be expected to generate strong responses.

The decision of Creative Australia to award an artistic team the opportunity to represent Australia at a Biennale stands apart from the bulk of Creative Australia's day-to-day decision-making:

- It is the highest profile decision of Creative Australia, attracting considerable interest within Australia and internationally, with the Biennale variously described as the 'Olympics of the Arts';
- It clearly relates to the appointment of 'Australian representatives' on the international stage, adding to the profile of the decision, and a wider public sense that Australians should have a say in how they are represented; and
- Unlike the bulk of its decision-making, with the Biennale Creative Australia is directly commissioning a work of art – it therefore has a much closer 'ownership'

8 <https://www.labiennale.org/en/history-biennale-arte>

9 ARTnews, 18 August 2020.

of the outcomes of that decision compared to, for example, making a grant or partially funding an arts organisation¹⁰.

The Biennale is also a major financial commitment for Creative Australia. For the 2026 Biennale the project budget is approximately \$1,500,000, of which \$1,000,000 needs to be raised from philanthropic support and \$500,000, plus staff costs, is covered by Creative Australia¹¹. There was a similar budget for Venice Biennale 2024. Philanthropic support is therefore critical to the successful execution of the project.

It is important to note that the process used for the selection of Australian Representation for 2026 was generally the same process used for the 2024 Biennale. In that instance, the selection resulted in Archie Moore's exhibition *kith and kin* at the Australia Pavilion. While that selection was not free from controversy, it also resulted in the artist being awarded the prestigious Golden Lion for Best National Participation. This was rightly celebrated as a major achievement for all concerned. The success of 2024, however, meant there was little perceived reason to change the selection process for the 2026 Biennale when this process was commenced in 2024.

That the selection of an artistic team for a Biennale is a decision of a different kind and magnitude to the bulk of Creative Australia's decision-making means that more rigour is needed in the decision-making process than may be warranted, for example, in making a grant.

10 That the Biennale decision is not a day-to-day decision was acknowledged by the CEO of Creative Australia in his opening remarks to Senate Estimates on 25 February 2025 when he stated "*this is very different to giving a grant or investing in a company to do its work.*" Senate Hansard, Legal and Constitutional Affairs Legislation Committee, 25 February 2025, p 101.

11 Minutes of the Board, 12 April 2022.

3. 2026 Venice Biennale

Selection Process

In mid-2024, Creative Australia initiated the assessment process for the selection of Australian Representation at the 2026 Venice Biennale. The proposed process was set out in a memorandum prepared for the Executive of Creative Australia dated 24 July 2024.

In summary, the initial steps in the proposed process were:

- To establish a Venice Biennale advisory panel of industry experts to provide recommendations and feedback to Creative Australia throughout the decision-making process.
 - The executive was provided with a list of 40 national and internationally based potential candidates, described as having “*extensive experience and knowledge of contemporary visual arts, and specific expertise relevant to the Biennale*”.
 - This list is known as the ‘Long List’, and from it, five candidates were selected by management to constitute the Venice Biennale advisory panel, otherwise known as the ‘Industry Advisers’.
- For Creative Australia to seek EOI from Australian artists and curators wishing to be considered for selection for the Biennale.

The assessment process was then described as follows:

- In stage one the industry advisory panel would identify five shortlisted applications based on the published assessment criteria (see below). These shortlisted applications would then progress to stage two of the selection process and receive an individual briefing from the Venice Biennale project team (the Visual Arts Team) within Creative Australia to assist them to prepare their stage two applications.
- Stage two applications would be assessed by the industry advisory panel who would individually provide their feedback to the CEO and Head of Practice, Visual Art. The stated reason for this was to ensure Creative Australia receives nuanced feedback from each advisor based on their area of expertise.
- The CEO and Head of Practice, Visual Art, would then make the decision on the artistic team on behalf of Creative Australia, based on this feedback and informed by the Corporate Plan.
- The successful artistic team would be publicly announced in early February 2025.

The Executive was asked to “discuss and approve” the process. The minutes of the Executive meeting held on 24 July 2024 record that the Chief Executive Officer noted:

the significant responsibility that this paper confers on the CEO and particularly the Head of Visual Arts on industry advice as decision makers for this work.

Assessment Criteria

Creative Australia informed Industry Advisers that it was looking for proposals that were:

- Creatively ambitious
- Engaged with contemporary global conversations
- Responsive to the architecture of the Australia Pavilion
- Considerate of the audiences who visit the Venice Biennale across its entire opening period; and
- Demonstrates the timeliness of the presentation

The Panel was informed that these criteria were the only guidance on the nature of artistic works sought that was provided to artists when applying under the EOI process.

During the Panel's discussions with current and past employees of Creative Australia, additional aspects of the selection process were explained:

- The selection of the five Industry Advisers from the Long List of 40 potential candidates involved balancing adviser expertise and the need to limit potential conflicts of interest, specifically where the adviser had a pre-existing relationship or connection with one or more applicants. The final selection of the five advisers was made by the Visual Arts Team at Creative Australia.
- The selected Industry Advisers were provided with each of the expressions of interest (over 50 were received) and asked to review and rank those applications against the criteria issued to applicants.
- The Industry Advisers then met to discuss the results of that review and ranking process. That meeting was facilitated by a member of staff from Creative Australia trained in facilitation and from outside of the Visual Arts Team. Part of the facilitator's role was to ensure any conflicts of interest were flagged and managed, including where appropriate through an Industry Adviser being excluded from the discussion of an application.

- As part of the selection process, the Visual Arts Team advised on the feasibility of executing proposed works of art, given the practicalities of being in Venice, the nature of the Australian Pavillion and the budget available.
- The result of the facilitated meeting was a shortlist of applicants who were then invited to provide more comprehensive applications. For 2026, a short list of six artists and their curators was created.

The Role of Management

The role of Creative Australia employees during the initial stage of the selection process was largely limited to facilitating the establishment of the industry advisory panel, including ensuring any conflicts of interest were appropriately managed. This is a complex task, given the close networks and interrelationships between artists, curators, gallerists, art museum directors and other relevant participants in the visual arts. It was this complexity that was given as the reason why the Visual Arts Team, who were experienced in the visual arts sector, made the final decision on the membership of the industry advisory panel.

Several Creative Australia employees highlighted that, in the initial phase of the selection process there was a strong desire to focus only on the artistic merit of the proposed works, and for the Industry Advisers to drive that process.

Once the Industry Advisers had settled the short-list of five applications, and those applicants had lodged their full and final applications, those applications were assessed by the Industry Advisers independently. The results of each assessment were then presented in a one-on-one meeting between each Industry Adviser and Creative Australia's CEO and Head of Visual Arts.

The final decision on which artistic team would represent Australia at the Venice Biennale was made by the CEO and Head of Visual Arts. The decision was made on or about 16 December 2024.

The next meeting of Creative Australia's executive leadership was held on 13 January 2025. The Executive was presented with a paper titled "*For Executive Noting – Venice Biennale Artistic Team 2026*". It is the Panel's understanding that, between 16 December 2024 and 13 January 2025, only the CEO and members of the Visual Arts Team were aware of which shortlisted applications had been selected as the Artistic Team.

The purpose of the paper to the Executive was to provide background to the executive leadership team on the decision to appoint Khaled Sabsabi (artist) and Michael Dagostino (curator) as the Artistic Team for the 2026 Venice Biennale. The paper also provided the details of the other short-listed applicants.

The recommendation of the paper was that:

*the Executive **Notes** this paper and the decision made by Adrian Collette, CEO.*

The paper also stated:

*Based on the industry advice feedback against the stage two assessment criteria **and the Board endorsed decision making process**, Adrian Collette and [the Head of Visual Arts] made the decision to nominate applicants Khaled Sabsabi and Michael Dagostino. (our emphasis)*

There is no clear recent documentation supporting the reference to “the Board endorsed decision making process”. This may be a reference to the paper that went to the Board on 30 August 2022, supported by a staff briefing at the meeting, in relation to the proposed process for the selection of the 2024 Biennale representatives. The materials that went to the board ahead of the 2026 Biennale announcement are summarised in the next section.

The paper that went to Creative Australia's Executive leadership on 13 January 2025 was prepared by the Head of Visual Arts, and the Project Manager, Visual Arts. The paper was sponsored by the Executive Director, Arts Investment, although we note that the Executive Director, while having responsibility for the Visual Arts Team, was not involved in any aspect of the selection process and did not have Executive responsibility for the Venice Biennale. The Executive Director also had very limited visibility on the dialogue between the Visual Arts and Communications Teams. There was also a high level of confidence in the selection process and the capabilities of the Head of Visual Arts, particularly given the success of the 2024 Biennale.

The Panel understands that the reason the final decision rested with Creative Australia was that, as the Commissioner, Creative Australia needed to ensure that the proposed artwork could be executed (for example, that it was within budget) and that Creative Australia should not simply outsource such a significant decision.

Throughout our review it was noted that the process and then the selection decision were tightly held by a very small number of individuals. The reason given was a concern, grounded in experiences elsewhere in Creative Australia, that there was a high risk of the decision being prematurely leaked. While this risk may be real, the consequence of minimising that risk was that, even within Creative Australia, very few people had the opportunity to assess and understand any other risks associated with final selection, regardless of the artistic team selected.

The Role of the Board

The Board had no oversight of the selection process for the 2026 Biennale, beyond being briefed that the same process would be followed as for 2024. The Panel's understanding is that the selection of the representation at the Biennale was viewed by Creative Australia staff as an 'artistic' decision and therefore not one involving the Board. The Board instead was kept broadly aware of what stage the selection process was at, but not the details of Industry Advisers, those who had expressed interest or shortlisted applicants.

Board Meeting, 18 June 2024

For its meeting on 18 June 2024 the Board received a paper titled 'Venice Biennale Update'. Understandably, this was largely focussed on the 2024 Biennale, which was underway at the time.

In relation to the proposed 2026 Biennale selection process, the board was advised that:

The Venice Biennale Project for 2026 will start in earnest in July [2024] with the open call for the next Artistic Team happening early in the new financial year.

Internal discussions on how best to resource and run the program remain live with the evaluation of each project delivered.

The Board was also advised of core elements of the 2024 Biennale process that are relevant to the 2026 process. Specifically, the paper to the Board for the meeting on 18 June 2024 advised, under a heading 'Creative Australia Executive Team responsible' that the Creative Australia CEO:

is the Commissioner for Australia's national participation at the Venice Biennale and the ED [Executive Director] responsible for the project.

Referencing the 2024 process, the Board was also advised that:

Working closely with PR teams Pelham and Articulate, Creative Australia devised a robust Crisis Communications plan that supported the Artistic Team and staff throughout the course of the exhibition.

Board Meeting, 29 August 2024

At its next meeting, held on 29 August 2024, the Board was advised that:

The stage one expressions of interest for the 2026 artistic team open on 27 August 2024 and close on 8 October 2024. An information session will be held on 29 August with an anticipated participation of 200 individuals.

Board Meeting, 4 December 2024

The last Board meeting of the year was held on 4 December 2024, 12 days before the scheduled decision on the artistic team to represent Australia.

The Board paper for that meeting advised:

Applications for stage one expression of interest for the Venice Biennale 2026 closed on 8 October with 52 applicants submitted. Five industry advisors with subject matter expertise nationally and internationally assessed all eligible applications and provided advice to Creative Australia. Six teams have been shortlisted to progress through to stage two.

The successful artistic team will be announced in early February 2026.

The Minutes of this meeting recorded that the “Board noted the 2026 Venice artist will be chosen 16 December 2024”. Neither the Board paper nor the Minutes record the names of the Industry Advisers or nor the shortlisted artistic teams.

Board Circular Notification 5 February 2025

The next information to go to the Board was via a Circular Notification sent to all board members on 5 February 2025. This advised board members, in confidence, of the timing of the public announcement of the successful artistic team to represent Australia at the 2026 Biennale and the names of the successful artist and curator.

As background, the Circular Notification gave the most detailed account the Board had received of the selection and decision-making process followed in making the 2026 selection. It also provided background on the creative careers of the successful artist and curator.

The Circular Notification, while giving a detailed statement of the selection process, did not provide any information on steps taken to assess or mitigate any risks associated with the announcement, nor did it identify any such risks.

The Circular Notification did state that the “industry advice panel was carefully appointed from [a] longlist that was Board approved”, although the Panel’s

understanding is that the Board was not provided with this list. This is one variation from the 2024 selection process, where the Board was asked to endorse the Long List (based on minimal information on the names and positions of those on the lists). The Panel was advised that not sending the Long List to the Board for the 2026 Biennale process reflected a desire to not send unnecessary material to the Board.

While there were inconsistencies in the processes and how they were reported to the Board, the Panel does not feel these had a material impact on the ultimate decisions and outcomes.

Contentious Issues

The Panel notes that it appears to be standard practice at Creative Australia, when undertaking its core activities of distributing funding to artists and arts organisations, to include a section on 'Contentious Issues' in the internal memorandum supporting the funding application. The Panel was provided with examples of applications that included such a section. The Panel was unable to find any evidence that a formal assessment of any potential 'Contentious Issues' was undertaken for the Biennale selection process. Nor were any 'Contentious Issues' identified in materials that went to the Executive or the Board.

While no formal assessment was undertaken, it is clear that there was a general awareness within Creative Australia, among those with knowledge of the selected Artistic Team, that the decision had the potential to be controversial. The Panel heard that, at the time, the decision was described as 'bold' or 'courageous'. The source of potential controversy was seen to lie in the fact of selecting any artist with heritage connected to the Middle East at a time when conflict in that region was so emotive and polarising, rather than because of the proposed nature of the work to be undertaken at the 2026 Venice Biennale.

Knowledge of Specific 'Contentious Issues'

Creative Australia was aware of some potential for controversy in the selection of Khaled Sabsabi as the artist for the Biennale.

In the briefing provided by Creative Australia to the Minister on 31 January 2025, the Minister was informed that Khaled Sabsabi, along with other artists, had withdrawn from the Sydney Festival in 2022 in protest after the festival accepted funding from the Israeli Embassy, 'out of solidarity with the Palestinian people and the Palestinian cause', as reported in the *Sydney Morning Herald* on 23 December 2021.

That information was not included in the Circular Notification that went to the Board on 5 February 2025.

Prior to the public announcement of the Biennale selection on 7 February 2025, staff at Creative Australia, including within the Visual Arts Team and the Communications Team, were aware of Khaled Sabsabi's artwork titled *You* (2007). This is a multichannel video and sound installation featuring imagery of the late Hezbollah leader Hassan Nasrallah. The work has been in the collection of the Museum of Contemporary Art in Sydney since 2009 and has previously been displayed publicly. The Head of Public Affairs informed the CEO and Chair when she became aware of the artwork.

While staff were already aware of this work, the Artistic Team also flagged the work when it met with members of the Communications Team and Visual Arts Team prior to the public launch.

The Panel was informed that, as the work was not included in the briefing to the Minister, a member of the Communications Team sought to contact the Minister's Office to alert them to the existence of the artwork *You* (2007). That Team member, however, only left a message and it appears did not follow up on that call.

This information was not included in the Circular Notification that went to the Board on 5 February 2025.

While staff were aware of the artwork *You* (2007), and its potential to be controversial, the fact that the work was held in a highly-regarded collection and had previously been on public display without incident appears to have influenced the perceived sensitivity around the work. That the work was seen as highly ambiguous, and already nearly 20 years old, also appears to have given staff confidence that any controversy connected with the work could be managed.

While there was a general sense within Creative Australia that the selection decision was potentially controversial, very little additional preparatory work appears to have been done to manage any anticipated or unanticipated sensitivity or controversy arising from the announcement of the successful Biennale Artistic Team.

The Panel found that the timing and content of the information conveyed between the Visual Arts Team and the Communications Team on potential 'contentious issues' is a matter of some differing recollection. There were also differing views on the mutual responsibilities between the two teams, including on who had responsibility for identifying potential risks, who had responsibility for developing any responses to those risks and what and when information should be openly shared between the two teams. This lack of adequate role clarity was a contributing factor in the subsequent events.

Much of the communication between the two teams was verbal and undocumented. The Panel does not consider it particularly helpful or relevant to attempt a deep factual inquiry into those matters. There was clear 'siloing' between the two teams and a lack of role clarity and accountability. What is salient to the Panel's review, and to the ultimate outcome of the selection process, is that Creative

Australia, including its senior leadership and its Board, and Minister, were not given a clear risk management plan nor a communications or crisis management plan, despite the highly fraught environment within which the Biennale decision was being made.

While there are differing views about when individuals became aware of the work *You* (2007), it was clear from our discussions that neither the CEO, Head of Public Affairs nor Head of Visual Arts were aware of a second sensitive work, *Thank you very much* (2006) featuring imagery of the 9/11 attacks and US President George W Bush, until Senate Question Time on Thursday 13 February 2025.

4. Context

This review is examining the governance and decision-making process for the Venice Biennale 2026. Within that review scope, two primary decisions were made:

1. The decision of the CEO to appoint the Artistic Team for the 2026 Biennale; and
2. The subsequent decision of the Board to rescind that appointment in light of additional information.

Critically, both are exercises of judgement.

As exercises of judgement, they need to be considered in light of the context within which they were made.

The process leading to the first decision was set out in the previous section. Given that there were heightened sensitivities around anything connected with the conflict in the Middle East, including aspects of that conflict in Lebanon, Israel and Gaza, and given that a number of cultural organisations had already faced considerable controversies as a result, it is remarkable to the Panel that, in the context of the Biennale, Creative Australia did not have a fully developed, carefully considered and well-documented risk identification process and communications and crisis management plan in place and agreed across all key staff and the Board. Such a process and plan would have allowed Creative Australia to respond to any sensitivities or contentious issues that emerged from the selection of the Australian Representation at the Biennale, regardless of which artistic team was selected.

It is also surprising that, given dedicated and experienced external crisis management capabilities were available to Creative Australia, these were not called upon to inform preparations for the public announcement of the Artistic Team until a day or two before the launch.

A well-developed communications and crisis management plan would have assisted Creative Australia to pre-position the selection and to respond to any questions from the Minister or potential philanthropic supporters of the 2026 Biennale. Critical to the success of Australian participation in the Biennale is philanthropic support, which is required to cover some two-thirds of the participation costs. In considering whether to support the selected Artistic Team and Australian participation at the Biennale, philanthropists and donors will be conscious of what they are, and are perceived to be, associating themselves with.

As the Panel emphasises in this report, a well-developed communications and crisis management plan, backed by proper risk identification and management processes, is not designed to filter out controversial artwork or artists. To the contrary, effective risk and crisis management strengthen the ability of Creative Australia to support artists and artworks should sensitivities or controversy arise.

In terms of the Board's decision to rescind the selection, this also is an exercise of judgement by the Board and the immediate context within which that judgement is exercised is highly relevant.

Before setting out that context, it is important to restate the role and responsibilities of the Board.

The specific role and responsibilities of the Board are defined under section 20 of the *Creative Australia Act 2023*:

Section 20

Role

- (1) The Board is responsible for ensuring the proper and efficient performance of Creative Australia's functions.
- (2) The Board has power to do all things necessary or convenient to be done for, or in connection with, the performance of its duties.
- (3) Anything done in the name of, or on behalf of, Creative Australia by the Board, or with the authority of the Board, is taken to have been done by Creative Australia.
- (4) If a function or power of Creative Australia is dependent on the opinion, belief or state of mind of Creative Australia in relation to a matter, the function or power may be performed or exercised upon the opinion, belief or state of mind of a person or body acting as mentioned in subsection (3) in relation to that matter.

The board also has general responsibilities under the *Public Governance, Performance and Accountability Act 2013*, including but not limited to, section 15:

Section 15

Duty to govern the Commonwealth entity

- (1) The accountable authority of a Commonwealth entity must govern the entity in a way that:
 - (a) promotes the proper use and management of public resources for which the authority is responsible; and
 - (b) promotes the achievement of the purposes of the entity; and
 - (c) promotes the financial sustainability of the entity.

The Explanatory Memorandum for the Creative Australia Act makes it clear that
the Board is the governing and accountable authority for Creative Australia.

It is clear that the role and responsibilities of the Board, and therefore of each Director on the Board, extend beyond the specific functions of Creative Australia set out in section 11 of the *Creative Australia Act 2023* (extracted in Appendix 1). The defined roles and responsibilities of the Board also show that it, and Creative Australia, have obligations to stakeholders beyond the creative community, as important as that community is as a principal stakeholder. The duty to promote “*the proper use and management of public resources*” indicates that the broader Australian community, including its taxpayers, are another important stakeholder.

While these points may appear self-evident, it was not apparent from the Panel's discussions with participants in the review that the broader responsibilities of Creative Australia and its Board were fully understood or appreciated by all staff at Creative Australia, or by members of the creative community.

Because the various responsibilities of Creative Australia (and the Board in particular) and the interests of different stakeholders can be in tension, decisions made by Creative Australia and the Board are necessarily exercises of judgement, weighing different considerations at the time of the decision.

External Context in February 2025

Table 1 summarises a series of public incidents and developments contemporaneous with the decisions on the 2026 Biennale to illustrate the highly sensitised public, media and political environment in which decision-making at Creative Australia was taking place. The list is far from exhaustive and does not include all reported incidents of an Islamophobic or Anti-Semitic nature.

In addition to these specific events, during this time there was considerable speculation that the calling of the Federal election was imminent.

While these factors did not necessarily have a direct bearing on the decisions made, they illustrate the context within which the Board, in particular, was exercising its judgement.

Table 1 – Timeline

Wednesday 29 January	Dural Caravan Incident Police publicly report that they are investigating a caravan loaded with explosives located in Dural, north-west Sydney. Police also report that materials retrieved from the caravan included the address of a synagogue and Anti-Semitic sentiments. The incident is quickly labelled a "terrorism threat", although subsequently the Federal Police described it as "a fabricated terrorist plot, essentially a criminal con job"¹².
Friday 31 January	Ministerial Briefing Creative Australia's brief to the Minister on the forthcoming announcement of the Artistic Team for the 2026 Venice Biennale.
Friday 7 February	Public Announcement and Launch – Venice Biennale 2026 Launch event and announcement of the Artistic Team selected to represent Australia at the 61st International Art Exhibition of La Biennale di Venezia.
Tuesday 11 February	Cairo Takeaway Incident Incident involving alleged provocation at the Cairo Takeaway restaurant in Sydney's inner west with <i>Daily Telegraph</i> reporters present. The paper later stated "<i>our approach could have been better handled</i>". The Director-General of ASIO, based on a description of the incident provided in Senate Estimates, stated "<i>if those facts are correct, then that is just mind-blowingly stupid</i>"¹³. Margin Call, <i>The Australian</i> Article in <i>The Australian</i> highlights a previous work by Khaled Sabsabi, held in the Museum of Contemporary Art, titled <i>You</i> (2007), featuring imagery of the late Hezbollah leader Hassan Nasrallah. The article describes the use of Nasrallah in the work as both "<i>ambiguous</i>" and "<i>questionable</i>".¹⁴
Wednesday 12 February	Bankstown Nurses Incident First media reports of a video on social media showing two NSW Health workers threatening the lives of any Israeli patients at their hospital.
Thursday 13 February	Question in Parliament Shadow Minister for Science and the Arts raises concerns with the selection of the artist to represent Australia at the Biennale, including concerns related to the artworks <i>You</i> (2007) and <i>Thank you very much</i> (2006). Creative Australia Board Meeting The Board of Creative Australia rescinds the selection of the Artistic Team for the Venice Biennale.

12 AFP Deputy Commissioner National Security Krissy Barrett quoted at <https://www.abc.net.au/news/2025-03-11/what-we-know-about-dural-caravan-hoax/105035592>

13 Senate Hansard, Legal and Constitutional Affairs Legislation Committee, 25 February 2025.

14 *The Australian*, Arts council takes creative approach to racism, Margin Call, 11 February 2025.

5. Decision to Rescind

13 February 2025

At 2.39 pm on Thursday 13 February 2025, during Senate Question Time, the then Shadow Minister for Science and the Arts, Senator Claire Chandler, addressed a series of questions to the Minister representing the Prime Minister, Senator Penny Wong, regarding the selection for Australian representation at the 2026 Venice Biennale.

Senator CHANDLER (Tasmania) (14:39): My question is to the Minister representing the Prime Minister, Senator Wong. The Australian government funded organisation Creative Australia has announced that Khaled Sabsabi will be Australia's artistic representative to the Venice Biennale. Mr Sabsabi features the dead Hezbollah terrorist leader Nasrallah in his artworks. With such appalling antisemitism in our country, why is the Albanese government allowing a person who highlights a terrorist leader in his artwork to represent Australia on the international stage at the Venice Biennale?

Senator Wong (South Australia—Minister for Foreign Affairs and Leader of the Government in the Senate) (14:39): Senator, I wasn't aware of the facts as you outlined them in your question until now. I agree with you that any glorification of the Hezbollah leader Nasrallah is inappropriate, and I've expressed those views previously, and I'll certainly get further information for you.

The PRESIDENT: Senator Chandler, first supplementary?

Senator Chandler (Tasmania) (14:40): Hezbollah is a listed terrorist organisation in Australia and Hezbollah has committed the vilest of atrocities. Why then is the Albanese government allowing Australian taxpayer money to fund an overseas trip for Mr Sabsabi when he has featured the dead Hezbollah terrorist leader Nasrallah in his artwork?

Senator WONG (South Australia—Minister for Foreign Affairs and Leader of the Government in the Senate) (14:40): Senator Chandler, I refer you to my first answer, which I think responded directly to some of those points. I would say to you that you would see from the government's actions, as well as from what I have said and what the Prime Minister has said, that we condemn Hezbollah unequivocally.

PRESIDENT: Senator Chandler, second supplementary?

CHANDLER (Tasmania) (14:41): Mr Sabsabi has previously produced artwork promoting Osama Bin Laden and a series of 9/11 images of the aircraft hitting the Twin Towers, titled 'Thank you very much'. Will the Albanese government immediately reverse the decision for Mr Sabsabi to represent Australia at the Venice Biennale?

Senator WONG (South Australia—Minister for Foreign Affairs and Leader of the Government in the Senate) (14:41): I refer to my first answer, Senator, which was—

Opposition senators interjecting—

Senator WONG: I know that you really want to make—

Senator Cash interjecting—

Senator WONG: Senator Cash, if you could, just let me answer.

Senator Cash: It's a simple answer: yes.

Senator WONG: I wasn't aware of this until you asked me. I certainly will get advice, and I share your concerns about Hezbollah.

As the two works named have been given considerable prominence by being raised in Senate Question Time and through the subsequent debate and decision to rescind the selection, the Panel includes links to those works, with the permission of the artist:

You (2007)

<https://khaledsabsabi.com/work/you/>

Thank you very much (2006)

<https://khaledsabsabi.com/work/thank-you-very-much/>

The Panel was informed that the Head of Public Affairs was immediately made aware of the matter being raised in the Senate and alerted the CEO. At around 3.00pm, the CEO, Chair and Head of Public Affairs held a call with Creative Australia's external communications advisers.

The conclusions from that meeting were that the media narrative that was likely to emerge around the artist and prior artworks could not be abated and that there was a significant risk to the reputation of Creative Australia should negative stories continue to run. It was anticipated that the level of contention around the selection decision would escalate significantly in the following day's media. It was therefore concluded that immediate steps would be needed if the situation was to be remedied.

At about 3.30pm the CEO received a call from the Minister for the Arts, the Hon Tony Burke MP, asking whether the CEO was aware of the question, and querying why he, as Minister, had not been alerted to the contentious artworks.

The Minister has stated publicly¹⁵

When something is due to be announced I get sent a brief with the issues that might be considered controversial ... that particular work had not been raised with me in any of the briefs and was clearly more controversial than anything that had been. So, I was shocked when I saw it was there.

I contacted one person only as soon as I came out of Question Time. That was Adrian Collette," Mr Burke said.

"I said to him ... whatever you decide, I will support you."

The Minister's statement is consistent with the information received by the Panel during the review.

Board members were notified shortly after 4.00pm that a board meeting was being convened, although no reason for the meeting was given. It was suggested that this was so Board members did not form a view on the situation ahead of the Board discussion, although several out of curiosity went to news websites and saw the matters raised in the Senate being reported.

At about 5.30pm, the CEO of Creative Australia spoke briefly with the artist, Khaled Sabsabi, advising him that there was an issue with an identified work that the Board was to discuss. The CEO subsequently informed the Senate Environment and Communications Legislation Committee during Additional Estimates that during the call Mr Sabsabi "briefly explained the image to me"¹⁶.

At 6.05pm that evening the Board met, with the Chair and most members attending on-line, although one was able to join the CEO in person at Creative Australia's offices¹⁷.

The Board determined to offer the Artistic Team the opportunity to withdraw from the project and, if the Artistic Team elected not to withdraw, to rescind the commission of the Artistic Team to provide services to Creative Australia for the 2026 Venice Biennale. The Chief Executive contacted the Artistic Team at 7.41pm and advised them of the Board's decision. Forty minutes later, after the Board's statement was prepared, the Chief Executive made three unsuccessful attempts to contact the Artistic Team to read them the statement.

15 ABC 7.30, 17 February 2025, <https://www.abc.net.au/news/2025-02-17/tony-burke-venice-biennale-controversy/104947996>

16 The image referred to being *Thank you very much* (2006). Senate Hansard, Additional Estimates, Environment and Communications Legislation Committee, 25 February 2025, p 103.

17 Board member Professor Larissa Behrendt AO was unable to attend the meeting. Board member Caroline Wood AM left the meeting at 6.35pm due to other commitments.



That evening, after the board meeting concluded, Creative Australia issued the following Media Release¹⁸:

The Board of Creative Australia has made the unanimous decision not to proceed with the artistic team chosen for the Venice Biennale 2026.

Creative Australia is an advocate for freedom of artistic expression and is not an adjudicator on the interpretation of art. However, the Board believes a prolonged and divisive debate about the 2026 selection outcome poses an unacceptable risk to public support for Australia's artistic community and could undermine our goal of bringing Australians together through art and creativity.

Creative Australia will be reviewing the selection process for the Venice Biennale 2026.

¹⁸ <https://creative.gov.au/news-events/news/venice-biennale-2026>. This includes an Editors note: Board member Larissa Behrendt was not in attendance.

6. Our Assessment of the Selection Process

The Panel notes and accepts that the process used to select the Artistic Team for the 2026 Venice Biennale was substantively the same as the process used for the 2024 Biennale. While the 2024 Biennale selection was not without controversy, this was managed effectively by Creative Australia and the 2024 Artistic Team. The process in 2024 resulted in a selection that was to go on and win the prestigious Golden Lion at Venice.

That the same process could produce two such diametrically opposed results speaks to the changed context within which the two decisions were made.

The Panel formed the view that, to some extent, the success of 2024 obscured some of the shortcomings and gaps in the selection process, as set out below. These were to prove instrumental in producing such a starkly different result in 2025.

Lack of Appropriate Risk Mitigation

The principle failing in the selection process was that the senior leadership and Board of Creative Australia were not well-prepared to respond to any sensitivities or contentious issues that arose as a result of the selection decision. Such preparations should have been in place, regardless of the actual artist and curator ultimately selected, and the nature of any sensitive or contentious issue.

The International Art Exhibition of La Biennale di Venezia is one of the world's highest profile creative events. It is an opportunity for Australia to showcase its contribution to the development of human creativity and for the world to see leading Australian art. The artwork exhibited is intended to have impact. All of these factors mean that the selection decision will be subject to considerable artistic, political and media scrutiny within Australia.

There was no formal risk identification process in place for the 2026 Biennale selection process.

The Panel heard several suggestions that 'risk identification', to the extent that it was done, was an informal process that relied on the sector knowledge of Industry Advisers and members of the Visual Arts Team at Creative Australia to flag any matters they felt might raise concerns. The Panel also heard that the selection of Khaled Sabsabi was considered a 'bold' or 'courageous' move, given the situation in the Middle East and reactions to that situation in Australia. This suggests there was a general awareness that some reaction to the selection decision was likely.

The Panel also observed general resistance to the idea of 'risk identification' in the selection process of an artist from some members of staff at Creative Australia and

from members of the creative community. A number of arguments were made for this that bear consideration.

Risk Management Concerns

Practical Concern

There is an argument that identifying all risks, sensitivities or potentially contentious matters in an artist's background is not possible in practical terms.

Artists can be, and often are, prolific in the creation of works of art or other forms of expression, including in social media. A well-established artist, by definition, will have a deep body of work, some of it in public or private collections, some of it created experimentally and not formally displayed, and some potentially circulated privately. It is worth noting that the most contentious artwork in connection with the 2026 Biennale decisions was *Thank you very much* (2006), which the Panel was informed was created by the artist as a Masters student as part of his studies and was never intended to be part of an official exhibition. The work sat in the artist's online archive, apparently forgotten, until highlighted in the Senate.

'Chill' Concern

The argument was also made that, if an artist knows that every past expression they have made, including creatively and on social media, is to be subject to scrutiny and 'risk assessment', then most artists, and particularly established artists, will not seek appointments, fellowships or grants from Creative Australia. This would have a 'chilling' effect on the willingness of artists to apply to, and work with, Creative Australia, undermining the organisation's core purpose.

Three specific concerns were expressed:

1. A concern of principle – that in a free society, an artist should not be subject to such a forensic analysis by a government authority to determine whether they are 'acceptable';
2. A concern of exposure – that, regardless of any intention, an artist's expression may be deemed somehow 'inappropriate', exposing the artist to public criticism or attack from some groups in society; and
3. A concern of assessment – that artists won't make the effort to apply for support from government if they feel their application is not being judged on its artistic merits but on whether there is anything in their past that may be deemed 'risky'.

In raising these concerns, it was pointed out several times that the two works of art that attracted the most criticism were nearly 20 years old.

Artistic Merit Concern

The Panel understands that, for the majority of its grant programs, from the development of the grants to the selection of the recipient, Creative Australia has a practice of only considering the merits of the work of art or creativity that is proposed to be created as a result of the grant selection. This is seen as necessary to ensure that potential work is judged on its artistic merits alone, and that that judgement is not affected by other considerations unrelated to artistic merit.

The Panel understands that during the Venice Biennale Stage 1 EOI meeting the artists' overall body of work was introduced and discussed by Industry Advisors in the context of the artists' careers and creative development. This information was not discussed at the Stage 2 interviews with shortlisted artistic teams, with these discussion focusing on the proposals for the Biennale.

Each of the above concerns has validity and merit, but they do not mean it would not be prudent for Creative Australia, when making a decision as significant as the selection of the Artistic Team at the globally significant Venice Biennale, to anticipate and prepare for possible sensitivity and contention. Nor would a properly developed risk identification and management process restrict artistic freedom of expression.

Misconception of Risk

While there are valid concerns around how risk identification, and subsequent risk management, should be conducted, there is also a lot of misunderstanding within parts of Creative Australia and the broader creative community (based on the Panel's discussions) about what 'risk identification and management' mean.

Put simply, it was assumed that risk management means that, once a potential risk is identified, no action is taken that might incur that risk. In other words, if during a grant assessment or artist selection process a potentially sensitive or contentious matter is identified, in the eyes of the assessor, then the grant is not made or the artist is not selected.

This is far from the reality of mature risk management processes. In essence, an effective risk management process will support an action or decision being taken by:

- Identifying potential risks, including their likelihood and impact if they eventuate;
- Putting in place measures to allow the action or decision to be made while minimising the likelihood of the risk eventuating, and its impact if it does; and

- Putting in place measures to manage any residual risk with the action or decision once mitigating measures have been taken.

Creative Australia does use this approach. For example, a risk assessment and management plan was put in place for the 2024 Venice Biennale, covering identified risks to the successful execution of the proposed artwork. We were advised that risk identification and assessment processes are also in place for other Creative Australia decisions, although these processes lie outside of the scope of our review.

The misconception of risk management described above leads to a view that risk identification and assessment are inappropriate when artistic judgement is being exercised.

The Panel does not agree with that conclusion. Where artistic judgement is being exercised, risk identification and assessment need to be handled carefully, and through well-structured and transparent processes. Slipping from 'risk management' to 'risk aversion' that suppresses artistic freedom of expression needs to be guarded against. But this is no different to other sectors of society where risk assessment is regularly undertaken when there are also strong considerations encouraging risk-taking.

An informal risk assessment was undertaken when Creative Australia became aware of the artwork *You* (2007). The potential for this artwork to be contentious or sensationalised was identified, and a judgement was made that Creative Australia and, if need be the artist, could defend that work in the face of criticism, not least because it had been held in the public collection of an established art museum, the Museum of Contemporary Art, since 2009 and because it had previously been on public display without controversy.

No such assessment was undertaken for *Thank you very much* (2006) because Creative Australia's leadership was not aware of that work until it was publicly flagged in the Senate, by which time a particular characterisation of the artist and the specific work had already been presented¹⁹.

It is the view of the Panel that, had Creative Australia been as well-prepared for the public announcement of the Biennale Artistic Team as it should have been, it is possible that Creative Australia's senior leadership and Board may have reached a similar conclusion in regard to *Thank you very much* (2006) as was reached with *You* (2007).

19 "Mr Sabsabi has previously produced artwork promoting Osama Bin Laden and a series of 9/11 images of the aircraft hitting the Twin Towers, titled 'Thank you very much'", Senator Claire Chandler, Shadow Minister for Science and the Arts, Senate Hansard, 13 February 2025, p 824.

That is, while the works are clearly sensitive and contentious, they are also ambiguous and, potentially at least, capable of being defended²⁰.

In reality, the Board was faced with a situation where it was taken by surprise, a strongly negative narrative was expected in the media around the artworks and the artist, and the decision to select the artist had become a matter of political debate.

In the view of the Panel, far from properly conducted risk identification and management being anathema to artistic freedom of expression, the lack of proper process was a significant contributor to the events on 13 February 2025 and the damage caused to all concerned.

Risk Management or Censorship

The reaction against any suggestion that there should be a risk assessment undertaken for a major decision by Creative Australia, such as the selection of the Australian Representation at the Venice Biennale, is rooted in a concern that 'risk management' can easily become 'risk aversion', leading to a suppression of artistic freedom of expression.

Many of the participants in the review, speaking in their capacity as artists, raised the need for artistic freedom of expression. They also acknowledged that there are limits to that freedom, although there was no settled view on what these limits might be, beyond illegality²¹.

The concern that risk management can become 'risk aversion' and therefore censorship in effect, does need to be taken seriously by Creative Australia. Equally, an argument that Creative Australia effectively managing risks, even to the extent of declining to fund a highly controversial work, automatically amounts to censorship, needs to be challenged. There is a distinction between a decision on whether *taxpayer funds* should be used to enable an artwork or promote an artist, and whether that artwork or artist is being suppressed or censored. Creative Australia's decision not to use taxpayers' funds to support a work does not preclude the artist from seeking alternative sources of funding or ways of realising the artwork.

20 We note that the artwork *Thank you very much* (2006) has been described as 'ambiguous' by a number of commentators. See for example, Radio National, *The Art Show*, 'An art historical approach to the work of Khaled Sabsabi', 26 February 2025, in which the art historian Professor Rex Butler stated "The works are far more ambiguous and complicated than they have both been described as being". See also *The Australian*, Margin Call, 18 February 2025 (as updated 19 February 2025), "We're not even talking about the fiasco involving artist Khaled Sabsabi and all the fizz bubbling up around his early works, pieces that played on images of Hezbollah leader Hassan Nasrallah and the 9/11 terrorist attacks; those works were at least ambiguous in their suggestion of any support for either."

21 'Illegality' could also extend to works that are seen as vilifying individuals or groups in society, per a range of Commonwealth and State statutes.

While Creative Australia's grant and other investment making processes are beyond the scope of our review, the Panel notes that it is standard practice in other areas of Creative Australia's investment activity to identify 'Contentious Issues' potentially associated with artworks or artists in which investments are made. The Panel notes that it has not seen any evidence that a 'Contentious Issues' analysis was provided to the Executive or Board of Creative Australia in relation to the selection of the Artistic Team for the 2026 Biennale.

Risk Assessment Recommendations

The following recommendations relate specifically to the selection process for the Venice Biennale but have broader application across Creative Australia's decision-making processes.

The recommendations aim to ensure that Creative Australia, when selecting an artist and curator for the Venice Biennale, is as well placed as possible to support that Artistic Team, and to anticipate and respond effectively to any sensitivities or contentious issues that emerge from that selection.

The recommendations are not designed to remove sensitivity or contention from the selection decision. Nor does effective implementation of these recommendations require all works of art, social media posts or other activities of artists or curators to be identified and assessed. The recommendations are designed to support Creative Australia to identify in advance what potential risks, or class of risks, may emerge, and to be well-prepared to respond to them, on behalf of the organisation and the artist.

Recommendation 1

Develop a clearly documented risk identification policy and procedure for the Venice Biennale selection process.

The policy and procedures should make clear:

- 1.1. The considerations relevant to risk identification;
- 1.2. The risk framework and approach to be taken to identify potential risks, mitigating measures and management strategies;
- 1.3. The matters that would indicate a risk is beyond the risk appetite of Creative Australia, for example, that it clearly promotes illegal activities;
- 1.4. The position(s) responsible for risk identification and management, including the general or specific titles of those roles;
- 1.5. The criteria for escalating decisions to more senior managers, the Executive, the Audit and Risk Committee of the Board, or the full Board.

In developing and documenting the risk identification process, prominence should be given to the role and responsibilities of Creative Australia and its Board, including the functions of Creative Australia as set out in section 11 of the *Creative Australia Act 2023* and its responsibilities under the *Public Governance, Performance and Accountability Act 2013*, including:

- promoting the proper use and management of public resources for which the authority is responsible; and
- promoting the achievement of the purposes of the entity.

The relevant considerations for identifying risks should include recognition that a work of art or artist selected for the Biennale could be so polarising and divisive as to have a material impact on the ability of Creative Australia to discharge effectively its statutory functions, to the detriment of the broader artistic community.

It may be appropriate to have the Biennale risk policy and procedures incorporated into a suitable agency wide policy, provided the unique prominence and nature of a Biennale decision is not obscured.

The risk policy and procedures should be approved by the Board (see Recommendation 4.)

Recommendation 2

Ensure appropriate tools are available to guide and support staff.

All staff involved in the Biennale selection process, including in risk management, communications and delivery, should have access to appropriate tools to support and guide the identification of potential risks and the development of mitigation and management strategies. This should include staff in the Visual Arts Team, the Communications Team and relevant members of the Executive.

Training should be provided to assist staff exercise their judgement, particularly in balancing risk mitigation and freedom of expression. Given the Biennale selection process is periodic, this training should be provided to all relevant staff as part of the preparations for the commencement of each selection process.

A critical part of the training should be supporting staff to make broad risk assessments without needing a deep analysis of past artwork, associations, social media activity or other aspects of an artist's life. By way of illustration, it was clear to the Panel that staff at Creative Australia were aware that the selection of any artist with heritage from the Middle East was likely to be sensitive in the context of events at the time. This alone should have triggered appropriate risk planning, even if specific artworks were unknown.

Recommendation 3

Expand the role of the Executive in the selection process.

The Panel heard throughout our review that the Biennale selection process and ultimate decision were tightly held by a very small number of individuals.

The reason given was a concern, grounded in experiences elsewhere in Creative Australia, that there was a high risk of the decision being prematurely leaked. The consequence of this approach was that, even within Creative Australia, very few people had the opportunity to assess and understand any risks associated with the selection process, regardless of the artistic team selected.

In our view, once a decision has been made on the short-listed candidates, that information should be known to at least:

- The Head of Visual Arts;
- The Head of Public Affairs and Communications;
- The Executive Director, Arts Investment;
- The General Counsel; and
- The CEO.

The Board Audit and Risk Committee should also be informed (see [Recommendation 4](#)).

While the Panel appreciates the concerns expressed about confidentiality and the risk of the selection process results being leaked, it is hard to imagine a situation where any resultant damage could be comparable to the damage that has resulted from the 2026 selection process.

One simple response to this is for Creative Australia to announce the shortlisted candidates publicly. It was suggested to us that doing so would discourage artists and curators from applying, as they would not want to be seen as ultimately unsuccessful. We found this argument strange, given it appears to be standard practice across a wide range of creative award processes. For example, in the visual arts space, the Archibald Prize regularly attracts some of Australia's highest profile, as well as adventurous, portraitists, despite the short list being publicly announced (and displayed).

Recommendation 4

The Board should approve the risk policy and procedures and assess their application.

The risk assessment and management policy and procedures should be reviewed by the Board Audit and Risk Committee to ensure they are fit for purpose. The policy and procedures should then be approved by the Board.

The policy and procedures should be reviewed at the beginning of each selection process for a Biennale.

During the selection process, regular reports on the effectiveness of risk identification and management should be provided to the Audit and Risk Committee, including any identified risks and the measures to be put in place to mitigate and manage those risks.

The Audit and Risk Committee should also be informed at the time the decisions are made of:

- The selected Industry Advisers;
- The shortlisted applicants; and
- The successful applicant.

This information can be provided in strictest confidence. It is far from unusual for boards and board committees to be aware of highly sensitive information. It is unusual for managers to determine what information should go to a board because of a manager's concerns with possible leaks.

In recommending the above information be shared with the Audit and Risk Committee, it is important to note the limits to the role of the Committee.

The role of the Audit and Risk Committee, and the Board in general, should only be to ensure that:

- Policies and processes have been appropriately followed;
- Reasonable steps have been taken to identify potential material risks;
- Reasonable steps have been taken to mitigate those risks while preserving, as far as possible, freedom of expression; and
- Appropriate steps have been taken to manage those risks should they materialise.

The final decision on which applicant to appoint to represent Australia at the Venice Biennale should remain within the authority of the CEO of Creative Australia. The Audit and Risk Committee will need to be advised of the proposed successful applicants for the Biennale with sufficient lead time before any public announcement to undertaken the above inquiries.

For the purposes of testing the selection process for the Biennale, any Director on the Board with visual arts experience should participate in those Audit and Risk Committee meetings.

Recommendation 5

Ensure the risk policy and procedures are known.

As well as ensuring the risk policy and procedures are well known to relevant staff, they should be shared with:

- Potential applicants at the Expression of Interest phase of the selection process;
- The Industry Advisers involved in the process;

Creative Australia's risk policy and procedures should also be included on its website. This could be in summary form, provided the summary makes clear the nature and relevant considerations of the risk management process.

Recommendation 6

Commission biennial independent reviews.

Creative Australia should commission a biennial independent assessment of the efficacy of its Biennale selection risk management. This should be done ahead of the selection process to ensure appropriate proposed risk identification and management will be in place.

The assessment should also flag any concerns that material risks are not being appropriately identified or managed, where there are opportunities to improve process performance, and any concerns that risk management is unnecessarily dampening the support of creativity and freedom of expression.

Recommendation 7

Ensure all staff and Board members understand the range of responsibilities and accountabilities of Creative Australia.

While the Panel's review is focussed on the Biennale selection process, during the course of the review it became apparent that there are varying perspectives within Creative Australia on the organisation's role, responsibilities and stakeholders. Specifically, the Panel formed the view that some Creative Australia staff see their roles as exclusively serving the creative community, and that they are accountable to that community alone. While the Panel believes this is motivated by positive intentions, and a strong desire within Creative Australia to foster Australian creativity,

this narrow view of responsibilities and accountabilities is factually and legally incorrect.

All Creative Australia staff should participate in training to assist them to understand their full range of responsibilities and accountabilities, and how to reconcile these responsibilities and accountabilities when they appear to be in conflict. That training should occur on appointment and through periodic refresher training.

Lack of Appropriate Crisis Management

It would be highly impracticable for Creative Australia, during the Biennale selection process, to research and assess an artist's full body of work, full set of social media posts, and any other activities or associations, to identify anything that may be sensitive or contentious. Nor should it.

Equally, it is highly likely that Creative Australia will make decisions to support, or not support, an artist or artistic organisation and in so doing, raise sensitive or contentious issues.

The risk management approach outlined above is intended to help Creative Australia, within reason, identify potential risks, mitigate those risks and then manage the results.

Even with this in place, controversies will arise and Creative Australia will need to be well-prepared with its communications and crisis management plan to respond.

The lack of an effective plan was a major contributor to the outcomes of the 2026 Biennale selection.

In the Panel's opinion, there were a number of factors that contributed to that poor planning:

1. As noted above, the decision-making and the final selection of the Artistic Team were held closely by very few staff, meaning that the Communications Team was not aware of the details of the Artistic Team until mid-January (although that should not have precluded the development of an advanced communications and crisis management team that could be finalised once the specific details were known).
2. There is evidence of misunderstanding and frustration between the Communications Team and the Visual Arts Team over who had responsibility for identifying risks and making preparations for managing them.
3. The Panel heard from within and outside of Creative Australia that the Communications Team is effective in supporting announcements of 'good news', such as successful grant applications, but has less experience preparing for, or managing, crises or controversies. The Panel also heard from a number of sources

that the Communications Team is viewed as 'passive and reactive' in its approach to supporting Creative Australia staff and external artists.

4. While Creative Australia has access to dedicated and experienced external crisis management capabilities, these were not called upon to inform preparations for the public announcement of the Artistic Team. It was only the discovery of the artwork *You* (2007) a few days before the public announcement that triggered bringing that external expertise into the process.

Effective crisis management planning is designed to support an organisation respond to contentious matters and controversies regardless of the details of those controversies. In planning, it is not necessary to know exactly where or why a contentious issue or controversy may arise. In fact, when controversies arise they are rarely those anticipated or in the form predicted.

The selection of the Australian representatives for the Venice Biennale is highly likely to be controversial²². Effective crisis management planning should therefore be an integral part of the selection process, including the early involvement of the Communications Team in the selection process and decision.

Crisis Management Planning Recommendation

Recommendation 8

Incorporate crisis management planning into the selection process.

The Head of Public Affairs, as leader of the Communications Team, should be informed of the short-listed applicants at the time they are selected (see [Recommendation 3](#)) and of the final selection as soon as it is made.

The Head of Public Affairs should have ultimate responsibility for the preparation and execution of a crisis management plan. Given the periodic and high-profile nature of the selection of Australian representation for the Biennale, the Head of Public Affairs should be supported in discharging those responsibilities with appropriate external advice.

Effective crisis management planning should be seen as an integral part of the selection process, and occur alongside of that process, rather than something to be added at the end of the process.

²² The Creative Australia CEO advised the Senate Legal and Constitutional Affairs Legislation Committee that "We anticipate always that the selection of the Venice artist will be controversial. It has been from time immemorial. Everyone has a view on the artist, on the art." Senate Hansard, 25 February, p 101.

7. Our Assessment of the Rescission Process

The Board has a longstanding right to rescind decisions made by Executives at Creative Australia, although exercising that right is exceptional.

The Board's right to rescind is an integral part of the Board's powers, given the role, responsibilities and accountabilities of the Board. Those responsibilities placed on the Board include promoting the achievement of the purposes of the entity²³. The Board is therefore entitled to rescind a decision if it feels that decision could materially impede the ability of Creative Australia to achieve its purposes. That one of those purposes is “to uphold and promote freedom of expression in the arts”²⁴ highlights the dilemma the Board faced when it met on Thursday, 13 February 2025.

Given this dilemma the Board's decision was necessarily one of judgement and therefore needs to be seen in the light of the context within which that judgement was exercised, as set out previously.

There were a range of considerations Board members took into account in arriving at the decision to rescind. As the Panel would expect with any sensitive and complex decision, the weight individual Board members placed on any of those considerations varied. It was also clear that the decision was very difficult for many Board members, and those Board members coming directly from the creative community in particular were acutely and instinctively aware of the impact the decision to rescind would have on that community, the standing of Creative Australia, and indeed their own reputations among fellow artists.

Board members were clear, however, that their responsibilities and accountabilities were broader than just those owed to the creative community.

The Board appears to have considered a number of matters in coming to its conclusion that, given the context and circumstances, it was necessary to rescind the selection decision:

- Because of the unexpected revelation of the artwork *Thank you very much* (2006) and that it was already being publicly characterised in a highly controversial and divisive manner, it was no longer possible to put forward an alternative perspective on the work;
- The level of controversy and divisiveness would escalate quickly, beginning in the following day's media;

23 Section 15(2)(b) *Public Governance, Performance and Accountability Act 2013*.

24 Section 11(1)(e) *Creative Australia Act 2023*.

- Allowing that controversy and divisiveness to escalate could harm broader social cohesion, inconsistent with Creative Australia's values and desire to see art bring people together;
- Ongoing controversy and divisiveness would be harmful for the Artistic Team, particularly for the artist who was likely to be subject to ongoing media and political criticism;
- Ongoing controversy and divisiveness would compromise the ability of the commissioned artwork to be executed at Venice; and
- The controversy might be used as an argument to reduce the funding and independence of Creative Australia.

While different Board members will have placed different weight on each of these considerations, it was clear from the review that the need to act quickly to head off even greater controversy and divisiveness weighed heavily on Directors' minds. This was in the context of heightened anxiety about the levels of Anti-Semitism and Islamophobia evident in Australia at the time, with the decision made just days after the Bankstown Nurses Incident and the Cairo Takeaway Incident, and while the Dural Caravan Incident was still publicly perceived as a major terrorism event.

While the Board's judgement had to be exercised at a point in time, with the benefit of hindsight there are things the Board might have done differently. The Panel flags these not because the Board's judgment was wrongly exercised (and such an assessment is outside of the scope of this review) but because it is critical the Board and Creative Australia are able to learn from this exercise and be better prepared should a similar situation arise in future.

Considerations for Future Decisions

As noted previously, had proper risk assessment been undertaken and a communications and crisis management plan been developed, Creative Australia and the Board may have been better placed to reflect upon, and potentially stand by, the selection decision, notwithstanding the unexpected revelation of past artworks.

In addition, if faced with a comparable situation in future, the Board should:

- Take advice from the Head of Public Affairs and an external crisis management adviser on the options available to the Board, including the pros, cons and risks associated with each option;
- Take advice from the Head of the Visual Arts Team (or relevant practice head) and potentially recognised industry experts on what range of interpretations may be placed upon an artwork, if an artwork has triggered a controversy;

- Allow the affected artist the opportunity to make their case, and to respond to any concerns about the potential impact of any controversy on them or their ability to execute a commissioned or funded artwork; and
- Allow Board members the opportunity to reflect on the advice received by the Board, before reconvening to make a decision.

To allow for these steps if faced with an unexpected controversy, the Board may need to announce that a decision, such as a decision on the selection for the Biennale, is subject to review, and that the Board will make its final decision once the proper process has been followed.

However, the Board needs to retain the right to determine that, in its judgement, circumstances are such that a more immediate decision is required, as was the judgment on 13 February this year.

Given the magnitude and exceptional nature of a Board decision to rescind, the processes to be followed for such a decision, should be documented and made publicly available.

Board Rescission Recommendation

Recommendation 9

The Board should develop a clear process for how rescission decisions will be made.

The Board, supported by the Executive including the General Counsel, should document the process and considerations for making a decision to rescind.

The documented process should set out in broad terms the types of consideration the Board will take into account, such as risk to the ability of Creative Australia to fulfil its functions, risk to Creative Australia employees, contractors and artists, the sources of information and advice the Board might draw upon to help it form its views, and any other relevant considerations. The process should also explicitly state that, despite the documented process, the Board retains the right to make an immediate decision if warranted by circumstances.

8. Other Matters

There were a range of other matters that emerged during the course of the Panel's review that go to the review's terms of reference, particularly in relation to future selection processes.

Biennale Commissioner

During the course of the review a question arose as to whether Creative Australia is the right entity to commission the artwork and artistic team to represent Australia at the Venice Biennale. The Venice Biennale decision is of a different nature to the bulk of Creative Australia's activities, which relate to funding, rather than commissioning creative endeavours²⁵.

The Panel is aware that consideration has previously been given to transferring the selection and production of Australia's representation at the Venice Biennale to one or more major art galleries. This recognises that it is galleries that typically commission and present exhibitions of art. The process of considering alternative avenues for selecting and presenting Australia's representation was interrupted by the Covid pandemic.

In discussing this possibility, a number of other factors were raised that could make it difficult for a body other than Creative Australia to commission and produce the Biennale exhibition:

- The Biennale's governing authority, La Biennale di Venezia, has directed that the commissioner of national representation at the Biennale must be the governmental authority of the country, or a delegated public institution representing the country²⁶. This can be interpreted as limiting the options in Australia to either Creative Australia or the National Gallery of Australia.
- Galleries have raised concerns that taking on the Biennale means also taking on a major fundraising exercise, given that more than half the costs need to be met from donors, and that this would compromise galleries' abilities to raise funds for other important exhibitions and gallery needs.

25 As previously noted, this was acknowledged by the CEO of Creative Australia in his opening remarks to Senate Estimates on 25 February 2025 when he stated "*this is very different to giving a grant or investing in a company to do its work.*" Senate Hansard, Legal and Constitutional Affairs Legislation Committee, 25 February 2025, p 101.

26 Article 3 of the Articles issued by La Biennale di Venezia (2018) states: "*Given the uniqueness of each National Participation the Governmental Authority of the Country will appoint a Commissioner who will have to belong to the Governmental Authority or to the delegated Public Institution representing the Country.*" Article 3 also prohibits the use of deputy Commissioners or co-Commissioners.

- Appointing an alternative commissioner does not remove the potential controversy and risks associated with the selection decision, but merely relocates those risks.

The Panel accepts the validity of these concerns. There is also a valid question of whether appointing an alternative commissioner, even as an interim measure, would be a faster way to remove some of the distrust in the creative community around the Venice Biennale selection process. Undoubtedly, this option can be considered further by Creative Australia.

The Panel notes that the intention of this review has been in part to recommend steps that Creative Australia can take to increase the rigour and transparency of the selection process, steps that when enacted should contribute to rebuilding trust in both the process and Creative Australia.

Skills and Experience of the Board

While the Panel did not conduct a formal assessment of the Board's skills, capabilities and experience as part of this review, it is appropriate that the Board combine a range of skills and capabilities, as well as diverse experience and perspectives. This includes having Board members with deep governance, risk, financial and commercial experience and Board members with deep experience in the creative arts and the creative community.

With the recent departure of one Board member, the Board no longer has deep experience in the visual arts. As discussed under [Recommendation 4](#) above, for the purposes of testing the selection process for the Biennale, a Board member with visual arts experience should participate in Audit and Risk Committee meetings overseeing the Biennale selection process. This should be considered as part of future Board appointments.

Director Induction and Training

Given that Board members come from a range of backgrounds and experiences, and for many this is their first board role for an organisation of such size and complexity, it is important that new Board members receive adequate training on the range of their role, responsibilities and accountabilities²⁷.

While the Panel understands that new Board members do go through an induction process, more may need to be done with highlighting and explaining the role,

²⁷ Including, but not limited to, those under the *Creative Australia Act 2023* and the *Public Governance, Performance and Accountability Act 2013*.

responsibilities and accountabilities, given a number of Board members did not recall having that covered as part of their induction.

The Board collectively should also go through a periodic refresher session on their role, responsibilities and accountabilities. This could include discussing scenarios where the various responsibilities may be in tension or conflict, and how the board would resolve these.

Staff training on these matters was recommended under [Recommendation 7](#).

Rebuilding Trust

The Panel spoke with many people within the creative community and with Creative Australia staff who work with members of the creative industry on a daily basis. It heard numerous reports of the damage the decision to rescind has caused to the confidence many in the creative community have in Creative Australia. The Panel also acknowledges that the creative community is very diverse and that there will be a wide range of perspectives on this year's Biennale selection process.

In order to rebuild trust, Creative Australia will need to be proactive in re-engaging with all its stakeholders, hearing their concerns and frustrations, and finding ways to collaborate to overcome those concerns. This applies to internal stakeholders (that is, employees and contractors of Creative Australia) and to external stakeholders. Creative Australia should carefully map its stakeholders, identify their interests and perspectives and engage with them on how best to strengthen relationships. These engagements should also seek input on how Creative Australia should reconcile the tensions innate in the range of roles, responsibilities and accountabilities it has.

The recommendations in this report are also designed to rebuild trust in the process, decision-making and governance at Creative Australia.

9. Broader Implications

The challenges the staff, Executive and Board of Creative Australia face are far from unique to Creative Australia. The Panel sees these issues playing out, in a range of ways, at bodies governing arts, sports, not-for-profit enterprises and for-profit corporations.

To maximise the benefits of the review, the Panel was encouraged to identify any considerations that may be relevant to other creative bodies.

Two considerations stand out:

1. No board should assume it will not face a situation comparable to that faced by Creative Australia and its Board, and all boards should therefore ensure they and their organisations are well-prepared to respond. This means:
 - Having thoughtfully prepared risk identification and management policies and plans, and openly discussing any tensions between prudent risk management and freedom of creative expression (see Appendix 3 for a general framework for risk consideration in a creative context);
 - Having communications and crisis management plans in place or developed for major decisions, with external expert input if needed;
 - Rehearsing as a board how to respond to a crisis, including workshopping scenarios that might emerge that could trigger sensitivity or controversy;
 - Ensuring the board is appropriately informed in advance of potential sources of risk and how the organisation is responding.
2. All members of a board should be clear in their own minds, and should make clear to all employees and stakeholders of the organisation, what the board's roles, responsibilities, accountabilities and risk appetite are. This includes recognition that one of the board's roles is to be the custodians of the organisation and therefore its reputation, ongoing viability and continuing ability to serve its stakeholders, including artists, audiences and the broader community.

Boards should review the situations described in this report, and the Panel's recommendations, and each board member should ask:

- *Am I comfortable that a similar situation could not arise here?*
- *If I am comfortable, am I right to be and what evidence am I basing that on?*
- *If something similar did happen, what are the most likely lapses, gaps or missteps that would cause it, and how do we guard against this?*

In broader terms, boards should consider the following principles and actions.

Structure

1. Ensure key external stakeholders understand and are aligned around the organisation's core purpose, responsibilities and accountabilities.
2. Ensure key external stakeholders have a shared understanding of the organisation's risk appetite.
3. Ensure those within the organisation are clear about role responsibilities and accountabilities.
4. Ensure a culture of transparency and escalation to senior executives and the board for relevant issues or information.
5. Determine the means and frequency of assurance to senior executives and the board that governance, structural and cultural expectations are being met.
6. Anticipate and plan for existential threats – from business model hypotheses (economic disruption) to business continuity events (cyber-attack, pandemics) to geo-political issues.

Communication

7. Assess, resource and test communication skills for business-as-usual operations, and for times of crisis.
8. Conduct simulated issues or crisis management planning sessions.

People and Artists

9. While cognisant of all stakeholders' interests, ensure that due weight is given to foundational values of artistic freedom in which an element of risk-taking is not only inevitable, but promoted and accepted.
10. Ensure all artists and those associated with artistic creation and enterprise understand the organisation's values and Code of Conduct. Reinforce the point that using an artistic platform to highlight contentious issues can have broad, and potentially negative, consequences for other members of the creative community and their ability to exercise their creative freedom of expression.
11. In the event of significant disruption, focus on the impact of those affected, and ensure measures are in place to mitigate loss or other forms of harm.

10. Conclusion

No one at Creative Australia was as well-prepared as they needed to be for the eruption of a potentially divisive controversy around the decision on Australian representation at the 2026 Venice Biennale.

In the view of the Panel, the failure of Creative Australia to be adequately prepared was not the fault of any one person or group of individuals, nor was there a single primary causal factor. Rather, the lack of preparedness was the product of a series of oversights, misunderstandings, missteps and assumptions, exacerbated by a lack of clarity around roles and accountabilities, and by unresolved tensions within Creative Australia on the organisation's roles and stakeholders and how best to balance these if they are in competition.

There is an unfortunate irony in that many of the flaws in the Biennale selection process stemmed from a strong desire within Creative Australia to keep decisions on artistic merit free from non-artistic considerations. This has been seen as critical to protect freedom of expression and the creative community. In fact, the lack of appropriate preparedness for such a major decision as Australian representation at the Venice Biennale has led to a considerably worse outcome for all involved than if prudent, carefully considered risk assessment and crisis management had been put in place.

Creative Australia has a considerable task to rebuild trust with at least some parts of the creative community and with some of its own employees. The Panel believes implementation of its recommendations in an open and inclusive manner will lay the foundation for that rebuild.

11. Summary of Recommendations

Recommendation 1

Develop a clearly documented risk identification policy and procedure for the Venice Biennale selection process.

Recommendation 2

Ensure appropriate tools are available to guide and support staff.

Recommendation 3

Expand the role of the Executive in the selection process.

Recommendation 4

The Board should approve the risk policy and procedures and assess their application.

Recommendation 5

Ensure the risk policy and procedures are known.

Recommendation 6

Commission biennial independent reviews.

Recommendation 7

Ensure all staff and Board members understand the range of responsibilities and accountabilities of Creative Australia.

Recommendation 8

Incorporate crisis management planning into the selection process.

Recommendation 9

The Board should develop a clear process for how rescission decisions will be made.

Appendix 1 – Core Legislation

While Creative Australia is subject to several Acts of Parliament, the critical legislation for defining its role and responsibilities are the *Creative Australia Act 2023* (Cth) and the *Public Governance, Performance and Accountability Act 2013* (Cth).

Creative Australia Act 2023

The *Creative Australia Act 2023* translates the previous Australia Council into the new Creative Australia (s.9). It also establishes the Board as the Australia Council Board of Creative Australia (s.19) and defines the role of the board (s.20):

Role

- (1) The Board is responsible for ensuring the proper and efficient performance of Creative Australia's functions.
- (2) The Board has power to do all things necessary or convenient to be done for, or in connection with, the performance of its duties.
- (3) Anything done in the name of, or on behalf of, Creative Australia by the Board, or with the authority of the Board, is taken to have been done by Creative Australia.
- (4) If a function or power of Creative Australia is dependent on the opinion, belief or state of mind of Creative Australia in relation to a matter, the function or power may be performed or exercised upon the opinion, belief or state of mind of a person or body acting as mentioned in subsection (3) in relation to that matter.

The core functions of Creative Australia are set out in section 11 of the Act:

Functions

- (1) Creative Australia has the following functions:
 - (a) to support Australian arts practice that is recognised for excellence;
 - (b) to foster excellence in Australian arts practice by supporting a diverse range of activities;
 - (c) to support Aboriginal and Torres Strait Islander arts practice;

- (d) to support Australian arts practice that reflects the diversity of Australia;
- (e) to uphold and promote freedom of expression in the arts;
- (f) to promote community participation in the arts;
- (g) to recognise and reward significant contributions made by artists and other persons to the arts in Australia;
- (h) to promote the appreciation, knowledge and understanding of the arts;
- (i) to support and promote the development of markets and audiences for the arts;
- (j) to encourage, facilitate and recognise public sector, private sector, philanthropic and commercial support for, and investment in, the arts;
- (k) to promote fair, safe and respectful workplaces for:
 - (i) Australian artists; and
 - (ii) persons who are employed, or otherwise engaged, by organisations that engage in, or support, Australian arts practice; and
 - (iii) persons otherwise involved in Australian arts practice;
- (l) to provide information, advice, training and mentoring on matters connected with the arts or the performance of Creative Australia's functions;
- (m) to provide information and advice to the Commonwealth Government on matters connected with the arts or the performance of Creative Australia's functions;
- (n) to conduct and commission research into, and publish information about, the arts, and support for, and investment in, the arts;
- (o) to evaluate, and publish information about, the impact of the support Creative Australia provides;
- (p) to undertake any other function conferred on it by this Act or any other law of the Commonwealth;
- (q) to do anything incidental or conducive to the performance of any of the above functions.

Creative Australia may charge fees

- (2) Creative Australia may charge fees for things done in performing its functions.
- (3) A fee must not be such as to amount to taxation.

Creative Australia may cooperate with others

- (4) Creative Australia may perform its functions alone or together with other persons.

Creative Australia may perform functions outside Australia

- (5) The functions of Creative Australia may be performed within or outside Australia.
- (6) However, Creative Australia may only perform its functions outside Australia if it does so for the benefit of Australia, Australian citizens or Australian residents.

The Creative Australia Act states explicitly that Creative Australia is subject to the *Public Governance, Performance and Accountability Act 2013* (s.10 Note).

Public Governance, Performance and Accountability Act 2013

The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) describes the duties that must be complied with by the directors and officers of Commonwealth entities, of which Creative Australia is one. The language used closely mirrors statutory obligations imposed on directors and officers under the *Corporations Act 2001*.

These are important duties, particularly when considering the scale and importance of an organisation like Creative Australia and its role in disbursing public funds.

There are several sections of the Act particularly relevant to the operations of the senior leadership and Board of Creative Australia.

Section 15

Duty to govern the Commonwealth entity

- (2) The accountable authority of a Commonwealth entity must govern the entity in a way that:
 - (b) promotes the proper use and management of public resources for which the authority is responsible; and
 - (b) promotes the achievement of the purposes of the entity; and
 - (c) promotes the financial sustainability of the entity.

The PGPA defines "*proper*", when used in relation to the use or management of public resources, as meaning efficient, effective, economical and ethical. Further, "*public resources*" means relevant money, relevant property, or appropriations.

Section 16

Duty to establish and maintain systems relating to risk and control

The accountable authority of a Commonwealth entity must establish and maintain:

- (a) an appropriate system of risk oversight and management for the entity; and
 - (b) an appropriate system of internal control for the entity;
- including by implementing measures directed at ensuring officials of the entity comply with the finance law.

Section 25

Duty of care and diligence

- (1) An official of a Commonwealth entity must exercise his or her powers, perform his or her functions and discharge his or her duties with the degree of care and diligence that a reasonable person would exercise if the person:
 - (a) were an official of a Commonwealth entity in the Commonwealth entity's circumstances; and
 - (b) occupied the position held by, and had the same responsibilities within the Commonwealth entity as, the official.

Section 26

Duty to act honestly, in good faith and for a proper purpose

An official of a Commonwealth entity must exercise his or her powers, perform his or her functions and discharge his or her duties honestly, in good faith and for a proper purpose.

An *official* is defined in the PGPA Act as a person who is in, or forms part of, the entity.

Appendix 2 – Panel Members

The review into the governance and decision-making process for the Venice Biennale 2026 was undertaken by senior partners from board, governance and risk advisory firm Blackhall & Pearl.

Steven Münchenberg

Managing Partner & CEO

Steven leads Blackhall & Pearl as the CEO and Managing Partner, bringing three decades of experience bridging business, government, and community sectors. His strategic counsel has guided the Chief Executives and Chairs of Australia's largest companies, Government Ministers, and Community Leaders.

Key points in Steven's career include serving as Chief Executive of the Australian Banking Association, Chairman of the International Banking Federation, Chairman of the Finance Industry Council of Australia, and Deputy Chief Executive of the Business Council of Australia. He also led government relations for a major bank through the Global Financial Crisis.

As an inaugural member of the ASX Corporate Governance Council, Steven had a key role in shaping corporate governance standards. His diverse experience includes leadership of a small not-for-profit organisation and as a senior Federal public servant.

Tim L'Estrange

Partner

Over his 40-year career, Tim has represented companies, boards and directors in high-profile, 'bet the company' corporate legal disputes and regulatory investigations with potential severe reputational impacts.

His international experience spans executive positions in law and banking in Europe, the United Kingdom, the United States and Australia. He was Managing Partner of a leading Australian law firm and Partner-in-Charge of two offices at global law firm Jones Day. He was previously at ANZ Banking Group as Group General Counsel and Company Secretary, later becoming Managing Director for Europe and America, and Group General Manager of Governance.

At Blackhall & Pearl, Tim specialises in helping clients with contentious issues and facing exceptional circumstances, developing strategies to emerge from major risk and regulatory episodes with the best outcomes.

Currently, Tim also works as a mediator and arbitrator through Newmans Row.

Appendix 3 – Risk Assessment Framework for Artistic Projects

For the approval of artistic projects of national and international significance that rely on government funding, a comprehensive risk assessment framework is crucial.

This framework should go beyond standard project management risks to address the unique complexities and sensitivities inherent in art, especially when it represents a nation or aims for global impact.

The aim of a good risk framework should be to support risk-taking, rather than preventing it.

The following provides a general but detailed framework that could guide discussions and considerations of risk assessment at creative organisations. The framework is offered as guidance and should not be considered prescriptive or exhaustive.

Risk Assessment Framework

I. Strategic Context and Objectives

- **Project Vision and Significance**

Clearly define the artistic vision, the intended national and international significance, and the overarching objectives (e.g., cultural diplomacy, artistic innovation, economic impact, social cohesion).

- **Stakeholder Identification**

Identify and map all key stakeholders, including government bodies, funding agencies, cultural institutions, artists, communities (including First Nations/Indigenous communities), international partners, and target audiences. Understand stakeholder expectations, interests, perspectives and potential concerns.

II. Risk Identification and Categorisation

Risks should be broadly categorised to ensure comprehensive coverage.

A. Artistic and Creative Risks

1. **Execution Quality and Integrity**

- **Risk**

The project failing to achieve its stated artistic vision or international standard of excellence.

- **Considerations**

The artist's track record, peer perceptions, concept viability, curatorial support and expertise, technical feasibility, budget constraints.

2. **Content Sensitivity and Cultural Appropriateness**

- **Risk**

Risk of offending or misrepresenting domestic or international cultural groups. Potential for misinterpretation, misrepresentation, cultural appropriation, or other sensitivities or controversies.

- **Considerations**

Cultural protocols, community consultation, expert review (e.g., cultural advisors, ethics committees), potential for backlash (social media, public outcry, politicisation).

3. **Intellectual Property (IP) and Copyright**

- **Risk**

Infringement of existing IP rights, or inadequate protection of the project's own IP.

- **Considerations**

Clear contracts with artists and collaborators, thorough IP searches, legal advice, licensing agreements for international dissemination.

4. **Innovation and Experimentation**

- **Risk**

Projects pushing boundaries may have unpredictable outcomes or face expected or unexpected resistance.

- **Considerations**

Balanced approach to innovation, contingency plans for unexpected artistic directions, clarity around acceptable behaviours including through Codes of Conduct, robust feedback mechanisms with follow up, assessment of potential broader adverse consequences for arts organisations and artists.

B. Reputational and Political Risks

1. National Image and Cultural Diplomacy

- **Risk**

The project negatively impacting the nation's image, domestic cohesion or diplomatic relations.

- **Considerations**

Government and diplomatic briefings, careful messaging, understanding geopolitical sensitivities, potential for political exploitation or censorship.

2. Public Perception and Media Scrutiny

- **Risk**

Unmanageable negative media coverage, public criticism or protests, adverse political outcomes, increased government intervention in artistic decision-making.

- **Considerations**

Robust communications strategy, crisis management plan, stakeholder engagement, public consultation (where appropriate).

3. Sponsor/Funder Reputation

- **Risk**

Project controversies reflecting poorly on funding bodies or corporate sponsors, increased risk aversion or backlash from among donors and benefactors.

- **Considerations**

Due diligence on partners, proactive and clear communication of values, reputational clauses in agreements, regular engagement with donors and benefactors on dilemmas and tensions.

C. Operational and Logistical Risks

1. Project Management and Delivery

- **Risk**

Delays, budget overruns, failure to meet deadlines or deliverables, inability of the artist to proceed.

- **Considerations**

Experienced project team, realistic timelines, robust project plan, clear roles and responsibilities, regular progress checks and proactive responses to potential roadblocks or hurdles.

2. **International Logistics and Travel**

- **Risk**

Visa issues, customs delays, shipping damage, health and safety abroad, travel restrictions, geopolitical instability.

- **Considerations**

Expert logistics partners, comprehensive insurance, contingency for travel disruptions, awareness of local laws and customs.

3. **Venue and Infrastructure**

- **Risk**

Unsuitability or unavailability of venues, technical limitations, security concerns.

- **Considerations**

Thorough site assessments, technical riders, security plans, emergency procedures.

4. **Human Resources**

- **Risk**

Availability of skilled personnel, artist well-being, industrial relations issues.

- **Considerations**

Talent recruitment strategy, artist care protocols, compliance with labour and workplace laws.

D. Financial Risks

1. **Funding and Budget Management:**

- **Risk**

Insufficient funding, cost overruns, currency fluctuations (for international projects).

- **Considerations**

Detailed budget, contingency funds, multiple funding sources, financial controls, hedging strategies.

2. **Revenue Generation and Commercial Viability (if applicable):**

- **Risk**

Failure to achieve projected ticket sales, merchandise sales, or other revenue.

- **Considerations**

Market research, realistic projections, marketing strategy, alternative revenue streams.

E. Legal and Compliance Risks

1. **Contractual Obligations**

- **Risk**

Breach of contracts with artists, venues, or international partners.

- **Considerations**

Clear legal advice, robust contracts, dispute resolution mechanisms.

2. **Regulatory Compliance**

- **Risk**

Non-compliance with national or international laws (e.g., sanctions, environmental regulations, health and safety standards).

- **Considerations**

Legal advice, adherence to international protocols, understanding of local laws in host countries.

3. **Insurance**

- **Risk**

Inadequate insurance coverage for artworks, personnel, or public liability.

- **Considerations**

Comprehensive insurance policies, expert advice on international coverage.

III. Risk Assessment (Likelihood and Impact)

For each identified risk, assess:

- **Likelihood**

The probability of the risk occurring (e.g., Very Low, Low, Medium, High, Very High).

- **Impact**

The severity of the consequences if the risk occurs (e.g., Insignificant, Minor, Moderate, Major, Catastrophic).

This can be visually represented using a **Risk Matrix** (Likelihood vs. Impact) to prioritise risks.

Consideration can also be given to considering **Velocity** – the speed with which a risk event may occur and the degree to which changing risk profile can be anticipated.

IV. Risk Response and Mitigation Strategies

For high-priority risks, develop specific response strategies:

1. **Avoidance**

Eliminate the activity causing the risk if the risk cannot be effectively mitigated or managed (e.g., if a country is too politically unstable, avoid exhibiting there).

2. **Reduction/Mitigation**

Implement measures to decrease the likelihood or impact of the risk.

- *Examples:* Extensive community consultation for culturally sensitive works, detailed logistical planning, robust legal agreements, public relations strategies.

3. **Transfer**

Shift the risk to another party better able to manage or absorb (e.g., insurance, outsourcing, joint ventures).

4. **Acceptance/Management**

Acknowledge the risk and its potential impact, and proceed with a plan for managing the consequences if it materialises (e.g., for certain artistic risks where experimentation is key).

V. Monitoring, Review, and Reporting

- **Risk Register**

Maintain a dynamic risk register that tracks all identified risks, their assessment, mitigation strategies, assigned owners, controls and current status.

- **Regular Review**

Conduct periodic reviews of the risk assessment framework and register throughout the project lifecycle (e.g., at key milestones, before public announcements, before international travel).

- **Reporting**

Establish clear reporting lines for risk updates, incidents, and effectiveness of mitigation strategies to relevant decision-makers (e.g., project board, government agencies, funding bodies).

- **Post-Project Review**

Conduct a post-mortem analysis to identify lessons learned and opportunities to improve future risk management practices for artistic projects of national and international significance.

Other Considerations for Decisions/Projects of National or International Significance

Government Clarity and Support

- Ensure relevant government ministries (e.g., culture, foreign affairs) are clearly informed, including of potential risks, proposed mitigations and management strategies.

Cultural Sensitivity Training

- Ensure all project personnel (artists, curators, technical staff) receive appropriate cultural sensitivity training, especially when working across diverse international contexts.

Ethical Frameworks

- Adhere to established ethical frameworks for cultural engagement, including regarding First Nations/Indigenous cultural and intellectual property, considerations of other cultural perspectives, respect for personal information.

Crisis Communication Plan

- Develop a specific crisis communication plan that addresses potential political or diplomatic incidents, public sensitive or controversies, or unforeseen events that could impact national, reputation.

- **Long-Term Impact**

Consider the long-term impact of the project on international relations, cultural exchange, national identity and cohesion, ongoing artistic freedom, public, private and governmental support for the arts, and factor this into the risk assessment.