



Education

**NON-TERTIARY
MUSIC EDUCATION PROGRAM**

FUNDING AGREEMENT

with

**The University of
«Name_of_University»**

2018

November 2017

Contents

1	Purpose of this Funding Agreement.....	1
2.	Aims of the Non-Tertiary Music Education Program.....	1
3.	Equity Principles.....	1
4.	Definitions.....	2
5.	Provision of Program Funding.....	3
5.1	Prerequisites for Funding.....	3
5.2	The Funding Period.....	3
5.3.	Amount of Funding and how it will be paid	3
5.4	Right to withhold Funding.....	4
6.	How the Conservatorium must deal with the Funding	4
6.1	Using Program Funding	4
6.2	Program budgeting.....	4
6.3	Managing the Funding	4
6.4	Application of the Funding.....	4
6.5	Funding the Conservatorium do not use.....	5
7.	Conducting the Program	6
7.1	Program planning.....	6
7.2	Program performance	6
7.3	Compliance with law	6
8.	Records	7
8.1.	Accounts.....	7
8.2.	Accounting records	7
8.3	Assets.....	7
8.4	Student and staff records	8
8.5	Retention of records.....	8
8.6	Inspection by the Department	8
9.	Reporting.....	9
9.1	the Conservatorium's reporting responsibilities	9
9.2	Information the Conservatorium must give to the Department	9
10	Making changes to this Agreement.....	11
10.1	Giving the Conservatorium more Funding	11

10.2	Variation or extension of the Agreement.....	11
11.	Suspending or terminating the Agreement	11
11.1	Suspending or terminating by consent.....	11
11.2	The Department may suspend or terminate the Agreement.....	11
11.3	If the Conservatorium receive a notice that Funding is to be suspended	12
11.4	How may suspended Funding start again?	12
11.5	Repaying Funding spent on other purposes	12
12.	Sending notices.....	12
12.1	Notices from the Department	12
12.2	Notices from You.....	13
12.3	Receiving a notice	13
13.	Miscellaneous.....	13
13.1	Warranties	13
13.2	People the Conservatorium must indemnify	14
13.3	Disputes.....	15
13.4	Waiver	15
13.5	Governing Law	15
	Signing this agreement.....	16

THIS AGREEMENT IS DATED

BETWEEN:

The State of NSW by its Department of Education (the Department)

AND

The University of «Name_of_University» a body corporate created by section 5 University of «Name_of_University» Act 1989

on behalf of the University of «Name_of_University»'s Conservatorium of Music (the Conservatorium).

DATE THIS AGREEMENT STARTS

This Agreement starts on 1 January 2018.

1 PURPOSE OF THIS FUNDING AGREEMENT

The Department agrees to provide the Conservatorium, and the Conservatorium agrees to accept, Funding to implement the Non-Tertiary Music Education Program in accordance with the terms of this Funding Agreement.

2. AIMS OF THE NON-TERTIARY MUSIC EDUCATION PROGRAM

The Program provides Funding to ensure that the Conservatorium is able to deliver a range of quality non-tertiary music education and training activities that are responsive to the needs of metropolitan and regional communities in NSW.

The Conservatorium should seek to enhance opportunities and access to non-tertiary music education for people in regional NSW through consultation with key stakeholders including the Association of NSW Regional Conservatoriums.

The Conservatorium is an identifiable part of the University of «Name_of_University». This Funding Agreement recognises that the University fully funds its tertiary level music courses, facilities and activities from sources apart from the Non-Tertiary Music Education Program.

3. EQUITY PRINCIPLES

The Department expects that equity principles will guide the design and delivery of programs supported by NSW Government Funding. The Conservatorium should seek to ensure that all categories of persons have fair and reasonable access to opportunities funded by the Program.

4. DEFINITIONS

Asset	means	An item of real or personal property, but does not include Intellectual Property.
Conservatorium	means	The University of «Name_of_University»
Delegated Officer	means	Any officer of the Department authorised to exercise any function able to be performed by or for the Secretary or the Department for the purpose of this Funding Agreement.
Department	means	The NSW Department of Education.
Funding Agreement, Agreement	means	This Agreement.
Funding Period	means	The period for which Funding is provided, as specified in clause 5.2.
Minister	means	Minister for Education.
Officer	means	An employee or Delegated Officer of the Department.
Program	means	The Non-Tertiary Music Education Program and the related activities the Conservatorium undertakes to achieve the purpose for which the Department provides the Funding.
Program Guidelines	means	The requirements under which the Funding is provided.
RCTI	means	Recipient Created Tax Invoice.
Representative	means	An Officer, or a person appointed by the Department as a representative.
Secretary	means	The Secretary of the Department of Education.

5. PROVISION OF PROGRAM FUNDING

The Arts, Sports & Initiatives Unit of the Department administers the Program.

5.1 PREREQUISITES FOR FUNDING

The Department will withhold any payments until the Conservatorium has:

- (a) complied with or are complying with the terms and conditions of this or any other Funding Agreements with the Department
- (b) submitted the relevant plans, performance reports, budgets, annual financial statements and other documentation in a form satisfactory to the Department
- (c) met every obligation imposed on the Conservatorium under this Funding Agreement to the satisfaction of the Department.

5.2 THE FUNDING PERIOD

The Funding period is the 2018 calendar year.

5.3. AMOUNT OF FUNDING AND HOW IT WILL BE PAID

- (a) The Department will provide the Funding for the Program in two Instalments, subject to the terms of this Funding Agreement.
- (b) For expenditure in 2018, the Department will provide the Conservatorium with Funding:

Payment Number	Amount of Payment	Conditions for Payment	Time of payment
Instalment 1	«Instalment 1 ex_GST» (nil GST)	Delegated officer confirms receipt of signed Agreement	on or before 31 January 2018
Instalment 2	«Instalment 2 ex_GST» (nil GST)	Delegated officer confirms receipt of satisfactory acquittals	on or before 30 April 2018
TOTAL	«Instalment Total» (nil GST)		

- (c) The Department will create a RCTI on the Conservatorium's behalf and make all payments by Electronic Funds Transfer.
- (d) The Funding may be less than is required to meet the Conservatorium's objectives in providing non-tertiary music education. The Department does not have to pay the Conservatorium any more

than the Funding granted.

5.4 RIGHT TO WITHHOLD FUNDING

The Conservatorium acknowledges and accepts the risk that the Department has the right, upon notice, to withhold the Funding (or any part of it) if:

- (a) the Conservatorium fails to comply with one or more of the Program requirements to the Department's satisfaction, or
- (b) the Department has a reasonable basis to believe that the Conservatorium will not meet a Program requirement to the Department's satisfaction, or
- (c) the State of NSW terminates payment of the Funding to the Department.

6. HOW THE CONSERVATORIUM MUST DEAL WITH THE FUNDING

6.1 USING PROGRAM FUNDING

The Conservatorium must:

- (a) use the Funding solely for the purpose of conducting the Program
- (b) use the Funding within the Funding Period
- (c) not enter into any arrangements or commitments in relation to the Program that are inconsistent with the purposes of the Funding.

6.2 PROGRAM BUDGETING

The Conservatorium must:

- (a) submit a Budget for 2018 to the Department by 31 March 2018 that shows the proposed expenditure of the Program Funds
- (b) spend the Funding in accordance with the Conservatorium's Budget unless otherwise approved by the Department in writing.

6.3 MANAGING THE FUNDING

- (a) the Conservatorium must manage the Conservatorium's Funding so that the Conservatorium is financially viable and therefore able to pay the Conservatorium's debts as they fall due
- (b) the Conservatorium must have policies and procedures in place to ensure effective risk management and fraud control.

6.4 APPLICATION OF THE FUNDING

The Conservatorium must apply the whole of the Program Funding to costs associated with the design, coordination, implementation and delivery of non-tertiary music education programs.

Expense items may include a proportion of the following costs so long as they are related to the Conservatorium's non-tertiary music education programs.

- Salaries and related on-costs for coordination, teaching and administrative support.
- Obtaining information on the non-tertiary music education and training needs of clients and to develop strategies that meet these needs.
- Providing regular concert performances for the community.
- Professional development of teaching and administrative staff.
- Professional fees relating to administration, teaching and performance.
- Subsidies and concessions given to eligible students.
- Community outreach activities.
- Musical instruments and their maintenance.
- Office equipment, computers and software.
- Normal administrative expenses such as telephone, stationery, printing, photocopying and postage.
- Travel and accommodation expenses.
- Promotional expenses (such as publicity and promotional materials).
- Insurance and copyright charges.
- Legal charges and expenses.
- Minor infrastructure maintenance directly related to the delivery of non-tertiary music education programs.
- Maintenance of suitable administrative and financial systems.
- Meeting Funding and reporting requirements.
- The staging of practical examinations conducted by the Australian Music Examinations Board (NSW) ('AMEB') where possible through the provision of accommodation and instruments, at a level of service negotiated between the Conservatorium and the AMEB.

6.5 FUNDING THE CONSERVATORIUM DO NOT USE

If the Conservatorium does not spend all of the Funding by the end of the Funding Period, the Conservatorium must pay back those unspent Funds to the Department within three calendar months of the following acquittal due date. At the Department's discretion, any unspent grant Funding may be deducted from a future Funding allocation to the Conservatorium.

7. CONDUCTING THE PROGRAM

7.1 PROGRAM PLANNING

The Conservatorium must submit to the Department a Program Plan for 2018 by 31 March 2018.

The Program Plan should include:

- a non-tertiary music education program profile and objectives
- music education outcomes to be achieved with the Program Funding
- details of planned activities, performance measures including enrolment targets, staffing arrangements and resources allocations
- details of all current Funding allocations made to the Conservatorium by Commonwealth, State, local government or other agencies, including fees collected for and other revenue generated by the Conservatorium's non-tertiary music education program.

7.2 PROGRAM PERFORMANCE

The Conservatorium must implement the Program in accordance with:

- (a) the Program Guidelines 2018
- (b) the Conservatorium's Program Plan for 2018
- (c) the Funding available in the Conservatorium's Budget
- (d) any reasonable directions the Department gives the Conservatorium from time to time.

7.3 COMPLIANCE WITH LAW

The Conservatorium must:

- (a) comply with all applicable standards, laws, regulations, policies and statements
- (b) not do anything that would cause the Department to breach its obligations under any legislation
- (c) hold all rights, licences and consents required to conduct the Program and otherwise fulfil the Conservatorium's obligations under this Agreement
- (d) comply, in particular, with the provisions of all NSW legislation relating to Child Protection. the Conservatorium must obtain all of the required Working With Children Checks and Police Checks for all the Conservatorium's employees and volunteers and applicants seeking employment with the Conservatorium.

8. RECORDS

8.1. ACCOUNTS

The Conservatorium must keep the Funding in an account with an institution such as:

- a bank
- a building society
- a credit union.

The organisation must operate in Australia.

The Conservatorium must make provision within the Conservatorium's accounting systems to ensure that transactions relating to the Funding are discrete and identifiable.

8.2. ACCOUNTING RECORDS

The Conservatorium must keep proper accounting records of the Funding provided. the Conservatorium's accounting should be at least at the level the Corporations Act 2001(Cth) requires. These records must include:

- all Funding payments the Conservatorium spends and what the Conservatorium spends them on
- all Funding payments the Conservatorium otherwise deals with and how the Conservatorium deals with them
- all the Conservatorium's purchases of goods using the Funding, and any sales You make of those goods
- all of the Conservatorium's liabilities relevant to the Funding
- all transfers of Funds from one account to another during the Funding period
- all debtors in relation to the Funding
- all income generated by the Conservatorium's programs supported by this Funding
- details of any investments and interest earned.

8.3 ASSETS

The Conservatorium must maintain an Assets register for each item of capital equipment purchased or leased using Program Funding and valued at the amount applied by the University to its assets registers, whether purchased or leased by the Conservatorium or by the Department for the Conservatorium.

8.4 STUDENT AND STAFF RECORDS

The Conservatorium must keep comprehensive records on all students and staff who participate in the Conservatorium's non-tertiary music education program.

8.5 RETENTION OF RECORDS

The Conservatorium must retain the Conservatorium's Funding related records for a minimum of seven years after the end of the Funding period.

8.6 INSPECTION BY THE DEPARTMENT

The Conservatorium must permit the Department's Representative, upon reasonable notice of at least three business days and at any reasonable time, to inspect the Conservatorium's records relating to the Program.

The Conservatorium must make available, at the Conservatorium's principal office, for the Representative to inspect or audit:

- all of the records described in clauses 8.1, 8.2, 8.3 and 8.4
- any other paper or electronic document relevant to the Funding including plans, policies and procedures.

The Conservatorium must allow the Representative to make paper or electronic copies of all or part of any of these records. the Conservatorium must give the representative any help he or she needs to carry out the inspection or audit.

The Conservatorium must let the representative:

- visit any locations where activities in connection with the Funding, or any part of it, are or were carried out
- discuss the Funding or the activities relating to the Funding at any reasonable time, with people involved in the carrying out of activities in connection with the Funding.

9. REPORTING

9.1 THE CONSERVATORIUM'S REPORTING RESPONSIBILITIES

- (a) the Conservatorium's reporting to the Department must indicate the progress achieved on the Program and how You spent the Funding.

The information contained in the Conservatorium's reports and financial statements must provide an accurate description of the Conservatorium's implementation of the Program.

- (b) the Conservatorium must satisfy the Department through the Conservatorium's reporting that the Program is being efficiently, effectively and equitably carried out and that the intended outcomes are being achieved or are likely to be achieved.

9.2 INFORMATION THE CONSERVATORIUM MUST GIVE TO THE DEPARTMENT

By 31 March 2018, the Conservatorium must submit the following to the Department.

- (a) A Program Plan for the calendar year 2018.
- (b) A budget showing proposed expenditure of the Funds for 2018.
- (c) A financial report for 2017 that shows receipts and expenditure for the 2017 calendar year.
- the Conservatorium's report must detail Funds from all sources spent on the Conservatorium's non-tertiary music education programs and clearly distinguish the Grant Funds.
 - the Conservatorium's financial report must be certified by a senior officer of the Conservatorium's institution as providing a true and fair statement of such receipt and expenditure.
 - the Conservatorium's financial report must include a written statement in which the Conservatorium declares that the Conservatorium have utilised the Funding in accordance with the intended purpose of the Program and the terms of the Agreement.
 - This declaration must be signed by a senior officer of the Conservatorium's institution certifying that it is correct.
- (d) A Program Report for 2017 that reports against the Conservatorium's 2017 Program Plan that:
- describes achievements in all planned Program activities and any unanticipated outcomes.
 - includes statistics on student enrolments, performances, staffing arrangements, teaching hours, audiences and other measures.

- the Conservatorium's assessment of the outcomes achieved with the Funding.

10 MAKING CHANGES TO THIS AGREEMENT

10.1 GIVING THE CONSERVATORIUM MORE FUNDING

If the Department decides to give the Conservatorium extra Funding from this Program, that Funding will be for whatever period the Conservatorium and the Department agree to in writing and the terms of this Agreement will apply to that Funding.

10.2 VARIATION OR EXTENSION OF THE AGREEMENT

- (a) An amendment or variation to this Funding Agreement is not effective unless it is in writing and signed by authorised signatories of both Parties.
- (b) Any request by the Conservatorium to vary the Funding Agreement must be in writing.
- (c) The Department may extend this Funding Agreement. The terms and conditions of any agreed extension of the Funding Agreement will be a variation to the Funding Agreement.

11. SUSPENDING OR TERMINATING THE AGREEMENT

11.1 SUSPENDING OR TERMINATING BY CONSENT

If both parties agree in writing, this Agreement may be suspended or terminated at any time during the Funding Period.

11.2 THE DEPARTMENT MAY SUSPEND OR TERMINATE THE AGREEMENT

The Department may require the Conservatorium to stop all work resulting from the Funding if it reasonably believes that:

- the Conservatorium has breached this Agreement
- the Conservatorium has used, or are using, the Funding, or part of the Funding, for purposes other than those for which it was given
- the Conservatorium has not properly complied with the terms of one or more previous Funding agreements with the Department.

In this case, all further payments to the Conservatorium will stop whether or not Funding for a particular period remains partly paid.

The Department must give the Conservatorium notice to suspend or terminate the Funding. the Conservatorium must stop all activities in connection with the Funding from the date that the Conservatorium is considered to have received the notice.

11.3 IF THE CONSERVATORIUM RECEIVE A NOTICE THAT FUNDING IS TO BE SUSPENDED

If the Department gives the Conservatorium a notice that Funding under this Program is to be suspended or terminated, then from the date that the Conservatorium is considered to have received that notice:

- the Conservatorium must stop all work resulting from the Funding that has been suspended.
- the Conservatorium must stop spending that Funding.
- the Conservatorium may only spend further Funding if a Delegated Officer first approves of the Conservatorium spending it.
- the Conservatorium must do everything necessary to minimise the Conservatorium's losses relating to the Funding.
- the Conservatorium must do everything possible to cancel obligations that require or will require the Conservatorium to spend Funding.
- the Conservatorium must not make any arrangement or agreement with any other person if it relates to that Funding or the Conservatorium's duties in this Agreement unless the Department first approves of the Conservatorium doing so.

11.4 HOW MAY SUSPENDED FUNDING START AGAIN?

If the Department has suspended any or all of the Conservatorium's Funding, it may:

- consult with the Conservatorium
- start the Agreement again on whatever conditions the Secretary thinks are appropriate.

11.5 REPAYING FUNDING SPENT ON OTHER PURPOSES

If the Department reasonably believes the Conservatorium are using the Funding, or part of it, for purposes other than those for which it was given, then the Secretary will send the Conservatorium a notice telling the Conservatorium:

- (a) the Conservatorium must repay the amount of Funding that the Conservatorium wrongly spent within 14 business days, or
- (b) the amount of any further Funding to the Conservatorium will be reduced by the amount of Funding the Conservatorium wrongly spent.

12. SENDING NOTICES

12.1 NOTICES FROM THE DEPARTMENT

A notice from the Department is only considered given to the Conservatorium if it is:

- in writing
- signed by a Delegated Officer
- sent or delivered to the Conservatorium's most recent address the Department has for the Conservatorium's office by hand, fax, mail or email.

12.2 NOTICES FROM YOU

A notice from the Conservatorium is only considered given to the Department if it is:

- in writing
- sent or delivered to the Department's address by hand, fax, mail or email.

12.3 RECEIVING A NOTICE

A party is considered to have received a notice one day after it is sent.

13. MISCELLANEOUS

13.1 WARRANTIES

A warranty is a promise. If the Conservatorium breaches any of the promises in this clause, the Conservatorium may be required to pay the Department damages for any loss the Conservatorium has caused it because of that breach.

In this Agreement, the Conservatorium promises the following:

1. the Conservatorium is not the agent or representative of the Arts, Sports & Initiatives, the Department or Minister for Education. The Conservatorium will not say or suggest that the Conservatorium is such an agent or representative in any dealings with the public. The Conservatorium will only represent the Conservatorium in everything the Conservatorium does in connection with the Funding.
2. the Conservatorium will mention the support of the Department and the Minister for Education in any publications, promotional material, correspondence or reports about activities for which the Funding has been used, except for those that only the Conservatorium or the Department will see. Promotional material includes all forms of electronic media.
3. the Conservatorium will not subcontract or transfer the functions to be performed by the Conservatorium with the Funding provided.
4. the Conservatorium will comply with all Commonwealth and State laws in carrying out the activities for which the Funding is used.

5. the Conservatorium do not have a conflict of interest in doing what the Conservatorium must do to carry out this Agreement, and a conflict of interest is not likely to arise. If a conflict of interest, or a risk of a conflict of interest, arises while this Agreement operates, the Conservatorium will write to the Department at once outlining that conflict and will agree to comply with any decision it makes in relation to that conflict.
6. the Conservatorium's employees are the Conservatorium's responsibility alone. The Conservatorium will maintain any insurance policies that the Worker's Compensation Act, and any other law requires the Conservatorium to. The Conservatorium will maintain a public liability insurance policy for no less than \$20 million per occurrence.
7. the Conservatorium will inform the Director, Arts, Sports & Initiatives, of any major changes in the Conservatorium's financial or management circumstances.

13.2 PEOPLE THE CONSERVATORIUM MUST INDEMNIFY

The Conservatorium must indemnify the people listed below. This means the Conservatorium must pay back these people any money they pay out for loss or damage that happened in connection with the Conservatorium's spending of the Funding.

The Conservatorium must indemnify these people:

- the Secretary
- the Officers of the Department
- the Secretary's delegates
- the Minister for Education and his or her Officers.

for any loss or damage caused by any of these people:

- the Conservatorium
- the Conservatorium's employees
- the Conservatorium's agents.

if that loss or damage arises from any of these things:

- legal action
- claims
- compensation costs
- legal fees or expenses.

13.3 DISPUTES

Both parties will use their best endeavours to resolve any dispute between them relating to this Agreement, by means such as negotiation, mediation or conciliation before resorting to formal arbitration or litigation.

13.4 WAIVER

No right or obligation under this Agreement shall be considered to be given up except by written notification signed by the Conservatorium or the Department giving up the right or obligation.

If the Department gives up any right or obligation it will not prejudice its rights in respect of any breach of this Agreement by the Conservatorium.

13.5 GOVERNING LAW

- (a) This Agreement is governed by, and must be construed in accordance with, the laws in force in the State of NSW.
- (b) The Conservatorium and the Department submit to the non-exclusive jurisdiction of the Courts exercising jurisdiction in the State of NSW and any courts entitled to hear appeals from them.

SIGNING THIS AGREEMENT

The Conservatorium must sign in this part:

The common seal of:

The University of «Name_of_University»

was fixed on this agreement, as its constitution directs

(common seal)

in the presence of:

Signature: _____

Full name: _____

(Please print)

Position: _____

Witness's
Signature: _____

Full name: _____

(Please print)

Position: _____

[This column is for the
Department
of Education]

Jenny
Donovan

R/Executive
Director, Learning
and Teaching
Signed for and on
behalf of the NSW
Department of
Education.

Witness's
Signature: _____

Full name: _____

*(Please
print)*

Position: _____

Date the Conservatorium sign:

Date signed
by
Executive
Director,
Learning
and
Teaching
