

Indigenous Cultural and Intellectual Property (ICIP) PROTOCOL

Best practice protocols for collections
management at Western Sydney University



Prepared by



Terri Janke and Company Pty Ltd
Lawyers and Consultants
Address: Suite 3.02, Level 3, 247 Coward St,
Mascot NSW 2020 Australia
Email: tjc@terrijanke.com.au
Ph: (02) 9693 2577

Written and researched by

Dr Terri Janke, Laura Melrose, Emma Fitch and Shekira Cardona.
Protocols informed by stakeholder consultation conducted by
Dr Terri Janke and Laura Melrose.

Commissioned by



WESTERN SYDNEY
UNIVERSITY

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Warning

Terri Janke and Company would like to advise Indigenous Australian readers that this Protocol may contain images or names of people who have since passed away.

Important legal notice

The laws and policies referred to in this publication are current as of 18 November 2024. Any reference to laws and policies are for general use only. You should not rely on this document for legal advice for a specific matter. We recommend you obtain professional legal advice from a suitable, qualified legal practitioner.

Acknowledgements

Terri Janke and Company acknowledges and thanks all the people who provided their time and insights to the development of this Protocol.

Artworks

All artworks within this document are sourced from the Western Sydney University Art Collection.

Artwork Photography

C/o Ames Yavuz pg 33
Billy Bain , Cover and pg 28
Karla Dickens pg 17, 52
Robert Edwards pg 2, 5, 10, 11, 20, 24, 25, 39, 41 , 44, 47
David Hagger pg 6, 18

cover **BILLY BAIN, Dharug** *The Fighters* (detail), 2024,
ceramic, textile, wood, cardboard, underglaze, synthetic polymer paint,
enamel, dimensions variable

right **AMANDA JANE GABORI, Kaiadilt** *Birnarra*, 2009,
synthetic polymer paint on linen, 136 x 60cm



USE of TERMS

ABORIGINAL and INDIGENOUS

Throughout this Protocol, we use the term ‘Indigenous Australians’ to refer collectively to Aboriginal and Torres Strait Islander peoples. This terminology is used to remain consistent with other strategy and policy documents at Western Sydney University, and is intended to reflect the diversity of Indigenous cultures, nations and language groups that exist in Australia.

We further acknowledge that preferred spelling of names of language groups and other Indigenous words may differ. We have used preferred spelling as indicated in consultation.

This document uses the word ‘Indigenous’ when referring to the rights Indigenous peoples have to their heritage in the context of Indigenous Cultural and Intellectual Property, or ICIP. ICIP is a term and a concept that is widely used in both international and domestic contexts, and is reflected in the True Tracks® principles which form the basis for this protocol.

We acknowledge and respect that Indigenous Australians may prefer to identify themselves in a range of ways, including as First Nations, Aboriginal and Torres Strait Islander, First Peoples, or by collective terms such as a clan, mob, language group and/or Country.

ACKNOWLEDGMENT of COUNTRY

Western Sydney University acknowledges the peoples of the Dharug, Dharawal, Eora and Wiradjuri nations as the Traditional Custodians of the lands on which our campuses sit.

We acknowledge the Indigenous Australian Peoples as the First Peoples of Australia and the Traditional Custodians of lands, seas and skies.

We also acknowledge that the teaching and learning currently delivered across our campuses should be a continuance of the teaching and learning that has occurred on these lands.

We acknowledge and respect the endurance of Indigenous Australian cultures, and the ongoing care and connection that Indigenous Australians demonstrate in respect of this Country.

We pay our respects to the Indigenous Australians, and to their Elders past and present.



GAYMALA YUNUPIDU, Yolŋu *Djirkitji*, 2005
silkscreen 25/30 ed., 62 x 42.5cm



AMALA GROOM, *Wiradyuri Myths & Legends: Popular Sovereignty*, 2022, acrylic on vintage deadstock offset lithograph, 1/10 ed., 46 x 61cm

FOREWORD

Western Sydney is home to more than 54,000 Indigenous Australians, and Western Sydney University is proud to be part to the continuum of learning that has occurred on this unceded land for over tens of thousands of years.

To ensure respect, care and reciprocity are key to our interactions, Western Sydney University has forged many strong relationships between Indigenous communities and the University. Through the University's Indigenous Centre of Excellence, to be built on the Parramatta South Campus, we will consolidate the University's ambitions and commitments to Indigenous Australians through recruitment, capacity development, sustainable leadership and governance, and sovereign ethical responsibilities of Indigenous academics and the Indigenous communities they, and the University, engages with.

Western Sydney University acknowledges and respects Indigenous ongoing sovereignties, and it is our collective responsibility to hold with respect and care artistic, visual, oral and written representations as far as possible. To ensure best practice in the way the University works with Indigenous Australians and our cultural material containing Indigenous Cultural and Intellectual Property (ICIP) for which the University is a caretaker and guardian for in our libraries, archives and art collection Western Sydney University commissioned Terrie Janke and Co to work with the teams across the University to develop this collection based ICIP protocol. This protocol is a shared vision and fosters understanding whilst providing redress for institutional imbalances brought upon Indigenous Australians through colonial power structures.

I wish to take this opportunity to thank all those involved with this process, the Elders Advisory Committee, the Indigenous Professoriate group in particular Professor Gawaian Bodkin-Andrews, the student and staff consultation groups, the teams from the Collecting Business Units – Western Sydney Creative, The Library and RAMS, the Office of General Counsel and the team at Terrie Janke and Co.

We hope this protocol is the catalyst for change, and for further ICIP protocols to be developed across the University and the sector more broadly.



PROFESSOR MICHELLE TRUGGETT
Deputy Vice Chancellor and Vice President,
Indigenous Leadership

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6/30 our hair in your collections Judy Watson 97

JUDY WATSON, Waanyi *Our hair in your collections*, 1997,
etching on paper, 6/30 ed., 50 x 40cm



6/30 our bones in your collections Judy Watson 97

JUDY WATSON, Waanyi *Our bones in your collections*, 1997,
etching on paper, 6/30 ed., 50 x 40cm

PART A

Introduction and Key Concepts

1 Introduction

Western Sydney University (or the University) is embarking on a mission to instil cultural best practice in management of collections containing Indigenous Cultural and Intellectual Property at the University.

This Protocol aims to ensure best practice management of the Indigenous Cultural and Intellectual Property (ICIP) held by the University in the form of art, cultural material, photographs, documents, archives and Library collections, and other examples of Indigenous cultural heritage. The University is the caretaker of collections containing locally and nationally significant works by and relating to both Indigenous and non-Indigenous Australians. The aim for this Protocol is to provide guidance to staff about how to engage with Indigenous Australians and these works.

This Protocol is a best practice guide to support staff in navigating the entwined pathways traversing Indigenous Knowledges, Practices, and ongoing colonial traumas. The University respects ongoing Indigenous sovereignties, and it is our collective responsibility to hold with respect and care artistic, visual, oral and written representations as far as possible. The University has these obligations as both a caretaker and guardian of the Indigenous Cultural and Intellectual Property in its collections.

1.1 Purpose of the Protocol

The primary outcomes for this ICIP Protocol are:

- Respect the rights of Indigenous Australians as the Traditional Custodians of lands, seas, skies, knowledges, and living cultures
- Provide a clear approach to ensure uniform policy/procedure is in place for best practice management and protection of ICIP in the University collections
- Increase the cultural awareness and competency of students and staff working in collections at the University
- Supporting Indigenous Australians at the University, including the Elders Committee, the Indigenous Professoriate, Indigenous academic and professional staff, and students
- Ensuring cultural safety in relation to the appropriate management, handling and display of artworks, records, photographs, materials and other items incorporating ICIP within the University's collections¹
- Provide a framework for the University and Indigenous Australians to discuss Indigenous Australian aspirations to the management of the University collections including feedback for improvement.

1.2 Scope of the Protocol

This Protocol has been drafted in consultation with and for several specific business units within the University. These are:

- Western Sydney Creative (or WSC) who manage the University Art Collection
- The University Library
- The University Archives

These business units, sometimes referred to together in this Protocol as the **Collections Business Units**, have each undertaken to uphold this Protocol in their work and activities. This commitment to best practice is in line with the United Nations *Declaration on the Rights of Indigenous Peoples*.

Accordingly, the scope of this Protocol includes:

- Western Sydney University's Art Collection, incorporating paintings, artefacts, sculptures and other objects of cultural material, whether commissioned, purchased or donated to the University;

- Library collections, including photographs, research, publications, documents, etc.; and
- The Western Sydney University Archives, including records, data and other information;

Other business units, faculties and work areas within the University may also decide to uphold the provisions and guidance of this Protocol. To do so, business units should make this commitment clear within the University, and implement structures to ensure adherence and accountability within the business unit.

It is a requirement for signing up to this Protocol that business units take the True Tracks® training workshop from Terri Janke and Company.

It must be noted that this Protocol guidance has been drafted for management of collections. Other areas of the University (such as research, or learning and teaching) should have additional considerations in relation to how their activities relate to ICIP. This document may provide some guidance for business units that sign up, but should not be considered a comprehensive document for business units with activities outside collections management.

The following existing strategies and policies have been considered during the development of the Protocol:

- Western Sydney University *Indigenous Strategy 2020-2025*
- *Sustaining Success: 2021-2026 Strategic Plan*
- *Indigenous Futures Decadal Strategy 2023-2032*
- Western Sydney Creative *Arts and Culture Decadal Strategy 2019-2029*
- *Sustainability and Resilience Decadal Strategy 2030*
- *Indigenous Australian Education Policy*
- *Indigenous Australian Employment Policy*
- *Art Collection Development and Access Policy*
- *Library Collection Development Policy*
- *Records and Archives Management Policy*
- *Intellectual Property Policy*

This document is advisory or explanatory only and is designed to assist employees of the Collection Business Unit to implement rules, policies and procedures. Nothing in this document limits the operation of any University wide rules, policies and procedures.

1.3 How to use this Protocol

This document provides a basic understanding of ICIP. It is noted that the areas of the University specified above will each have varied needs and nuances to their work with ICIP. No guideline can ever answer all questions or circumstances. There is never a one-size-fits-all approach for engaging with Indigenous peoples and communities. It is the expectation of the University Collections Business Units that all staff commit to an ongoing cultural competency journey, of which this Protocol is one reference point.

Accordingly, this Protocol provides a principled framework and some worked examples for users of this Protocol across Collections Business Units to understand the key issues, and then adapt and apply their learnings to new situations as they arise.

To get the best out of this Protocol, users should:

- 1 Understand the key concepts: **PART A**
 - a Read the True Tracks® principles (**2.2 True Tracks® Guiding Principles**, opposite) and critically consider how they can be applied to your work;
 - b Get an understanding of ICIP (see **3 Indigenous Cultural and Intellectual Property**, page 16 and **7.2 Further resources**, page 54);
- 2 Review **PART B** and look for the section which relates to your question or circumstances;
- 3 Use the resources provided in **PART C: Implementing the Protocol**; and
- 4 Where there is no specific guidance in **PART B**, page 19, relating to your situation, refer to any similar examples given and use your best judgement to apply the **True Tracks® Guiding Principles**, opposite.

1.4 Who should use this Protocol?

Collections Business Unit staff. This Protocol is a practical tool to guide staff managing collections through their regular day-to-day decision-making in relation to ICIP. These roles may include:

- Library and archive staff making decisions in relation to collections management
- Curatorial staff developing exhibitions
- Teaching staff seeking materials from existing collections to use in their courses and curriculums. Demonstrating ICIP-positive teaching practices in curriculum and to students will improve student competency in relation to ICIP
- Researchers using collections to investigate topics relevant to or involving ICIP
- Marketing and communications staff members using photographs or other materials containing ICIP

Staff of business units that have signed up to this Protocol are expected to adhere to these standards.

Students engaging with collections. Several areas of study within the University may involve working with collections material incorporating ICIP. Where students engage with collections under the support and management of Collections Business Unit staff, they may refer to this Protocol for guidance. Staff of relevant business units should assist students to learn about and understand best practices for ICIP.

External parties. The Protocol and any associated guides and tools will also be useful for external parties engaging with the University's collections to understand what is expected of them.

Indigenous Australians. ICIP Protocols may also be useful tools for Indigenous peoples and communities, to assist them in understanding their rights. This Protocol supports Indigenous Australians when they work with the University collections to understand what they may expect, and to hold Collection Business Unit staff to account in relation to best practice working with ICIP.

2 True Tracks® Guiding Principles

The True Tracks® was developed by Terri Janke and Company. True Tracks® is an industry-leading framework that provides the foundation for Indigenous engagement and practical self-determination. They have been applied in numerous sectors, including museums and galleries, research, science and technology, government, private companies, universities, and many more.

Use the Principles to guide how the University Collection Business Unit staff meaningfully engage with ICIP in the University collections. Staff and students working with the collections should refer to these Principles as prompts to consider important issues when undertaking ICIP related projects, and to guide any use of ICIP and engagement with Indigenous Australian people and communities.

1 Respect

Indigenous Australians have the right to maintain, control, protect and develop their ICIP in accordance with Article 31 of the United Nations Declaration on the Rights of Indigenous Peoples. ICIP rights deserve respect and should be considered in addition to any legal or intellectual property (IP) rights that exist in material that contains ICIP.

2 Self-determination

Indigenous Australians have the right to self-determination in their ICIP. Indigenous Australians should be encouraged and empowered in decision-making processes about projects that affect their ICIP.

3 Consent and Consultation

Indigenous Australians have the right of free, prior and informed consent for use of their ICIP. This involves ongoing consultation, negotiation and informing owners, custodians, community members and stakeholders about the implications of consent.

4 Interpretation

Indigenous Australians are the primary decision-makers and storytellers for any interpretation of their ICIP.

5 Cultural Integrity

Maintaining the integrity of ICIP information or knowledge keeps culture strong. Indigenous Australians have the right to ensure the cultural integrity over their ICIP.

6 Secret/Sacred and Privacy

Indigenous Australians have the right to keep secret their sacred and ritual knowledge in accordance with their customary laws. Indigenous Australians are also entitled to protection of their confidential information and privacy.

7 Attribution

Indigenous Australians have the right to be attributed as the custodians of their ICIP.

8 Benefit Sharing

Indigenous Australians have the right to share in benefits from the use of their ICIP, especially if it is being used publicly and/or commercially applied. The economic benefits from use of their ICIP should also flow back to the source communities.

9 Maintaining Indigenous Culture

Indigenous Australian cultures are not static and measures need to be taken so that Indigenous Australians can maintain, revitalise and advance culture. Importance and respect should be given to Indigenous cultural practices such as dealing with deceased people and sensitive information.

10 Recognition and Protection

Australian law, contracts, protocols and policies should be used to recognise and protect ICIP rights.

3 Indigenous Cultural and Intellectual Property

3.1 What is ICIP?

Indigenous Cultural and Intellectual Property, or ICIP, refers to all aspects and elements of Indigenous peoples' cultural heritage, and the rights that Indigenous peoples hold in relation to that cultural heritage. It includes:

- 1 literary, performing and artistic works (including arts, craft, designs and symbols, dance, song, music, ceremonies, and performance),
 - 2 documentation of Indigenous peoples' heritage in all forms of media such as archives, films, sound recordings, videotape or audiotape, photographs, artistic works, books, reports, databases and records taken by others, and all forms of media,
 - 3 traditional knowledge; spiritual or ritual knowledge and stories; scientific, agricultural, technical and ecological knowledge,
 - a this includes contemporary knowledge that has been developed collectively by Indigenous Australian people based on shared history and culture, and cultural practices including caring for Country practices,
 - 4 all movable cultural objects and property (including, but not limited to arts, crafts, ceramics, jewellery, weapons, tools, visual arts, photographs, textiles, contemporary art practices),
 - 5 immovable cultural property (including sacred or significant sites and burial grounds and their associated stories of place, songlines, or may include historically significant sites such as the Female Orphan School),
 - 6 ancestral remains, including hair, bones and DNA, and
 - 7 Indigenous languages.
- ICIP incorporates both tangible and intangible elements: sites, objects and artworks, but also ceremonies, stories and knowledge, the nature or use of which has been transmitted or continues to be transmitted from generation to generation. In Australia, Indigenous heritage is a living heritage, and ICIP includes objects, knowledge and literary and artistic works which may be created in the future based on that heritage.
- In Indigenous Australian cultures, people have roles and responsibilities in relation to ICIP. Some ICIP is secret or sacred and is not suitable for sharing with non-Indigenous people. ICIP is dynamic and continues to expand and be developed with each new generation. In terminology, 'ICIP' is often used interchangeably with 'cultural heritage' and vice versa.
- In accordance with the United Nations *Declaration on the Rights of Indigenous Peoples (UNDRIP)*, Indigenous peoples have the right to:
- own, control, maintain and expand their ICIP;
 - ensure that any means of protecting ICIP is based on the principle of self-determination;
 - be recognised as the primary guardians and interpreters of their cultures;
 - authorise or refuse to authorise the commercial use of ICIP according to Indigenous customary laws;
 - maintain the secrecy of Indigenous knowledge and other cultural practices;
 - guard the cultural integrity of their ICIP;
 - be given full and proper attribution for sharing their cultural heritage; and
 - control the recording of cultural customs and expressions and the particular language which may be intrinsic to cultural identity, knowledge, skill and teaching of culture.²

3.2 Understanding ICIP and the law

ICIP Rights are enshrined in the UNDRIP, but they are not currently protected under law in Australia. Best practice and this Protocol require that ICIP be considered and respected in a similar way to intellectual property (IP) rights (including copyright). However, consent for use of IP as required under law will be different to ICIP consents required by Indigenous Australian peoples.

ICIP can be protected under Australian IP laws where it meets the requirements for protection. For example, copyright laws will automatically apply to ICIP that is written down or recorded in some way e.g. in an artwork, in a recording of a traditional story or as depicted in photographs.

Copyright: Copyright protects artistic, literary, dramatic and musical works, as well as film, sound recordings, broadcasts and published editions. In order to attract copyright protections, the work must be recorded in material form, i.e. written down or recorded in some way. In most cases in Australia, copyright protects the work for 70 years after the death of the creator.

Moral rights: Moral rights refer to the personal rights of the creator of a copyright work to:

- 1 Be attributed as the creator of the work (right of attribution)
- 2 Stop someone else from being credited as the creator (right against false attribution)
- 3 Ensure that their work is not subject to derogatory treatment, i.e. acts that are harmful to the creator's honour or reputation (right of integrity)

These rights are retained by the creator even where they assign (transfer) or licence their copyright in their work to a third party, and must be dealt with in the contract, and wherever a person is recorded (e.g. when interviewed, photographed or as a performer). Moral rights, like copyright, last for the life of the creator plus 70 years.

Copyright and other intellectual property rights are legal rights. Except for moral rights, they are also economic rights – they are property which can be bought and sold.



KARLA DICKENS, Wiradjuri *Looking at you VII*, 2017, inkjet print, edition of 6 + 2 AP, 60 x 60cm

ICIP, by contrast, is not legally owned but rather held on trust by Indigenous Australians or cultural knowledge holders (collectively ICIP rights holders) of that ICIP for their particular peoples. It is passed through generations by way of cultural practice, and collectively held and cared for by many people.

Even where a work is in the public domain, or no longer protected by copyright (life of the author plus 70 years), ICIP consents are still required to use the works where ICIP is incorporated. This is a cultural rather than legal obligation.

3.3 ICIP in the University collections

Due to this complex legal context, effective socialisation of ICIP concepts and ICIP-positive practice into the Collections Business Units workforce is likely to require targeted professional development and tailored collateral that assists people on this journey.

Applying the Principles in the University Collections

This is the section in which the Protocol provides specific guidance on key issues/challenges identified by Collections Business Unit staff, and identifies the outcomes that can be achieved with best practice.

This section sets out examples of situations where issues concerning ICIP arise in Western Sydney University collections management, and how to deal with them. These are drawn from consultation feedback and from the expertise of Terri Janke and Company. It will also provide tools which can be used to deal with situations not specifically outlined here that may arise in future.



4 General Protocols for all Collections

The University Collections Business Units are guardians and caretakers of the Indigenous materials and knowledge in collections. As such, materials and information should be handled and stored with care and respect.

Maintaining cultural integrity is critical to respectfully working with ICIP. This is true for all kinds of ICIP – management of new and existing artefacts, quotes by Elders, stories behind artworks, etc. This extends especially to items of ancestral remains, should this exist in any collections anywhere within the University. Collections Business Unit staff and students should ensure that they are educated and equipped to work with ICIP before seeking to use collections material that may incorporate ICIP in any form.



4.1 Embedding ICIP Protocols in Collections Business Units' work

Applying these Protocols is about more than just the Indigenous Australian items, artworks and records in the University's collections. It is about taking a holistic approach.

In order to manage collections that include Indigenous Australians items and knowledge, or that comprise materials about Indigenous themes or that are in some way related, define or connect with Indigenous themes, there need to be ICIP Protocols.

4.2 Identifying ICIP

ICIP is included in many of the materials in the University collections. These includes artworks, photographs, and records. When dealing with Indigenous collections, it is important to consider ICIP rights as well as copyright. Staff and students should be able to identify ICIP and the issues that may apply to the management and use of an item from a collection, such as attribution or seeking free prior and informed consent.

When identifying whether ICIP exists in a particular item, material, object, within the Collection, staff should ask:

- Does it contain knowledge or information contributed by Indigenous Australian people about culture or heritage?
- Does it contain designs, styles or imagery that may belong to Indigenous Australian clan groups?
- Does it incorporate Indigenous clan owned stories or cultural expressions of Indigenous Australians?
- Does it use Indigenous Australian language words?
- Does it show an Indigenous Australian ceremony or performance?
- Does it contain information about Country contributed by Indigenous Australian people?

KUNMANARA (RAY) KEN, Pitjantjatjara/Yankunytjatjara
Tali (sand dune), 2010,
 synthetic polymer paint on linen, 101 x 152cm

Some examples of ICIP in the University collections may include:

- Aboriginal artworks collected in the 1970s – bark paintings from Northern Arnhem land depicting spirit beings;
- A video recording of a Welcome to Country or smoking ceremony from a University event;
- Resources or materials relating to Indigenous languages;
- Research about traditional or cultural uses of a native Australian plant.

In all cases, if there is any doubt as to whether ICIP is present in the material or if consent should be sought, it is safest and best practice to consult and seek consent. **Note:** This only relates to seeking consent for using ICIP. Note that other laws and regulations, such as intellectual property or privacy laws requiring consent for photographs or recordings, may also apply. See **3.2 Understanding ICIP and the law**, page 17, for further information.

If, after you have reviewed this Protocol and, you are still unsure whether information or material contains ICIP – contact the Division of the Deputy Vice-Chancellor Indigenous Leadership (**DDVCIL**) for advice.

4.3 Indigenous Data Sovereignty and Indigenous Data Governance

The University Collections Business Units recognises the right of Indigenous Australians to exercise ownership and control over knowledge and information that is about them or may affect them. This is referred to **Indigenous Data Sovereignty**.

ICIP rights operate to maintain, control, protect and develop the use, cultural integrity, and interpretation of Indigenous Australians cultural heritage, Traditional Knowledge and traditional cultural expression. Indigenous Data Sovereignty focuses on the empowerment and self-determination of Indigenous Australians in social, economic, and cultural spheres, through control of data, ideally across the whole data ecosystem (from conceptualisation to analyses to dissemination to ongoing sustainability).

Indigenous Data Sovereignty and Indigenous Data Governance means that Indigenous people have

governance of data that is generated by researchers, communities, institutions and state infrastructure, to shift the agenda to give equal weight to Indigenous aspirations rather than just deficits.³ It also requires access and control of **data for governance**: information that adequately reflects Indigenous cultural diversity, worldviews and priorities.⁴

In managing its collections, the University Collections Business Units have a responsibility to respect the rights of Indigenous Australians to own, access and control their information. The University Collections Business Units recognises and acknowledges that while they may be **caretakers** of ICIP and Indigenous Data, they are not the rightful owners of that information and material.

Indigenous Data Sovereignty in practice means:

- Indigenous peoples have control over the creation, collection and dissemination of Indigenous Data
- Indigenous Data is only gathered, collected, accessed, used or shared with consent of the people concerned, i.e. the people whose Data it is or to whom the Data pertains
- Indigenous Data is managed and stored in line with any relevant cultural protocols that may apply to particular Indigenous Data
 - E.g. accompanying information or details, protocols relating to secret/sacred or sensitive information, restrictions on access (for example, according to gender), sharing or use, or other conditions.
- Ensuring that Indigenous Data is available in an accessible format to Indigenous Australian people on request
- Indigenous Data is applied to maximise benefit and minimise harm for Indigenous Australians
- Any analysis of Indigenous Data should be led by Indigenous Australians.
- Indigenous Australian communities are resourced and have capacity building opportunities to allow them to take ownership of Indigenous Data which is being shared or repatriated back to them

4.3.1 CARE Principles for Indigenous Data Governance

In 2016, a scientific journal published the FAIR Principles for good data management – Findability, Accessibility, Interoperability, and Reusability.⁵ These

principles put specific emphasis on enhancing the ability of machines to automatically find and use data, in addition to supporting its reuse by individuals, in support of knowledge discovery and innovation.

In response, the Global Indigenous Data Alliance developed the CARE Principles in 2019, to better recognised power dynamics, culture and history, and engage with the rights and interests of Indigenous peoples.⁶

The Collections Business Units support the need to balance knowledge and data sharing with the rights of Indigenous peoples to their data and information, and respect the principles of:

- C** **Collective benefit for Indigenous peoples in the use of their data**
- A** **Authority of Indigenous peoples to control their data**
- R** **Responsibility to exercise care in how Indigenous data is used; and**
- E** **Ethical use of Indigenous data, which is fundamental to minimising harm and ensuring the rights and wellbeing of Indigenous peoples.**

These principles are already reflected in some the University policies, including the Research Data Management Policy.⁷

Users of the University collections have the responsibility to adhere to the CARE principles, and be FAIR and CARE.

4.4 Caring for Secret and Sacred materials

Secret/Sacred ICIP holds a high level of cultural significance. Consents and protections are especially important for Secret/Sacred ICIP. Staff and students handling the University collections should understand the importance and sensitivity of Secret/Sacred ICIP, and respect any cultural protocols related to it. There may also be cultural obligations that restrict access and use of ICIP to certain times, purposes or only by a certain gender or level of seniority within a community. This may impact decisions such as what artworks can be displayed in exhibitions, where artworks may be displayed in the University, or how materials are labelled, archived or stored in library collections.

The *University's Intellectual Property policy* already requires that staff and students ensure that any “use or acquisition of traditional knowledge (including making a written, visual or audio record) must be respectful of the secrecy or confidentiality obligations imposed on the material by the traditional custodians.”⁸

The University staff and students working in collections should be alert to possible Secret/Sacred or sensitive material that has not been previously identified. Some sensitive material may be easily identifiable, such as images of Indigenous Australians who have since passed. Other material may not immediately appear to be sensitive to a non-Indigenous viewer.

Some signifiers of potentially sensitive material may include:

- Old photos or recordings
- Recorded accounts of cultural stories or songlines
- Descriptions of cultural practices as ‘men’s business’ or ‘women’s business’
- Descriptions of scarification, birthing, or other ceremonial practices

Users of collections material should consult with relevant Traditional Owners to confirm if materials are Secret/Sacred or not.

There may also be reproductions of Indigenous Australian cultural content which are not attributed to the relevant Traditional Custodians, such as materials which only reference non-Indigenous authors. Where materials may be Secret/Sacred (i.e. include one of the above signifiers, or others), even where the creators appear to be non-Indigenous people, users should be cautious and seek consent before using.

If materials are identified by users as Secret/Sacred, users should also inform the collections managers to ensure that future users are aware of the context and any applicable restrictions.

Secret/Sacred material may not be appropriate to hold in University collections. If Secret/Sacred material is identified, the Collections Business Unit should consult with DDVCIL and consider the capacity to repatriate the material to the relevant Indigenous Australians. If appropriate, this should be done with community support and in accordance with the directions of the relevant community and the relevant Collection Business Unit Collection Policy. If it is held in collections, special care should be taken to look after the Secret/Sacred Material in a respectful way.

Important note: Collections Business Unit staff will need to have consideration of any contractual and legal obligations attached to the particular item of the collection before there is any repatriation or material change to the use of the item. Where there is doubt as to the rights of the University The Office of General Counsel (OCG) should be consulted. There are typically terms and conditions attached to gifts received by the University including Art.

4.5 Respecting cultural mourning

Reproduction of names, photographs and images of deceased Indigenous Australian people may not be permitted following their death. This restriction may be for a cultural mourning period or indefinitely. This may also extend to using their quotes or displaying artworks created by them (see **5 Artworks Protocols**, page 36 and **6.3 Quotes**, page 49).

Collections staff should maintain ongoing relationships with Indigenous Australian communities to ensure that discussions occur on a regular basis, and the University can be easily notified of any protocols that will need to be followed when someone passes away.

If consents are required following the death of a person, the Collections Business Unit will need to contact the family or community of the deceased person.

When using collections material by a person who has since passed, it is good practice to note that fact in the use. For instance, referring to a paper during a presentation that was written by a person who is now deceased – this should be acknowledged.⁹

For more information, refer to the section on images and recordings of Indigenous Australians – **6.2 Photographs and recordings**, page 48.

4.6 Consultation and free prior and informed consent (FPIC)

Staff should seek the consent of Indigenous Australians when accessing, handling, storing, sharing or otherwise using materials that incorporate Indigenous culture.

“Traditional knowledge or Intellectual Property is to be acquired from indigenous people on terms that are fair and with the agreement of the indigenous people from whom the knowledge or Intellectual Property is acquired [sic].”¹⁰



MICHAEL COOK, Bidjara *undiscovered #5*, 2010,
inkjet print on paper ed.8, 124 X 100cm



MICHAEL COOK, Bidjara *Undiscovered #1*, 2010,
Inkjet Print on paper ed.8, 124 x 100cm

Collections staff should also assist students to apply this Protocol and seek consent for use of collections material where required.

4.6.1 Meaningful consultation

Meaningful consultation requires existing relationships. The University staff in charge of collections should invest time in building connections with local Traditional Custodians, ICIP rights holders and Indigenous Australian people and communities. Involve the local Indigenous Australian community in the University’s business and invest in opportunities for partnership.

“We also want to develop relationships with the community to co-create spaces and services which are culturally appropriate, welcoming and inclusive. This may include signage, artworks, space design/location, and how we engage in the context of service points and assistive literacy support.”¹¹

A general rule of thumb for consultations is that: **the wider the proposed use of ICIP, or the greater the impact of the proposed use, the wider the scope of consultation required.** For instance, re-labelling a stored image of a deceased Elder to include a request by his family that the archive now refer to him by his skin name may only require input from the Elder’s family. By contrast, complex projects that involve ICIP belonging to multiple communities or language groups, or using ICIP in a multi-party project (for example, Indigenous languages and stories) may require more extensive consultation. See **4.6.3 Contradictory advice**, right, for advice on dealing with situations where groups do not agree.

When making decisions relating to ICIP and Indigenous heritage in the University’s collections, consider the impact of that decision. Refer to the DDVCIL for advice. If the decision is one which may require consultation with the wider community, the DDVCIL may be able to assist in developing an appropriate consultation plan, and guiding who you may need to speak to.

Throughout consultation, always ask: ‘is there anyone else we should speak to?’ This approach will support consulting widely and reaching the appropriate people.

It is important that the University Collections Business Unit staff also ensures that representatives undertaking consultation are sufficiently culturally

competent about the right way to respectfully collaborate with Indigenous peoples. Consultants should be prepared to receive feedback on the best way to proceed, and have developed the necessary levels of cultural competency to improve their consultation practices. Undertaking True Tracks® training can assist with this. This is an ongoing process and will be a necessary part of implementing this Protocol.

4.6.2 Seeking consent

Free prior and informed consent, or **FPIC**, is the international standard for best practice when working with Indigenous peoples and cultures.

Always record consent for any permitted use of ICIP, preferably in writing, though audio or video recordings may also be appropriate in circumstances of low literacy. Use written licences and cultural consent forms for ICIP in the same way that copyright licences are used to record permission for using a copyright artwork. Often, the ICIP clearance can be incorporated into a copyright licence or contract that is being negotiated with the copyright owner or their agent for use of the work.

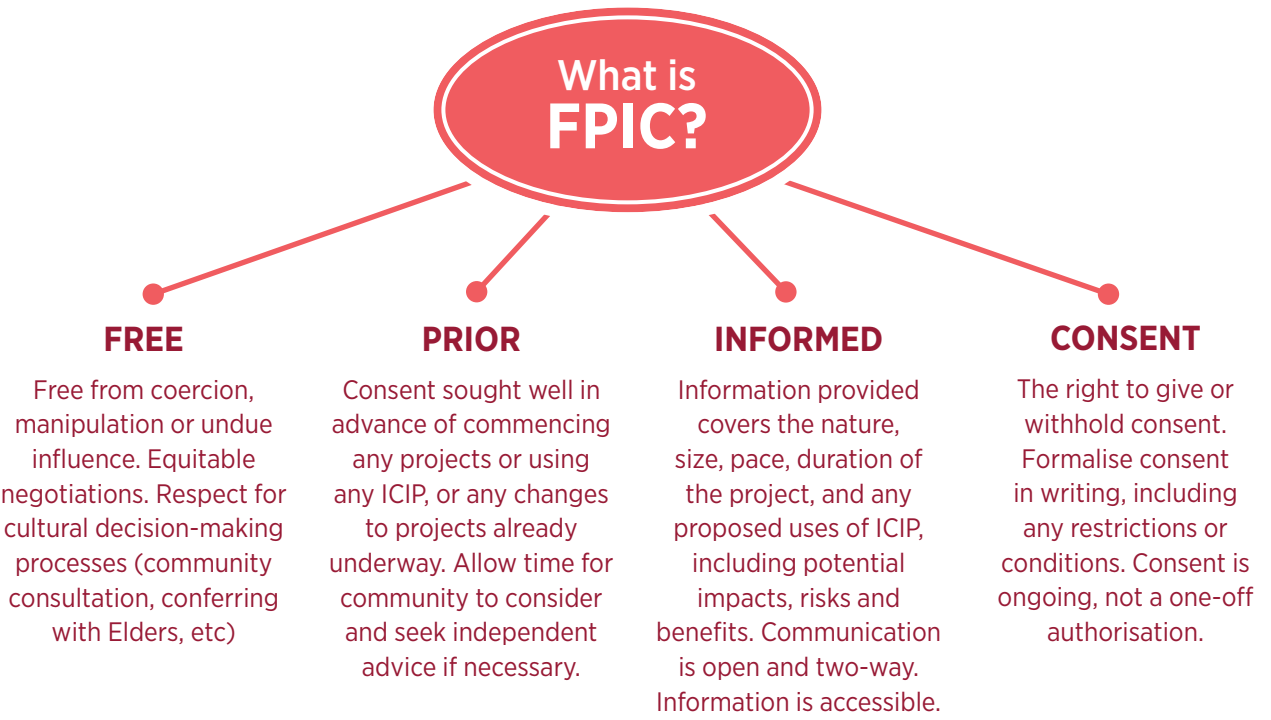
In many cases, it will also be appropriate for the Collections Business Unit to consider the inclusion of terms for a benefit sharing agreement with the Indigenous Australian party.

In some cases, it will not be possible to find the relevant Traditional Custodians in order to consult with them. Often the approach here will be – if there is no answer, the answer is no.¹²

4.6.3 Contradictory advice

Indigenous Australian peoples are not homogenous and may often hold differing perspectives. The cultures, protocols and ways of doing things can vary greatly amongst different communities. During consultation, it is possible and even likely that the University staff may receive contradictory advice from multiple sources.

In situations where Collection Business Unit staff receive contradictory advice, collections staff and decision makers should follow the guidance of the senior Indigenous Australians or cultural authorities from where the cultural information originates – particularly where it comes from community organisations such as Land Councils and Elders Groups. It may be appropriate to offer a right of reply to the disagreeing party (see **section 4.10.1 Right of reply**, page 31).



Understanding Free, Prior and Informed Consent.
© Terri Janke and Company, 2024.

In all cases, advice from the direct descendants of an Indigenous Australian who created or is the subject of collections material will take precedence over advice received from other parties, even if the other party is an Indigenous representative body.

There may be instances where if consensus cannot be reached, that a project, idea or initiative cannot be moved forward.

If you are unsure about what advice to follow, seek advice from the DDVCIL.

4.7 Indigenous language words

Indigenous languages are fundamental to Indigenous identity and cultural expression. Language is more than a method of communication for Indigenous Australians – it is a tie that connects family, community, Country and Culture.

Collections Business Units can also have an important role in the revitalisation of languages. Through the respectful storage of information and continually building relationships with Indigenous Australians, it is possible for the Collections Business Units to have a longer-term role in supporting revival of languages, in a way that Indigenous Australians have control over.

Before any use of Indigenous languages, the Collections Business Unit staff should consult with and obtain the **free prior and informed consent** of Indigenous language custodians. This includes seeking proper interpretations of language – checking correct spellings, definitions, and pronunciations of language words to ensure appropriate use.

Any publication or use of Indigenous Australian language word(s) by Collections Business Units should attribute the cultural permissions obtained by the relevant traditional custodians for the use.

Uses of ICIP, including languages, should result in benefits for the use being shared back to the source community. Benefits may be monetary or non-monetary, such as giving copies of research products, offering naming rights, or other arrangements as negotiated with the ICIP rights holders.

Collections Business Units will consider negotiating a Licence Agreement and Benefit Sharing Agreement with the appropriate custodians for the use of Indigenous Australian languages in the Collections Business Unit’s work, particularly where the proposed use is wide and/or commercial. Staff should seek advice from OGC for suitable legal documents.

4.7.1 Spelling and pronunciation

Where a particular spelling is given by a person or community, this spelling should be used. If the word use does not have a personal association and no preferred spelling has been given, collections staff may use the most commonly used spelling as determined via research and consultation with relevant Indigenous Australians.

English language norms often do not align with Indigenous language styles of pronunciation and

grammar. Where there are multiple spellings for a word, consider using footnotes to mention other common ways a word is spelled to respect that Aboriginal languages are developing linguistically and there may be more than one accepted spelling. It may also be appropriate to include a notice at the beginning of any publications to explain the approach to spelling of Indigenous language words, and highlight its aim to do so with respect for all Indigenous Australians and perspectives.

Where there are multiple names for people, places or things, the Indigenous name should be respected and used. If the Indigenous name is well known, it should be used exclusively (i.e. Uluru instead of Ayers Rock). Where the Indigenous name is less commonly recognised, it may be appropriate to use both names. Where one name or spelling has been preferred over another, a clear statement should accompany the use which explains the choice. Preference should be afforded to Indigenous decision making.

BILLY BAIN, Dharug *The Fighters*, 2024,
ceramic, textile, wood, cardboard, underglaze,
synthetic polymer paint, enamel, dimensions variable



It may also be appropriate to contact the DDVCIL to ensure appropriate pronunciation.

Collections Business Units respect the right of Indigenous Australians to respond to or correct uses of Indigenous languages in the University collections. See **4.10.1 Right of reply**, page 31.

4.8 Cataloguing and labelling within collections

ICIP records, images or artworks may have associated information that should accompany the primary material. Collections staff are responsible for managing the layers of accountability required for permissible access and use, and storing all necessary information around each record or piece of material which contains ICIP.

Proper cataloguing should include sufficient information to make informed decisions about uses of ICIP materials. Information should include:

- The person/group who gave the Indigenous material or information,
- Who it belongs to, e.g. Traditional Owners/ICIP rights holders
- Consent information, e.g. permitted uses, any specific restrictions
- Accompanying Story, if relevant, to guide interpretation and meaning around the ICIP materials
- Any relevant cultural protocols (e.g. men's/women's business, cultural mourning, etc.)
- Contact details for obtaining further consents, possibly including Next of Kin information

When auditing existing materials in archives, or adding new materials to the Collections Business Unit, staff should consult with the relevant Indigenous Australian collaborator or source community and identify rules around:

- Who will house the material (will it be stored by a particular collection business unit, a community representative body, or both?);
- Where and how the material can be stored (for instance, in hardcopy or digital archives, online, or restricted or unrestricted platforms such as internal or external facing platforms);
- How the material can be used and who can access it (including cultural restrictions regarding the use of the material);

- Whether the material can be digitalised for storage purposes.

Create and attach comprehensive descriptions to materials to ensure the names of people, places and other information is clearly listed where participants or collaborators may need to be consulted in the future.

Catalogues may be publicly accessible simply for the purpose of knowing what is in the University's collections, however in the case of digital records, there may be some ICIP materials that are not suitable for public access. Collections Business Units should be cautious when cataloguing or digitising records (see **4.11 Digitisation – general**, page 31) to only share information that is suitable for sharing (see **4.12 Access to items in collections**, page 32).

4.8.1 Updating labels

In addition, much of the material in these collections has been collected over a long period of time and may have been archived or stored in accordance with standards that have since changed.

To ensure that the University collections reflect up to date standards on data storage and management of ICIP, the Collections Business Unit should continue to add descriptive metadata to items containing ICIP and cultural materials. Label data and labelling protocols already include AustLang¹³ and the AIATSIS Thesaurus,¹⁴ and may further include cultural sensitivity notices, Traditional Custodians notices (see **7.1 Template notices**, page 53), or other cultural protocols. This may be implemented via cover sheets or processes for updating information when old records are accessed.¹⁵

Collections managers should add appropriate labels to new acquisitions, and where appropriate, re-catalogue those items that have been recorded with unsuitable subject headings (see **6.5 Managing legacy materials**, page 50, for how to deal with materials that have been in collections for several years, and are not adequately labelled or catalogued). Keep a record of any changes to cataloguing and labelling.

4.9 Attribution and naming protocols

When using ICIP materials, it is best practice to appropriately attribute. Indigenous peoples and communities to be attributed may include:

- Artists, photographers and creators
- Writers

- People recorded in photographs and films
- People quoted or interviewed
- Families or communities who are the custodians of communal knowledge or stories
- Senior Knowledge Holders or cultural authorities who have given permission for knowledge to be used

The University collections are implementing a robust system for attribution, classification and naming of works and materials in its collections. See the following sections for specific guidance:

- Attributing people in photographs – **6.2 Photographs and recordings**, page 48
- Attributing quotes – **6.3 Quotes**, page 49
- Cultural notices – **7.1 Template notices**, page 53

4.9.1 Accompanying stories and details

Appropriate attribution sometimes requires using an accompanying story along with the ICIP or cultural material. This affords ICIP custodians control over the interpretation of the work, maintaining its authenticity. This is most common in the case of artworks and creative pieces, but may also be relevant for photographs, records, datasets, or other items in collections.

When storing materials containing ICIP in collections, or sourcing them from collections for use, Collections Business Unit staff should ensure that they are also including any accompanying story or details as appropriate.

4.10 Interpreting Indigenous materials

Indigenous Australians have the right to be the primary interpreters of their culture.

Many recounts or representations in Australian history are from the perspective of settlers and colonisers, created without a holistic understanding or representation of Indigenous Australian cultures. These records often are framed by a deficit discourse which problematises Indigenous peoples, and may include racist language, offensive depictions or other outdated practices. Often, they have been recorded without proper FPIC from the Indigenous subjects. These versions of history have resulted in a distorted view of Australia.

This complicated and inaccurate history creates a proactive responsibility for the collections staff to ensure not only that Indigenous Australian stories are told, and perspectives are represented, but also that the ways the collections themselves are managed is culturally safe and appropriate.

ICIP interpretations notices should be displayed to collections users either on screen, alongside displays or exhibitions, in metadata or in document footers. See **7.1.5 Collections context notice**, page 53, for suggested text.

4.10.1 Right of reply

Collections Business Units recognise that allowing a Right of Reply process in relation to Indigenous cultural material is an important part of truth telling, protection of culture and cultural heritage, and self-determination for Indigenous peoples. Facilitating a Right of Reply is key to truth telling and supports self-determination of First Nations.¹⁶

Where materials are offensive, inaccurate, reductive, racist or otherwise negatively impact Indigenous Australians, the Collections Business Units acknowledge their responsibility to challenge these historical misrepresentations. Staff should strive to offer Indigenous Australians opportunities to exercise a Right of Reply to collection materials through written, oral or visual mediums, and to provide commentary, corrections, counterpoints and reinterpretations of the material's content. Collections Business Units will listen to feedback from Indigenous peoples and communities about the accuracy and cultural appropriateness of items in its collection, and will use best endeavours to interpret, contextualise and correct the narratives and information contained.

Any responses from Indigenous peoples and communities through the Right of Reply process should be linked to the material that is being reinterpreted or replied to, either physically, digitally or through metadata.

4.11 Digitisation – general

When digitising records, information, documents, images, artworks, or other collections material, collections staff must ensure that the **cultural integrity** of the material is maintained. This means connecting the digital file with any relevant accompanying story or information about cultural protocols or restricted access. Consult with Traditional Custodians to understand what information should be recorded, and to seek permission.

Digitisation also allows access to materials in collections by Indigenous Australians who are not located in Sydney.

Digitisation represents a reproduction of a work. Where works are protected by copyright (i.e. artworks, photographs, written materials, etc.), collections staff should consider the copyright implications of digitising the material.

Libraries, archives, and collecting institutions are allowed to digitise the material in their collections for the purpose of cataloguing and may make it available on an internal system for staff to use in administration and managing the collections.¹⁷ Under this exception, if the library or archive has made electronic copies of material for the purposes of preservation, these copies may only be made available for viewing at the library or archives,¹⁸ or if a person makes a request for the electronic material for the purposes of research or study.¹⁹ These exceptions have parameters defined under the Copyright Act and may not apply in all cases. For legal advice relating to specific circumstances, refer to the University OGC.

There are several other exceptions to the Copyright Act which are designed to be used by libraries and archives, in limited circumstances, including for:

- Document delivery
- Interlibrary loan
- Preservation
- On-site research
- Assisting persons with a disability
- Publication of unpublished works
- Flexible dealings

In most cases, even where provisions of the *Copyright Act* provide exceptions to infringement of copyright by the library or archive, this does not extend to acts by **users of** the library or archive. For example, if the University Library reproduces materials within its collection online, it must ensure that:

- a** users that access the online collection are notified of their copyright obligations, and

- b** reasonable steps are taken to ensure that users cannot reproduce or otherwise breach copyright themselves, e.g. apply copyright notices, block the material from being downloaded, etc.

Important note: The information above is general only, and applies mostly to libraries and archives. For legal advice relating to specific circumstances, refer to the University OGC. See **5.4 Cataloguing and digitising artworks**, page 43, for information about digitising artworks.

4.12 Access to items in collections

Indigenous Australian people and communities have the right to ongoing access and control of material incorporating ICIP within the University collections. This is a core principle of Indigenous Data Sovereignty (see **4.3 Indigenous Data Sovereignty and Indigenous Data Governance**, page 21).

Access by Indigenous Australians: where possible the Collections Business Units will consult with Indigenous Australian collaborators and source communities to ensure, as far as reasonably practicable, that Indigenous Australian collaborators and source communities can access copies of materials for cultural records. This is essential for cultural maintenance, the health and wellbeing of culture, and to ensure Indigenous Australian people's aspirations and priorities for culture are being met.

Managing different levels of access and restrictions: some materials may not be appropriate for public access. Managing access to collections materials will require that collections staff understand which materials are appropriate for public access, and which need permission or are subject to restrictions. Information about permissions and restrictions should be sought from the relevant Traditional Custodians.

Materials should be appropriately tagged and filed to reduce the risk of it being used in ways without permission (see **4.8 Cataloguing and labelling within collections**, page 30).



BROOK ANDREW, *Wiradjuri/Ngunnawal niyaran (yellow tailed black cockatoo)*, 2024, Sapele with ebony inlay, archival postcard, 120 x 120 x 20cm

CASE STUDY

Western Sydney University already has an effective system in place for managing access to restricted materials in the Dharawal Pharmacopoeia.

The Pharmacopoeia is a catalogue of the medicinal properties of native plants found in Dharawal Country.

In Indigenous society, knowledge is passed from generation to generation in an oral tradition. As a child, Auntie Fran Bodkin’s mother took her around Dharawal country showing her the native plants and teaching her their medicinal uses. After her mother’s death, Auntie Fran committed to carrying on with this work and eventually went to university, where she studied environmental science.

Auntie Fran has recorded the knowledge she has accumulated about native plants found in Dharawal Country in the Dharawal Pharmacopoeia to ensure that this knowledge is recognised and respected by western science and protected under western law. Auntie Fran gifted the Dharawal Pharmacopoeia to Western Sydney University (whose Campbelltown campus is located on Dharawal country) for the purposes of research, education, and community engagement, and in particular, so that students of Western Sydney University can learn about the plants and their medicinal uses.

The Dharawal Pharmacopoeia is a single digital work. Access to material from the Dharawal Pharmacopoeia is by default restricted to Western Sydney University staff and students. Access to researchers beyond Western Sydney University is approved by Auntie Fran on a case-by-case basis. Request access to the Dharawal Pharmacopoeia.” ²⁰



Auntie Fran Bodkin with
The Dharawal Pharmacopedia
Photographer Sally Tsoutas

4.13 Cultural take-down requests

The Collections Business Units respect the rights of Indigenous Australians to control access and use of their stories, knowledges and ICIP. The University collections managers will prioritise requests from any Indigenous people or communities to either remove or restrict access to collections material that contains their ICIP, whether these are library records, archival material, photographs, artworks, or any other format.

It is noted that viewpoints may differ widely across Indigenous Australian communities. Sometimes, Indigenous groups or bodies may question the cultural authority of another group or person to speak for ICIP. For this reason, cultural take-down requests are not guaranteed to be immediately actioned by removal of the ICIP in question, however collections managers undertake to consider the request and resolve it as quickly and appropriately as possible. Refer to **4.6.3 Contradictory advice**, page 26, for further guidance on dealing with contradictory advice from Indigenous Australian sources.

The University is developing a procedural guide for take down request.

Why may an artwork, record or other item be subject to a takedown request?

Proving copyright infringement is a challenging task, especially when it comes to cultural heritage, expressions and art by Indigenous Australians. As discussed earlier, ICIP is not explicitly protected under current Australian laws. Current Australian laws require that to prove copyright infringement, the copyright owner must show that the work or subject matter is copied directly or that a *substantial part* of a work or subject matter has been reproduced without consent. If the stories or themes are duplicated in some way, but the manner of description or depiction of the original work is not substantially duplicated, it may be possible to prove copyright infringement, but not straightforward.²¹

Unfortunately, cultural protocols relating to ICIP by Indigenous Australians are not always known or respected. There could be many reasons why an Indigenous Australian or their family/community

wishes for their ICIP to be taken down temporarily or permanently, such as cultural mourning, the presence of secret or sacred knowledge, or other reasons. These reasons also might be unrelated to existing legal protections like copyright infringement. This means the legal grounds to request a formal take down may not always be a viable pathway for Indigenous Australians and where ICIP is involved.

Western Sydney University, as well as many other universities, libraries and museums have core and fundamental principles around freedom of expression and availability of information. However, it is also a commitment of the Collections Business Units to respect ICIP and the cultures of Indigenous Australians. Through applying this Protocol, business units will seek fair and culturally appropriate solutions to issues with collections material containing ICIP.

4.14 Preventing misuse

When using or reproducing works containing ICIP, consider how to protect against misuse or misappropriation of ICIP by third parties. Educate users of the University collections about how to respectfully use and work with ICIP, and their responsibilities in relation to protecting it. Collections staff should assist users to understand how this Protocol applies to their work.

Incorporate a Traditional Custodian’s notice or ICIP identifier notice to put people on notice that the material contains ICIP and cannot be reproduced or otherwise used without permission of the ICIP rights-holders. These can also include contact information for follow up enquiries. See **7.1 Template notices**, page 53, for sample notices.

Watermarks and ‘no right click’ restrictions should be used on images and artworks where they are displayed online with the permission of the artist, photographer, and person(s) pictured.

Notices outlining the processes for publication approval, or which uses are and are not permitted for particular materials, should accompany anything available online.

5 Artworks Protocols

Many industry standards already exist for ethical handling of Indigenous Artworks:

- 1 Creative Australia, 'Protocols for using First Nations Cultural and Intellectual Property in the Arts'.²²
- 2 National Association for the Visual Arts, *Valuing Art, Respecting culture: Protocols for Working with the Australian Indigenous Arts and Craft Sector*.²³
- 3 Indigenous Art Code, 2009.²⁴
- 4 National Museum of Australia, 'Indigenous Australian Art Charter of Principles for Publicly Funded Collecting Institutions, 2009'.²⁵

This Chapter outlines the key issues, considerations and recommendations for handling art of particular relevance to Western Sydney University.

For Indigenous Australians, art is one of many ways to share and communicate cultural stories, histories and expressions. Artworks by Indigenous Australians are expressions of cultural heritage and ICIP. This includes stories passed down through generations, knowledge, cultural symbols or totems. These stories may be secret or sacred.

Artworks are explicitly protected under the *Copyright Act 1968* (Cth) (**Copyright Act**) – meaning the use of, or reproduction of artworks require the permission of its copyright owner. However, the legal protection of the themes within an artwork do not necessarily share the same level of legal protection. Stories and themes within an artwork, and the artwork itself, may be ICIP.

An Aboriginal artist may have cultural obligations to guard that story and protect it for future generations. The story may represent Country, family and totems. These cultural obligations are not explicitly supported under current Australian laws. Copyright laws protect the economic interests of the individual artist or creator – not the communal interests of the community whose stories are represented in the work.

This emphasises the importance Art Collection management staff have in ensuring artworks are treated with care and respect, and to understand and follow any applicable cultural protocols around artworks.

This part sets out key principles to consider when dealing with the artworks in the University Art Collection, or obtaining new works.

The University Art Collection is managed by Western Sydney Creative (WSC).

5.1 Exhibiting or displaying works

Indigenous Australians are regularly approached to contribute art to various fora, and there is an increasing interest in this art nationally and internationally. While this is an opportunity to uplift Indigenous Australian creatives, there are several necessary considerations to ensure that the exhibiting and displaying of artworks is ethical.

Art collection management staff should consult with Indigenous Australian artists to answer the below questions.

Beginning considerations

- 1 Is the location of the work to be exhibited or displayed reasonably prominent? Many Indigenous Australians feel that their art may be placed 'out of the way' or as an 'after thought', for organisations to 'tick off' that they have represented Indigenous Australian art.
- 2 Do you know how the work should be displayed? i.e. which way up?
- 3 Is the location of the work appropriate relative to other works?²⁶
- 4 Can the displayed work be photographed? If so, can the art still be properly attributed during uses of the subsequent photos?
- 5 Where can works be appropriately displayed? For example, are there cultural protocols to be followed: does some art contain only women's or men's business? Should the artworks have

access to it restricted, for example, if a cultural mourning period applies?

- 6 Has there been communication with the artist or their representative to ensure the work is managed appropriately?
- 7 Is the communication and relationship with the artist ongoing, to ensure the continuing correct interpretation of the work, and integrity moving forward?
- 8 Is ICIP properly identified in an artwork, or a photograph of an artwork? For example: the subjects are wearing possum skin cloaks, or wearing a gown that depicts a story – identifying that these are ICIP allows for staff to make appropriate decisions around how it is handled.

5.1.1 Spaces

Spaces themselves can be designed in line with ways of thinking, being and doing by Indigenous Australians.

As discussed earlier, photography of a space or artwork can mean the photographer gains the copyright to any ICIP in the photo. Spaces that include Indigenous Australian design concepts should ensure specific protocols relating to ICIP are established and followed. Specific signage for visitors outlining what is and is not appropriate will be crucial to ensuring that any ICIP *in* the building (whether

in the physical design of the building itself), or ICIP *on* the building (e.g. artworks), can continue to be owned by the rightful Traditional Custodians.

5.1.2 Photography of artworks

There are several ways that photography can depict Indigenous Australian peoples and cultures.

For example, an Indigenous Australian person may be shown in a photograph. This may not necessarily be ICIP, but the person depicted in the photograph still has the right of attribution and control (see **4.3 Indigenous Data Sovereignty and Indigenous Data Governance**, page 21). It could also become ICIP later, such as if the person dies, and cultural mourning protocols apply to images of them.

If traditional knowledge, art, stories or other heritage is in a photograph, this would be ICIP. Even a photo of Country can be ICIP (see **6.2 Photographs and recordings**, page 48, for further guidance).

There are likely to be instances where Indigenous Australian people and cultural expressions or objects are depicted in the background of a photograph.

CASE STUDY

The University is currently developing a purpose-built exhibition space for Indigenous artwork at the Parramatta South campus, within an Indigenous Centre for Excellence. Indigenous Australian design concepts and environmental sustainability are central in the building's architectural design and positioning within the landscape.²⁷

The Indigenous Centre of Excellence will be a dynamic space where culture, knowledge, and community impact intersect. It will serve as a hub for celebrating Indigenous heritage, fostering understanding, and promoting resilience. The Centre will include state-of-the-art facilities and engaging programs to provide opportunities for people of all ages and backgrounds to explore and learn about Indigenous culture.

The Project will be Indigenous-led, with the University working closely with the University's

Elders Advisory Committee, key Dharug Traditional Custodians and community members to ensure the Centre reflects the principles of reciprocity, respect, and cultural authenticity.

The development of the Indigenous Centre of Excellence is a strong example of the University capitalising on an opportunity to improve and expand engagement, increase education on Indigenous culture, and ensure that self-determination is at the forefront of the design.

For example, a photograph may depict an Indigenous Australian's artwork in a gallery, where the artwork is incidental to (not the focus) of the photo. This kind of photograph may not be ICIP. However, if using such images commercially (such as part of a book, publication, or part of a product), or disseminating such images widely, it is best practice to consult and receive permission regarding this use, and attribute the work. It may also be appropriate to share monetary or non-monetary benefits, taking into account the further commercialisation.

Remember that any reproduction of a copyright work requires permission from the copyright owner.

5.1.3 Public art

There is an exception to the Copyright Act for sculptures or works of artistic craftsmanship²⁸ which are displayed in a public place on a permanent basis.²⁹

This means that it is not an infringement to reproduce these works, i.e. by taking photographs of them, drawing or painting them, or filming them in a video or television broadcast.

Artists have often complained about their works being reproduced under this exception, such as for use in advertising materials or sold on image database websites, without their permission. They also receive no royalties for use of their work in this way. However, moral rights and trade practices laws still apply, and there may be other issues associated with not appropriately attributing the artist or passing off the artwork.

Artists have moral rights in their work (as described above at 3.2). One such moral right is the right to the integrity of the artwork. This means that the artwork cannot be modified or changed without the artist's permission – and infringement of this moral right may occur from something as simple as adding seasonal Christmas decorations to a sculpture.³⁰

Where the University seeks to display public art from its collection, collections management staff should consult regularly with the artist about use and display. This should include during installation, if the works are moved, and if they are removed. The artist should be permitted to document the artwork before moving or removal. If ICIP is incorporated in the artwork, there may also need to be community consultation.

For legal advice relating to a specific circumstance, refer to the University OGC.

5.1.4 Labelling artworks on display

Western Sydney Creative has already demonstrated awareness of the sensitivities around displaying and exhibiting Indigenous Australian artworks, such as by changing the labelling of unprovenanced artworks on display from 'Artist unknown' to 'Artist once known'.

A system will be implemented for display of artworks within the University art collections, which will indicate the cultural protocols and usage rules around each piece. These labels or icons might include:

- A symbol to indicate whether the piece may be photographed in the background of University photos taken in the display space
- Attribution of the family group, language group or other communal ICIP rights holders relevant to the artwork
- Any copyright information relevant to the artwork, i.e. whether it is suitable for reproduction for marketing purposes, etc³¹

It is also important to consider how Art Collection Management Staff will communicate any applicable trigger warnings or content disclaimers for works which may be confronting to Indigenous Australian audiences. Western Sydney Creative collections staff should be conscious of potentially triggering displays, even such as displaying an Indigenous bark painting next to a model tall ship as described in the endnote above.

This may mean putting signage at the entrance to exhibition spaces, warnings at the beginning of audio/visual works or considering other methods of communicating about potentially distressing content.

5.2 Appropriate uses of artwork

5.2.1 Artwork by Indigenous Australians

When using art by Indigenous Australians, the following steps should be observed:

- 1 Obtain written permission via a licence agreement (on fair terms) to use copyright in the artwork from the copyright owner;
- 2 Respect ICIP rights in the artwork by obtaining permission to use the ICIP from the ICIP rights holder(s) (this may be the artist's family or community);



KUNMANARA (TIGER) YALTANGKI, Yankunytjatjara
Apu Hills, 2011,
synthetic polymer paint on linen, 120 x 120cm

- 3 Ask if any particular rules or protocols apply around the use of the artwork, and be specific about how you wish to use it;
- 4 Apply the principles of this Protocol to ensure Indigenous Australian artists are respected, empowered, appropriately attributed and receive ongoing benefits.

Appropriate permissions are usually obtained from the artist who made the work. Attribution should also

be given to the artist, including cultural attribution to the appropriate Indigenous Australian language or clan group as specified by the artist.

It is not appropriate to adapt artworks without consent, and this could also constitute a breach of the *Copyright Act*. Consent is an ongoing obligation, both a process and an outcome – consent must be sought again if the work is to be adapted, or used for a different purpose than originally contemplated.

This FPIC process should be kept in mind, especially if the University seeks to adapt artworks from its collections into variants of corporate branding or gifts. Applying branding to artworks should not occur without consent.

Consider if the proposed use is commercial, or whether it will produce income. It is best practice for the artist to be paid for any commercialisation of their work, and further benefit-sharing is to be explored.

If University staff from other business units or areas are seeking Indigenous artwork for marketing or branding purposes, Art Collection Management staff should assist and advise them to think ahead and commission new works. This is the preferred approach to using existing works from the University collections and seeking permission to adapt them, especially if this is being done at the last minute.

5.2.2 Artwork with Indigenous themes

Some artworks in the University Art Collection are by non-Indigenous artists, and contain Indigenous-related themes or imagery such as depictions of scenes incorporating Aboriginal people. These may be from the years immediately following colonisation, or more contemporary works. There may also be portraits or sculptures of Indigenous Australian people that were created by non-Indigenous artists.

When seeking to use these artworks, consider the following measures (in addition to any requirements under the *Copyright Act*):

- Consider if the work is appropriate for use in the context. For example, a portrait of a historical figure, or a work from the 1800s depicting early contact between Aboriginal peoples and European colonisers may be an important historical resource. By contrast, a work by a non-Indigenous artist using Indigenous-style techniques is more likely to be cultural appropriation, and may not be suitable for acquisition or use.
- Consult with relevant Indigenous Australian people for the artwork (e.g. if it is depicting a particular location, such as Parramatta River, consult with the local Traditional Owners) to understand any concerns or restrictions around the work.

- Offer an Indigenous Australian artist the opportunity to recontextualise or interpret the work, in their own way.
- Display a notice alongside the work explaining the context and reason for use.

Where Indigenous Australians are represented in artworks, it is important to consider protocols, and demonstrate respect and care.

Where artwork by non-Indigenous Australian artists is being used to depict Indigenous-related themes, consider opportunities to also exhibit Indigenous artists.

5.3 Acquiring new artworks

Artworks are an expression of cultures, identities, families and stories. Artworks represent living, cultural heritage. This is why it is important to acquire

CASE STUDY

'Those who came before us', Allan McKenzie

In 2020, Western Sydney University engaged Allan McKenzie, a proud Wiradjuri Gamilaroi man, to co-facilitate cultural workshops and training for Western Sydney University staff and students. Allan has painted for over 30 years and promotes Aboriginal culture through optical storytelling, song, and dance.

During these workshops, staff and students contributed to the creation of a journeyed artwork entitled 'Those who came before us' while participating in cultural yarning and learning. The resulting art piece is a collaborative work that is owned by none, yet owned by all.

It was created using Indigenous Australian art techniques and styles of artistic storytelling of place. This artwork tells the story of the University's cross-cultural relations and its journey toward reconciliation. Due to the nature of the work and its creation, it is important to treat it with respect.

The True Tracks® Protocols are evident in the creation and use of this artwork. Allan McKenzie and the story of the creation of the work are attributed in every use. The artist was paid. There is an agreed position

among the people involved on how the piece was to be created, the collaborative process, and the subsequent attribution. The artwork is displayed in the Chancellery with respect and due reverence.

To guard the integrity of the work, there are rules around how it may be used. The work has been reproduced on merchandise for Western Sydney University, though who may own each piece of merchandise is carefully considered. Some items of merchandise incorporating the artwork are appropriate for corporate gifts (such as scarves, ties, face masks, etc.), but other items (including a hooded jacket) are reserved for Indigenous Australians only.

The artwork may also be reproduced in the University's marketing, but use of the image is carefully controlled. A request form is to be submitted to the DDVCIL for review, and requests are carefully considered against the meaning and symbolism of the artwork and its creation story. Requests are often denied where they do not align with the significance of the image. For instance, a request for use on a report produced via an alliance between Western Sydney University and three other



universities was denied, as the artwork is a Western Sydney University image.

Recently, it came to the attention of Western Sydney University that the artwork had been reproduced and posted on the Facebook page of an unrelated organisation without authorisation. The staff members responsible for caring for the work responded promptly and wrote to the organisation, requesting that they remove the artwork from their website. This guarded the cultural integrity of the piece and maintained its respect.

ALLAN MCKENZIE, Wiradjuri/Gamilaroi
Those who came before us, 2020,
synthetic polymer paint on linen, 180 x 75cm

new artworks respectfully. By respecting art, you are also respecting ICIP and heritage rights.

Artwork can be acquired for the Art Collection by Western Sydney Creative through purchasing an existing artwork, commissioning an artist to create a new artwork, donation of an existing artwork or transfer of an existing artwork from other University business units to the Art Collection.

During acquisition, WSC staff should understand why they want to acquire Indigenous artwork. Consider:

- Does WSC's use of the art celebrate culture?
- Does WSC's use of the art amplify Indigenous Australian voices, or empower Indigenous Australians?
- Does WSC's use of the art centre Indigenous Australian peoples and perspectives?
- Are you confident that the art is appropriate for this context? Can you confirm this use with appropriate Indigenous Australian cultural authorities?
- Is WSC optimising this opportunity to uplift emerging Indigenous Australian artists, with proper attribution?

As part of the acquisition process WSC will respect ICIP rights in the artwork by obtaining permission to acquire existing or new artworks into the Art Collection from the ICIP rights holder(s).

All acquisitions to the University Art Collection are endorsed by The Western Sydney Creative Advisory Committee, before the University procurement and approval process.

For acquisition process refer to [Art Collection Development and Access Policy](#).

There may be instances where WSC wishes to licence and reproduce works for marketing or advertising purposes, or other reasons. In this case, staff should negotiate with the artists, and enter into an appropriate licencing agreement. However, if consent is not given or if there is no answer, staff should not use or reproduce the work at all.

5.3.1 Inauthentic artwork

Sadly, over 80% of Indigenous Australian artwork on the market is estimated to be inauthentic, i.e. made using 'Indigenous style' techniques, but not made by an Indigenous person. The following can be considered when trying to determine whether or not the art is inauthentic.

- 1 There are no details available about the artist or their community.
- 2 The artwork use generic terms like 'Aboriginal style' or 'Indigenous style'.
- 3 Claims that Indigenous Australians 'contributed' to the product.
- 4 Prices that seem too low, or too good to be true.

If any of these are answered in the affirmative, it is highly likely that the art is either inauthentic, or even if it has been made by an Indigenous Australian person, they may not be benefiting or being attributed properly.

The University should support art made by Indigenous Australians or collaborative works involving Indigenous Australians. Indigenous Australians are persons of Aboriginal and Torres Strait Islander descent. These Protocols should be used when dealing with works by Indigenous Australian artists.

5.3.2 Purchasing Indigenous artwork

In accordance with the University's Art Collection Development and Access Policy, priority in acquiring art is given to 'a. Recognise, respect and invest in Indigenous Australian arts'. It is also a priority to 'c. Amplify local voices, practices and perspectives to ensure the collection reflects the culturally and linguistically diverse communities of Western Sydney'.³²

Acquiring art from Indigenous Australian artists who are part of the local community achieves both of these priorities. It is good to consider purchasing art by an Indigenous Australian artist who is from the Country that the University is located on, but this does not mean other Indigenous Australian artists in the community can not be considered.

For any Indigenous Australian artwork purchases, consider how the work will be used or displayed. The following are principles to consider:

- Does the work contain ICIP?
- Are there any cultural protocols for how the work can be displayed or used?
- Can the correct interpretation of work be clarified, for the University to communicate?
- Beyond paying the artist – can further benefit-sharing be arranged? For example, royalties going to an organisation, family or community of the artist's preference.

If purchasing artworks from galleries or parties other than the artist, remember that the artist is entitled to a resale royalty of 5% of the purchase price.³³

Business Units may purchase artworks that sit outside the Art Collection. Purchasers should consider if the artworks is appropriate for public display. Purchasers should consider the copyright and ICIP issues and record it in a document where possible for future reference.

Artworks purchased by Business Units outside of Western Sydney Creative may be considered for transfer to the University Art Collection.

For acquisition process refer to [Art Collection Development and Access Policy](#).

5.3.3 Commissioning Indigenous artists

Commissioning means hiring an artist to create a new work, usually subject to the terms of a commissioning agreement. Generally, for artwork that will be used for a purpose (rather than for collection or exhibition), commissioning artists is better practice. Commissioning an artist gives them an opportunity to exercise more creative control, and negotiate the deliverables and working conditions.

WSC acknowledges that power imbalances can exist in commercial arrangements. WSC is committed to:

- Establishing a positive relationship with the artist. Engage in face-to-face discussion with the artist (where possible), and in writing.
 - Sometimes staff will work with art centres or agents instead of the artist directly. Work with art centres who follow the NAVA Code to ensure confidence in the authenticity of the work.
- Developing a clear and simple brief for the work. The brief should be in plain English, contain all necessary information for the project, and afford creative freedom and self-determination to the artist or designer.
- Be frank and clear about all potential uses or purposes for the work, and how it will be treated or applied. For example, if there is intention to adapt the works, has consent been given for that? Is there an open line of communication to allow for such discussions in the future?
- Ensuring that there is ongoing consent, correct interpretation of the work for staff to communicate, and that any cultural protocols are followed.

The brief and design may change significantly throughout this engagement process. It is crucial that artists are compensated for the work they undertake in this design phase, as well as for the finalised work. Should WSC not wish to proceed with the design, the artist should still be paid for the time spent developing the design.

5.3.4 Gifted works

From time to time, the University staff or business units may receive gifts of artwork from Indigenous Australian communities or organisations.

Where works are gifted personally by an Indigenous Australian person or a community to an individual or business unit, the work may not be appropriate for public display or reproduction.³⁴ This depends on the circumstances of the gifting – kinship ties and personal relationships are relevant. If the recipient is unsure of the appropriate way to use or display the gift, they should ask. The gift recipient should consider the copyright and ICIP issues and record it in a document where possible for future reference.

Consider what options are available under the University's donation and gift policies.³⁵ It may be most appropriate for the work to be held by the University, but displayed in an appropriate private space or office.

Consult with the relevant Indigenous Australian community or organisation to ask if there are any applicable cultural protocols to the display of this work.

Gifted works may be considered for donation to the University Art Collection.

For acquisition process refer to [Art Collection Development and Access Policy](#).

5.4 Cataloguing and digitising artworks

When acquiring new artworks, WSC staff should ensure that sufficient information is also collected and stored relating to the artwork. This information is listed at **4.8 Cataloguing and labelling within collections**, page 30.

In addition, for artworks, catalogues and artwork records should also detail:

- Who the artist/s are, including their family and language group if relevant,
- When the artwork was created,



JUDY WATSON, *Waanyi Singing River*, 1997,
etching on paper, AP., 50 x 40cm

- Which Country or region the artwork is relevant to,
- Whether the artwork incorporates any ICIP, including traditional stories, totems, or songlines,
- Whether there are any applicable cultural rules or protocols relating to this artwork, and
- A clear statement of permission or record of consent for the ICIP to be used.

5.4.1 Digitising artworks

Western Sydney Creative is undergoing a process of digitising and cataloguing the University Art Collection.

To be consistent with principles of Indigenous Data Sovereignty and Indigenous Data Governance, when cataloguing and digitising artworks, it is important to identify who has access to these catalogues, and whether relevant consents have been sought.

As outlined at **4.11 Digitisation – general**, page 31, this may be permissible under the *Copyright Act* exceptions where the works are housed by the Library or Archive, to allow for the administration of collections. **Important note:** This exception may not apply to the Art Collection generally. For specific legal advice relating to copyright and artworks in the University Art Collection, refer to the University OGC.

There are additional implications. Where ICIP is represented in an artwork (e.g. stories, depictions of cultural objects), if this artwork is then reproduced via digitisation, the University would be gaining copyright in the catalogue or digital record of that artwork. Consider the two scenarios below:

- Original artwork, created by Indigenous Australian artist, and incorporating ICIP:
 - Copyright is owned by artist, ICIP depicted with permissions from ICIP rights holders
- Artwork is photographed to be recorded in a catalogue, digital version of the artwork is included within an online data system
 - Copyright over the reproduction of the artwork (i.e. the photograph/catalogue record) is owned by the University

WSC should still exercise ICIP principles in management of the records and digital copies. This means:

- The Collections Business Unit can take digital copies for preservation and record keeping, but it does not own the ICIP in the works,
- Any ICIP depicted in the digital records continues to be owned by the relevant Indigenous Australian ICIP rights holders,
- WSC will still manage the digital copies and records in accordance with this Protocol, such as by respecting the content, seeking consent for use, and attributing the ICIP rights holders in any uses.

Digitised collections can allow for access by Indigenous Australian communities who are not local to Sydney. Copies of artworks could be given to communities. This can facilitate cultural revitalisation and maintenance, as well as benefit sharing in action. However, artworks and cultural objects should not be reproduced or digitised and made publicly accessible without the consent of the ICIP rights holders.

If consent cannot be obtained for reproduction or digitisation for public access, the artwork may be catalogued internally by WSC for administrative purposes, but not publicly shared.

Art Collection managers should consult with the DDVCIL on appropriate processes for digitising the Indigenous Art Collection.

5.4.2 Artworks not owned by the University

The University should implement a process for managing artworks and other significant items which may be on campus, but are privately owned by University staff, such as personal artworks displayed in private offices. This may require an official audit of works currently held on campus.

In the event that anything happens to the University staff member, it should be ensured that those personal artworks or items do not get absorbed into the University Art collection. ³⁶

Important note: As personal artworks are not part of the University's collection or a public collection, the exceptions under the Copyright Act may not apply. Seek legal advice from University OGC if required.

5.5 Managing unprovenanced artworks

As described above, WSC has already demonstrated awareness of the sensitivities around displaying and exhibiting Indigenous Australian artworks (i.e. changing the labelling of artworks on display from 'Artist unknown' to 'Artist once known'). An alternative would be to attribute the artwork to 'Ancestor', which is the process at the National Gallery of Australia.

Museums, galleries and other collecting institutions have a responsibility to acquire, display and manage artworks ethically. As a general rule, gifted collections that include unprovenanced Aboriginal and Torres Strait Islander cultural heritage should not be accepted without consultation with Indigenous Australian communities. To accept unprovenanced artworks, a responsibility lies with the WSC Business Unit for repatriation.³⁷

When considering unprovenanced artworks, collections staff should be able to recognise indicators of ICIP, even where artworks have no donor or artist information. See **4.2 Identifying ICIP**, page 21, for guidance on identifying ICIP. Other signifiers might include:

- Use of particular styles and techniques, such as dot painting, weaving or cross hatching
- Cultural objects like tools, spears, clap sticks or other items
- Representations of Australian native animals, flora and spiritual beings

WSC is in the process of developing a process for deaccessioning Indigenous Australian artworks. Where unprovenanced Indigenous artworks have been acquired over the years, WSC is committed to seeking information about those artworks with a view to returning them to the appropriate community.

5.6 Repatriation of arts and cultural objects

WSC recognises that Indigenous peoples should be empowered to have control and protect their Indigenous cultural heritage, including cultural objects. The Western Sydney University Art Collection Development and Access Policy declares: "The University is committed to repatriating Indigenous Australian cultural property to the traditional owners/rightful custodians".³⁸ In doing so, the University

supports the principles of UNDRIP, which includes originating communities' rights to "maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expression".³⁹

Repatriation is the process whereby Indigenous cultural materials in the collections are returned to the First Nations communities of origin. These materials may have been obtained illegally or unethically, or in some cases, may have been given in good faith but the community is now seeking return for cultural reasons. Often 'repatriation' is construed as relating to the repatriation of human remains. However, repatriation is relevant for ICIP generally. This does include human remains, but is also relevant for artworks, records, knowledge, and all forms of ICIP. Recently, 'repatriation' has also been construed to include Indigenous data. See **6.8 Repatriation of knowledge**, page 51, for more consideration of repatriation relating to libraries and archives.

Where there are request for repatriation of Indigenous arts or cultural objects, or if WSC is made aware that items in the collection have been obtained unethically, without sufficient provenance, WSC will consider the request in good faith and with respect for Australian Government policy and law. WSC will investigate any claims received and determine whether it is most appropriate to repatriate, remove from the collection, or restrict public access to the materials.

Circumstances where repatriation should be considered, where possible under relevant cultural heritage laws, include but are not limited to:

- Items obtained illegally or unethically without consent;
- Items concerning sacred or secret information;
- Items of cultural significance; and
- Ancestral remains.

The Australian Government Office for the Arts supports the repatriation of Indigenous Australian ancestral remains and secret/sacred objects.⁴⁰ The Australian Government also has a policy on Indigenous repatriation,⁴¹ which the University commits to in its Art Collection Development and Access Policy.⁴² Any repatriations will be done in compliance with the Australian legal requirements (including pursuant to contractual agreements) and ethical standards in relation to the repatriation of any unethically or illegally obtained Indigenous cultural materials.

It is understood that the University may be bound by the terms of relevant Deeds of Gift or other



contractual obligations in relation to Indigenous cultural materials within the collections.

MITJILI NAPURRULA, Pintupi/Luritja Watia, 2010, synthetic polymer paint on linen, 138 x 122cm

The University is developing a procedural guide for repatriation of Indigenous Cultural and Indigenous Property requests. The procedural guide will include the approval processes required for repatriation.

6 Library and Archives Protocols

6.1 Appropriate use of ICIP resources

Where University staff or students seek to use existing materials or resources containing ICIP for research, teaching, study, or any other purpose (for instance, books, reports, articles, films, audio recordings, links to web-pages, media articles, podcasts or materials stored in collections, libraries or archives) ('**existing materials**'), staff of the Library and Archives should assist to check the authenticity and integrity of these sources. Consider:

- Was the resource likely to have been created with the consent of Indigenous Australians?
- Is the methodology still relevant or current? If outdated, you may need to consider more recent materials
- Is there outdated language and terminology?
- Are Indigenous Australian voices empowered in the work?
- Do Indigenous Australian community perspectives come out strong in the resource?

Do your due diligence: Exercise due diligence when using pre-existing materials containing ICIP. Look for and favour Indigenous Australian authors, Indigenous-led research and investigate whether the existing materials were created with FPIC. Where materials containing ICIP are authored by non-Indigenous people, engage Indigenous Australian consultants and pay them to interpret the material for your purpose, or offer an opportunity for them to contribute a response (see **4.10.1 Right of reply**, page 31).

Get Consent: Consult with Indigenous Australian people and communities whose ICIP is contained in existing materials before use. University staff and students may need permission from both the Indigenous Australian person and/or source community of the ICIP as well as the copyright owner of existing materials (if different).

For example, an academic book contrasting Indigenous land management techniques with modern agriculture:

Contains stories about caring for Country which were shared with the author = ICIP, owned communally by an Indigenous community

The written text in the book, and the published book itself = copyright works, owned by the author or the publisher.

This means that collections staff should seek ICIP consent from the ICIP custodians, and a copyright licence from the copyright owner.

Consultation is especially necessary where Indigenous Australian people are not listed as authors of existing materials containing ICIP.

Library and Archive staff should assist researchers, students and other users of ICIP material to identify ICIP, and understand and apply these Protocols.

6.2 Photographs and recordings

When using images or recordings of Indigenous Australian people contained in existing and emerging collections, users should:

- Do their due diligence, and identify the person(s) in the image or recording;
- Seek consent for the use from the person(s) depicted in the images or recordings;
- Ensure there are no references to and images of deceased Indigenous Australian people without the consent of the family representatives;
- Consult with family representatives of deceased person's before using the name and/or image of deceased Indigenous Australian people;

- Consult with the relevant Indigenous Australian community where unable to locate family representatives.

If a family representative grants permission for use of a name and/or image, this should be recorded in writing, outlining the conditions for use. Conditions might include that the name and/or image is used for limited purposes, alternatives names are used, or measures to cover or obscure the face of the deceased person. Consult and seek permission regarding appropriate wording and use a deceased person's warning notice.

If an Aboriginal person passes away after their name and/or image has been recorded in a publication or recording, before using that recording, the user should consult immediate family and community. It will be important to obtain written consent for the continued use and distribution of the publication or recording (including name, image and voice). Written consent should be obtained from the family and/or community.

Cultural Sensitivity Warnings

Appropriate warnings should be provided on collections materials which feature ICIP or images of people who have passed away (this includes written materials, lectures materials, lecture recordings, films, or photographs). An example of a Cultural Sensitivity Warning Notice is provided below.

Cultural Sensitivity Warning/Notice

WARNING: The following [document/material] contains the name, image, likeness, recording or other information of deceased persons of Aboriginal and Torres Strait Islander descent

When using photographs of Country, staff and students should ensure to talk about where places are and their relevant Indigenous Australian Country. Use Indigenous language names where appropriate, and tag the photos as being where they are to ensure that they are not used generically as landscapes without attribution of Country.

6.3 Quotes

Cultural integrity must be maintained when using quotes from Indigenous Australians. The intended message and purpose should be maintained and not distorted by interpretation.

Seek consent from quoted Indigenous Australians for use of their words, if the quotation contains Traditional Knowledge or other ICIP. This applies both for first-hand accounts and research (people speaking in their own words) and for individuals who have been quoted by another person or organisation, i.e. in another report or in the media, that a student or other collections user wants to reproduce or use.

When using quotes by an Indigenous Australian person, think about the source and the proposed use. Seek consent if your use of the quote creates an implication of a relationship between the University and the person being quoted. For example, if the quote is being repurposed and used in a high-profile way, e.g. used as a exhibition title or used in publication, consent will likely be needed. If the quote is being reproduced in a student essay or work, then consent will not be critical.

Quotes and personal oral histories should be appropriately cited. It may be appropriate to refer to the person by their cultural title (i.e. Aunty or Uncle). Their nation or language group should also be attributed.

6.4 Archiving or depositing materials

Indigenous Australians have the right to be involved in the collection and creation of new materials containing ICIP or Indigenous Data. There is an important responsibility to identify ICIP when material is acquired by the Library, and to ensure that the acquisition of that material is culturally appropriate.

Materials should be collected from sources that are considered credible by Indigenous Australians. Much information has been recorded about Indigenous Australians throughout Australia's history. When researching or collecting information about Indigenous Australians, consider the source of the information and whether it has been verified or endorsed by the relevant Indigenous Australians. If not, consider seeking their perspectives either instead of or alongside the material (see **4.10.1 Right of reply**, page 31).

Library and collections staff considering and receiving new acquisitions must make reasonable enquiries about Indigenous and/or ICIP considerations in relation to the material when it arrives. Staff should consult with the Indigenous Australian community who the materials are about, or where they came from.

Staff should record the details for accessioning, access and ongoing management purposes as part of the collections record. Existing processes in Library and Archives for ensuring appropriate intellectual property permissions in new materials should be augmented with prompts about ICIP information – are cultural permissions in place for the people pictured, is this information appropriate for public access, etc.

The DDVCIL should be consulted prior to acquisition of ICIP-related material to advise on cultural considerations.

6.4.1 Conscious collecting for cultural maintenance

The University Library and Archives are expanding their collections to reflect the diverse perspectives of Indigenous Australians, and support cultural maintenance.

It is recognised that often, Indigenous knowledges are recorded and transmitted in unusual ways, or published in small print runs or by individual publishers. Libraries and archives business units should seek to ensure that these resources are added to its collections where possible and in line with the principles and ICIP considerations of this Protocol, to protect and facilitate the cultural maintenance of Indigenous Australians who are local to Western Sydney University campuses.

6.5 Managing legacy materials

The University Library and Archives contain significant amounts of material that has been amassed over a long period of time and may have been archived or stored with limited accompanying information, or in ways that are contrary to this Protocol. These materials are referred to as **legacy materials**.

It is recognised that for some of the Collections Business Unit's collections, a comprehensive audit and process of re-labelling and re-cataloguing such extensive materials would be beyond the scope of the Collections Business Unit's available resources. Therefore, this Protocol sets the expectation of 'best practice from now on'.

This Protocol and its principles will apply **as far as possible** to any existing legacy materials held by the Collections Business Unit. As far as possible, legacy materials should be tagged with cultural protocols,

traditional knowledge labels and cultural information, consent structures should be implemented, and efforts should be made to repatriate Secret/Sacred ICIP or at very least, ensure it is kept confidential and appropriately protected. This will be a large task and a work-in-progress aim of this Protocol to apply as far as possible to all existing collections held by the University.

This Protocol and its principles apply **in full** to any future access or use of existing legacy materials held by the University libraries and archives. This may mean contacting relevant Indigenous Australians or their families/communities to seek new consent for uses of quotes or photographs, re-labelling or re-publishing work with updated attributions, or other conditions as deemed appropriate by the relevant community/ies.

If new consent information cannot be obtained on Indigenous materials that are held already in libraries and archives, it may not be appropriate for those materials to be used. Seek guidance from the DDVCIL.

6.6 Managing access

Who may have access to knowledge and material about Indigenous Australians may often vary across genders, ages, language groups or other. ICIP and Indigenous Data which is stored in the University Library and Archives may be subject to cultural protocols which restrict who may access this knowledge or information.

Appropriate management and storage of Indigenous Data requires developing of a system of access hierarchies that reflect Indigenous Australians' wishes and priorities. The privacy and confidentiality of each of these levels of data should be respected. These may be:

- **Open to the public** – information is free to be known, used and shared by all and is publicly accessible. The data should still be attributed to the relevant Indigenous Australians.
- **Accessible, with permissions of the relevant Indigenous Australians** – material in this category may be similar to information recorded under a Creative Commons licence or other publicly accessible system, but may require specific permission and review/final approval of the relevant Indigenous Australians.
- **Internal use only** – information may be used and shared within University collections,

including between faculties and staff members and for the purpose of cataloguing and management, but is not to be included or published in any material available to the public, unless with consent of the relevant Indigenous Australians or as legally required. The material should still be attributed to the relevant Indigenous Australians and cultural protocols apply as far as possible.

- **Secret/sacred or culturally sensitive information** – information should not be recorded or stored where possible. If information is to be recorded, it should be marked with appropriate labels and stored securely. Material in this category should be treated with the highest possible level of confidentiality.

6.6.1 Restricting access to Secret/Sacred material

Any Secret/Sacred information or materials held by the University must be restricted access. Collection managers should catalogue and appropriately tag any Secret/Sacred material held in its collections.

When Secret/Sacred material is identified, collections staff should consult with the relevant Indigenous Australian community to negotiate appropriate conditions of access. These access conditions should be documented, including which specific Indigenous Australian individuals from which community were consulted. These conditions might include:

- Who may access the material (i.e. only women can view women's business)
- Under what conditions or circumstances, or for what reasons (may be used for research, but not marketing)
- If there is a date at which these conditions should be reviewed

If the appropriate cultural authority cannot be identified, consult with the Elders Advisory Committee to determine an appropriate course of action regarding access.

6.7 Truth-telling in existing collections

Indigenous Australians are calling for truth in the way their stories and histories are told.

Indigenous Australians want their voices to be reflected in collections that had once silenced them.

Indigenous people seek to share their experiences of past and ongoing injustices and how their cultures and knowledge have survived.

Truth telling aims to foster a shared understanding among all Australians of the impact of colonisation, as well as the diversity, strength and resilience of Indigenous Australian cultures before and since the arrival of the First Fleet.

This Protocol is a mechanism by which the University can encourage the using of its collections to tell the truth of Australian history and Indigenous experiences. Offering Indigenous Australians a right of reply to materials is one way to allow for the addition of Indigenous voices to primarily colonial narratives and histories.

6.8 Repatriation of knowledge

As described above, many records and datasets exist which relate to Indigenous peoples and cultures, but have not been created with their consent.

Sometimes, it may be appropriate to repatriate that knowledge and data back to the source community. This may be in the form of photographs, written accounts, field notes, reports, recordings, datasets, analytics, or other physical or digital mediums.

Libraries and Archives each contain significant information relating to Indigenous peoples, but currently, none have a specific policy on repatriation.

Similar to repatriation of arts and cultural objects, if the University receives a request for repatriation of Indigenous knowledge or data, the relevant Collection Business Unit will consider the request in good faith. They will investigate any claims received and seek appropriate advice from DDVCIL.

The University is developing a procedural guide for repatriation of Indigenous knowledge. This procedural guide will consider whether it is most appropriate to repatriate, share copies to the community, remove from the collection, restrict public access to the materials, or take another course of action. The procedural guide will include the approval processes for repatriation.

It is also noted that repatriation of data and digital assets often requires significant resources and capacity on the part of the receiving party to manage and hold the data. See **4.3 Indigenous Data Sovereignty and Indigenous Data Governance**, page 21.



KARLA DICKENS, Wiradjuri *Looking at you IV*, 2017, inkjet print, edition of 6 + 2 AP, 60 x 60cm

PART C

Implementing the Protocol

7 Tools and Resources

7.1 Template notices

7.1.1 Deceased Person's notice

WARNING: Indigenous Australian people should be aware that this material contains images, voices, names, or references to, deceased persons.

7.1.2 Cultural sensitivity warning

WARNING: This material contains images that Indigenous Australian people may find distressing and language or information that might be considered offensive.

7.1.3 Traditional Custodian's notice

This work embodies Indigenous Cultural and Intellectual Property (ICIP) of the [NAME] community. It was created with the consent of the custodians of the [NAME] community. Dealing with any part of the work for any purpose that has not been authorised by the custodians is a serious breach

of customary law of the [NAME] community and may also breach the *Copyright Act 1968* (Cth). For enquires about permitted reproduction of the ICIP contained in this work, contact [NAME] community [insert contact email].

7.1.4 ICIP identifier notice

This material contains Indigenous Cultural and Intellectual Property (ICIP) of Indigenous Australian peoples. Restrictions on access and use of this material may apply. Contact the ICIP rights holder or the collection manager [insert details] for further information.

7.1.5 Collections context notice

Material in the collection regarding Indigenous Australian peoples and cultures has historically been created and recorded by non-Indigenous people. Collections users are warned that material in this collection may not have had the input of Indigenous Australian peoples themselves, or been created with

their consent. As a result, this material may contain inaccuracies and misinterpretations, or words and descriptions which could be considered insensitive, outdated and/or offensive in today's context.

7.2 Further resources

Aboriginal and Torres Strait Islander Library, Information and Resource Network's *Protocols for Libraries, Archives and Information Services* (2010)

Australian Institute of Aboriginal and Torres Strait Islander Studies, *Code of Ethics for Aboriginal and Torres Strait Islander Research* (2020)

Australian Museums and Galleries Association, *National Standards for Australian Museums and Galleries* (2023)

Creative Australia, *Protocols for Using First Nations Cultural and Intellectual Property in the Arts* (2019)

International Council on Archives' (ICA) Expert Group on Indigenous Matters, *Tandanya – Adelaide Declaration* (2019)

Janke, Dr Terri, *True Tracks: Respecting Indigenous knowledge and culture* (2021)

Museums Australia, *Continuous Cultures, Ongoing Responsibilities: Principles and guidelines for Australian museums working with Aboriginal and Torres Strait Islander cultural heritage* (2005)

National and State Libraries Australasia (NSLA), *Indigenous cultural competency principles* (2023)

National Association for the Visual Arts, *Code of Practice for Visual Arts, Craft and Design* (2022)

National Association for the Visual Arts, *Valuing Art, Respecting Culture: Protocols for working with the Australian Indigenous visual arts and crafts sector* (2001)

National Health and Medical Research Council, *Ethical guidelines for research with Aboriginal and Torres Strait Islander Peoples* (2018)

Raven, Tui, *Guidelines for First Nations Description* (2023)

United Nations, *Declaration on the Rights of Indigenous Peoples* (2007)

8 Accountability

8.1 Implementation and review

The management teams of each respective collection at Western Sydney University will have responsibility for implementing this Protocol in their work.

This Protocol will be reviewed in 2 years following a period of consultation with University staff, students, community stakeholders and Indigenous Australians.

8.1 Feedback

To provide feedback on this Protocol, please contact:

Art Collection – artcollection@westernsydney.edu.au

Archives – archives@westernsydney.edu.au

Library – uws-libfeedback@WesternSydney.edu.au

Glossary

Country Country is the term often used by Indigenous Australians to describe the lands, waterways and seas, to which they are connected. Country is more than just land and waters – Country includes ideas about laws, places, customs, languages, spiritual beliefs, cultural practices, sustenance, family and identity.⁴³

Cultural Expression Cultural Expression includes stories, songs, dances, visual arts, craft and designs belonging and recognised as coming from a particular Aboriginal or Torres Strait Islander group

Indigenous Cultural and Intellectual Property, or ICIP Indigenous Cultural and Intellectual Property means the rights of Indigenous peoples to their language, cultural knowledge, sacred sites, objects and ancestral remains, literary, performing and artistic works and documentation of Indigenous heritage. ICIP is regarded as collectively belonging to a particular community or group, and associated with their lands and seas. Many generations contribute to the development of ICIP.

ICIP Protocol The Western Sydney University's Indigenous Cultural and Intellectual Property Protocol

Indigenous Data Indigenous Data refers to information or knowledge, in any format or medium, which is about and may affect Indigenous peoples both collectively and individually.⁴⁴

Indigenous Data Governance refers to the right of Indigenous peoples to autonomously decide what, how and why Indigenous Data are collected, accessed and used. It ensures that data on or about Indigenous peoples reflects our priorities, values, cultures, worldviews and diversity.⁴⁵

Indigenous Data Sovereignty refers to the right of Indigenous peoples to exercise ownership over Indigenous Data. Ownership of data can be expressed through the creation, collection, access, analysis, interpretation, management, dissemination and reuse of Indigenous Data.⁴⁶

Legacy Materials Legacy materials refer to historical materials containing ICIP or Indigenous Data that have been collected in the past and is held within the University's collections, likely without information relating to consent, attribution, culturally appropriate use or other accompanying information as would now be required by this Protocol

Endnotes

- ¹ This Protocol has been consulted on and endorsed by representatives from the University Library, Archives, and Western Sydney Creative, It sets best practice standards which may be applicable in other work areas across the University, however it is not binding or obligatory on those other areas.
- ² For more information, refer to Terri Janke, *Our Culture: Our Future, Report on Australian Indigenous Cultural and Intellectual Property Rights* (Report, Australian Institute of Aboriginal and Torres Strait Islander Studies, 1999), page 47.
- ³ Walter, M. and S. R. Carroll, (2021) 'Indigenous Data Sovereignty, governance and the link to Indigenous policy'. In Walter, M. et al, (eds) *Indigenous data sovereignty and policy* (pp. 1-20) (New York: Routledge, 2021) 10.
- ⁴ Smith, D.E. (2016) 'Governing data and data for governance: the everyday practice of indigenous sovereignty'. In Kukutai, Tahu and John Taylor (eds), *Indigenous Data Sovereignty: Towards an Agenda*, CAEPR Research Monograph, 2016/34. Canberra: ANU Press, pp. 117-138.
- ⁵ Wilkinson, M., et al. 'The FAIR Guiding Principles for scientific data management and stewardship', *Scientific Data*. 3 (2016) <https://doi.org/10.1038/sdata.2016.18>.
- ⁶ Research Data Alliance International Indigenous Data Sovereignty Interest Group. "CARE Principles for Indigenous Data Governance." *The Global Indigenous Data Alliance*. (September 2019). <https://www.gida-global.org/care>
- ⁷ <https://policies.westernsydney.edu.au/document/view.current.php?id=311>
- ⁸ Intellectual Property Policy, Part F (37) <https://policies.westernsydney.edu.au/document/view.current.php?id=85>
- ⁹ Feedback from consultation with Indigenous Professoriate, 6 October 2022.
- ¹⁰ Intellectual Property Policy, Part F (37) <https://policies.westernsydney.edu.au/document/view.current.php?id=85>
- ¹¹ Feedback from consultation survey.
- ¹² Consultation with Indigenous Professoriate, 6 October 2022.
- ¹³ AustLang provides information about Aboriginal and Torres Strait Islander languages which has been assembled from a number of referenced sources. <https://collection.aiatsis.gov.au/austlang/search>
- ¹⁴ AIATSIS Thesaurus, <https://www1.aiatsis.gov.au/index-2.html>
- ¹⁵ See also Tui Raven, *Guidelines for First Nations Collection Description* (2023) developed through collaboration between the Australian Library & Information Association (ALIA), National and State Libraries Australasia (NSLA), the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS), the Council of Australian University Librarians (CAUL), and CAVAl. These guidelines focus on collaborative practices with Indigenous communities for collection descriptions, to better reflect the perspectives and voices of Aboriginal and Torres Strait Islander peoples.
- ¹⁶ Indigenous Archives Collective, 'Position Statement On The Right Of Reply To Indigenous Knowledges And Information Held In Archives', <https://indigenousarchives.net/indigenous-archives-collective-position-statement-on-the-right-of-reply-to-indigenous-knowledges-and-information-held-in-archives/>
- ¹⁷ *Copyright Act 1968*, section 113K.
- ¹⁸ *Copyright Act 1968*, section 113H(2).
- ¹⁹ *Copyright Act 1968*, section 49.
- ²⁰ 'Dharawal Pharmacopoeia', <<https://library.westernsydney.edu.au/collections/dharawal-pharmacopoeia>>
- ²¹ Refer to the Carpets Case, *Milpurrruru, G. v Indofurn P/L [1994] FCA 975; 130 ALR 659*. A textiles company was found to have infringed copyright of Indigenous artists due to their unauthorised copying of elements of an artwork depicting traditional stories.
- ²² <https://australiacouncil.gov.au/investment-and-development/protocols-and-resources/protocols-for-using-first-nations-cultural-and-intellectual-property-in-the-arts/>
- ²³ https://visualarts.net.au/media/uploads/files/Valuing_Art_Respecting_Culture_2.pdf
- ²⁴ <https://indigenousartcode.org/the-indigenous-art-code/>
- ²⁵ <https://www.nma.gov.au/about/corporate/plans-policies/policies/indigenous-australian-art-charter-of-principles-for-publicly-funded-collection-institutions>
- ²⁶ This is a point that flowed from discussions in consultation, where it was observed that an Indigenous Australian bark painting was displayed next to a model of a large sailing ship. There was speculation over whether this placement was appropriate due to the ship sculpture's connotations of colonisation and the arrival of the First Fleet. This may also be relevant in relation to artworks by people of different language or skin groups, or other cultural considerations. It is important to consult with the artist in these cases to ascertain what is appropriate for the context of displaying their work.
- ²⁷ Western Sydney University, 'Western Sydney University's iconic new Indigenous Centre of Excellence to Connect People and Place' <https://www.westernsydney.edu.au/newscentre/newscentre/more_news_stories/western_sydney_universitys_iconic_new_indigenous_centre_of_excellence_to_connect_people_and_place>
- ²⁸ Works of 'artistic craftsmanship' generally refer to handmade goods and goods with an aesthetic quality.
- ²⁹ *Copyright Act 1968*, s 65.
- ³⁰ See *Snow v The Eaton Centre Ltd.* (1982) 70 C.P.R. (2d) 105, a case where a shopping centre was found to have infringed the moral rights of artist Michael Snow for tying red ribbons around the necks of the Canadian geese in his sculpture, *Flight Stop*, as part of their Christmas decorations.
- ³¹ This more detailed information may be more appropriately recorded in a catalogue or other resource, rather than on the plaque accompanying the artwork.
- ³² Art Collection Development and Access Policy, Part A (9)a.
- ³³ Under the federal artists' Resale Royalty Scheme, all resales of artworks for \$1,000 or more must be reported, and a 5% royalty is payable back to the artist on certain resales. Refer to the *Resale Royalty Right for Visual Artists Act 2009* (Cth) or visit <https://www.resaleroyalty.org.au/>.
- ³⁴ Feedback from consultation with the Indigenous Professoriate, 6 October 2022.
- ³⁵ Art Collection Development and Access Policy, <https://policies.westernsydney.edu.au/document/view.current.php?id=162>.
- ³⁶ Feedback from consultation with Indigenous Professoriate, 6 October 2022.
- ³⁷ Terri Janke and Company, 'First Peoples: Connecting Custodians' <https://www.amaga.org.au/sites/default/files/uploaded-content/website-content/recommendation_for_update_of_ccor_principles_final.pdf>
- ³⁸ Art Collection Development and Access Policy, section 3 Part D, <https://policies.westernsydney.edu.au/document/view.current.php?id=162>.
- ³⁹ Article 31, UN Declaration on the Rights of Indigenous Peoples
- ⁴⁰ <https://www.arts.gov.au/what-we-do/cultural-heritage/indigenous-repatriation>.
- ⁴¹ <https://www.arts.gov.au/publications/australian-government-policy-indigenous-repatriation>.
- ⁴² Art Collection Development and Access Policy, section 3 Part D, <https://policies.westernsydney.edu.au/document/view.current.php?id=162>.
- ⁴³ Jude Barlow, AIATSIS, 'What is Country?' 17 March 2023 <<https://aiatsis.gov.au/explore/welcome-country>>.
- ⁴⁴ Maïam nayri Wingara Indigenous Data Sovereignty Collective, 'Key Principles' (Website) <<https://www.maïamnayriwingara.org/key-principles>>.
- ⁴⁵ Maïam nayri Wingara Indigenous Data Sovereignty Collective, 'Key Principles' (Website) <<https://www.maïamnayriwingara.org/key-principles>>.
- ⁴⁶ Maïam nayri Wingara Indigenous Data Sovereignty Collective, 'Key Principles' (Website) <<https://www.maïamnayriwingara.org/key-principles>>.



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