

# INDIGENOUS CULTURAL INTELLECTUAL PROPERTY

When uploading images online, it is important to respect all types of creators' rights including their cultural rights. Such cultural rights can also be referred to as Indigenous Cultural Intellectual Property (ICIP). ICIP is a bundle of rights which allow Indigenous peoples to own and control their cultural heritage, benefit from its' commercialisation and be properly attributed.

If you are digitising and sharing material online which pertains to Indigenous cultural heritage, read on to discover how you can respect ICIP.

## WHAT IS CONSIDERED ICIP?

The cultural heritage protected by ICIP may include human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts.

## WHAT IS PROTECTED BY LAW?

Australian intellectual property law only covers some aspects of ICIP. ICIP rights are protected through legislation including:

- Copyright (musical, dramatic, literary and artistic works)
- Moral Rights (of individual artists)
- Patents (medicines or other inventive products but rarely protects traditional knowledge)

## WHERE ARE THE GAPS?

- Intellectual property law only protects the ICIP related categories of written knowledge, songs and dance
- The duration of copyright does not protect ICIP that has been passed down through generations
- Much Indigenous Intellectual Property is not in a material form; copyright cannot protect ideas or stories which are part of the oral tradition or art styles such as dot painting
- Copyright law typically doesn't protect collectively owned or generated intellectual property

## HOW CAN I HELP?

ICIP is about upholding the right of Indigenous communities to self-determination of their culture and cultural products.

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Though Australian law may not recognize all aspects of ICIP, you should still strive to be respectful in your use of ICIP and support self-determination of Indigenous peoples by:

- Attributing the work to the relevant community, remembering that some items in your collection may have collective intellectual property rights. Historic collecting practices means this information might not be readily available and may require some investigation.
- Respecting the right of Indigenous people to refuse to authorise the commercial use of ICIP and recording this decision in the **Rights > Permissions** section of the Victorian Collections catalogue.
- Respecting the right to maintain secrecy by keeping certain catalogue records as Private in the Victorian Collections catalogue.
- Collaborating with the relevant community to document this heritage.
- Collaborating with the relevant community to display and share this heritage, both online and in physical spaces, in an agreed way that respects ICIP.

Other ways to respect Aboriginal content in your collection include:

- Respecting mourning periods regarding the publication of names and images of deceased persons. The length of this time varies and is determined by the community.
- When you receive requests to use any images of Aboriginal or Torres Strait Islander content, consult the relevant community regarding cultural clearances.

## GLOSSARY

**Indigenous Cultural Intellectual Property:** is a bundle of rights which allow Indigenous peoples to own and control their cultural heritage, benefit from its commercialisation and be properly attributed.

## MORE LIKE THIS

*Information sheet: Copyright Traffic Light*

## FURTHER RESOURCES

*Indigenous Cultural Intellectual Property, Arts Law,* <https://www.artslaw.com.au/information-sheet/indigenous-cultural-and-intellectual-property-icip-aitb/>

*Indigenous Cultural Intellectual Property: Arts Law's Artists in the Black Service, Arts Law,* [www.artslaw.com.au/artists-in-the-black/](http://www.artslaw.com.au/artists-in-the-black/)

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