

Protocols for using Aboriginal and Torres Strait Islander Visual Arts

Introduction

The Australia Council for the Arts' (2007) protocol guide endorse Indigenous cultural and intellectual property rights – **the rights of Indigenous people to own and control their cultural heritage.**

These rights are also confirmed in the 2006 *United Nations Declaration of the Rights of Indigenous Peoples*, which states Indigenous people have the right to practice and revitalise their cultural traditions and customs.

‘This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.’

Protocols are simply the ways in which we work with people, and communicate and collaborate with them appropriately. The principles outlined in many of the existing protocols for using Aboriginal and Torres Strait Islander artwork provide a framework for:

- ◇ Respecting Aboriginal and Torres Strait Islander heritage
- ◇ Using cultural materials
- ◇ Interacting with Aboriginal and Torres Strait Islander artists and communities
- ◇ Ethical conduct that promotes interaction based on good faith and mutual respect

Responsible use of Aboriginal and Torres Strait Islander cultural knowledge and expression will ensure that cultures are maintained and protected so they can be passed on to future generations.

It is important to recognise the diversity and complexity of the many different Aboriginal and Torres Strait Islander cultures in Australia. Ways of dealing with issues and cultural material may differ from community to community. There are also many different protocols across the diversity of urban, rural and remote communities.

Protocols are about people's value systems and their cultural beliefs

Things to consider when using Aboriginal and Torres Strait Islander Visual Arts

Displaying Aboriginal and Torres Strait Islander artwork and posters around your service can help **Aboriginal and Torres Strait Islander people feel welcomed and acknowledged**. This can also be the case with artwork used in promotional material, posters, publications and other resources. There are, however, a number of factors to consider in using Aboriginal and Torres Strait Islander artwork.

Aboriginal and Torres Strait Islander artwork and art practices are generally tied to culturally and historically significant practices and beliefs. For example, some artists re-tell stories of their Dreaming and their country that they have custodial rights to, while others may draw on traditional imagery, symbols and stories to communicate contemporary themes and ideas.

Aboriginal and Torres Strait Islander **artworks can be part of deeply held cultural and spiritual practices** and, as a form of traditional knowledge, be bound by protocols governing the **protection of traditional knowledge**.

Some artists may choose to make public depictions of Dreaming stories without revealing deeper levels of knowledge or meaning associated with it.

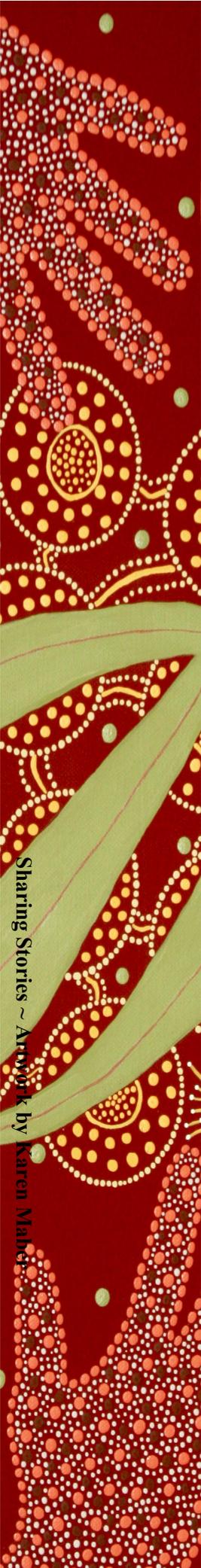
Artworks may also be contemporary expressions of Aboriginal and Torres Strait Islander culture or individual experiences, emotions or beliefs, traditional or otherwise. If services wish to use Aboriginal or Torres Strait Islander artworks in the design of promotional material, resources, website, logos, signage or information and educational material, the following issues should be considered:

1. Permission and acknowledgement

Seek permission to use the artwork from the artist (and copyright holder, if different) to ensure the artwork is not used in ways that breach traditional knowledge, such as restrictions on what the artwork is used for, who can see the works, or who has access to them. The artist and/or copyright holder should be acknowledged as the artist wherever the artwork is used. This is a **legal requirement, but also a sign of respect for the artist**.

2. Purchasing artwork and a licence to use artwork

When using artwork, ensure that Aboriginal and Torres Strait Islander artists are **appropriately remunerated** for the use of the artwork, and their **intellectual property rights are respected**.



If purchasing original art to display:

- * pay a reasonable price directly to the artist and **ensure payment is finalised within an agreed timeframe**, or
 - * work with a reputable or community-controlled gallery or art centre.
- Owning art and having a license to use it are separate things. **Purchasing an artwork does not give you the right to reproduce it.** If you wish to do so, you must also pay for a license to publish the artwork in other media.
- * A license must be negotiated with the artist, gallery, or artists' co-operative or organisation.
 - * You may purchase a licence to reproduce artwork without actually purchasing the artwork, by similar negotiation.

3. Choosing appropriate artwork for use in your service

Because Aboriginal and Torres Strait Islander artwork frequently draws on local styles, techniques and traditions, not all artwork may be suitable for use in the area your service operates in. It is a good idea to purchase artwork from local artists especially for your organisation's publications and resources. It is also a good way to **support local Aboriginal and Torres Strait Islander artists** in your community or region.

4. Commissioning artwork

You can commission a local artist to prepare an artwork to a brief specific to the needs of a project, initiative, or publication or set of resources.

Clear information should be provided in the brief to the artist, including:

- * any expectations of the artist;
- * the purpose of the artwork;
- * how it will be used or published, including who will see the artwork or publications;
- * how or where the artwork will be hung
- * what the project or publication is about; and
- * clarification on who will have copyright over the art.

Ensure that when commissioning artwork for use in your organisation's publications and promotional material, the fee includes a license to reproduce the art in other media. Support an Aboriginal or Torres Strait Islander artist who is local to your area, or work with a local Aboriginal and Torres Strait Islander arts co-operative or organisation.

Referenced from 'Working and Walking Together - Supporting Family Relationship Services to Work with Aboriginal and Torres Strait Islander Families and Organisations', Secretariat of National Aboriginal and Islander Child Care (SNAICC), pp.75-79; 2010. Additional information provided by Karen Maber, Dianne Usher and Leanne Tobin.

Dealing in artworks when the artist is deceased

The decision about how to represent a deceased person within a public setting should be made on the advice of the immediate family of the deceased around these guidelines:

- * The deceased artist's family should be contacted to identify whether there should be a name change and/or a different approach to referring to that individual in the future and for how long this should be observed.
- * If the deceased artist's photograph and or his/her artwork is publicly displayed within an exhibition then his/her family should have the option to have the photograph or the artwork withdrawn from the exhibition.

Excerpt taken from 'Issues and Protocols Specific to Indigenous Practitioners - Indigenous Culture and Community Guidelines', National Association for the Visual Arts (NAVA), pp.7; 2009.

Resources:

AbaF Intellectual property and copyright Factsheet, Australian Business Arts Foundation.
www.abaf.org.au/media/docs/Intellectual-property-and-copyright-final-4599d974-3d13-43dc-98cf-9b7b8cd7eb27-0.pdf

Indigenous Protocols, Solid arts Website. www.solidarts.com.au/working-ethically/protocols/

Issues and Protocols Specific to Indigenous Practitioners - Indigenous Culture and Community Guidelines, National Association for the Visual Arts (NAVA), 2009. www.visualarts.net.au/sites/default/files/navaissuesandprotocols.pdf

Protocols for Indigenous Art and Culture, National Gallery of Australia. www.nga.gov.au/exhibitions/pdf/protocols.pdf

Protocols for producing Indigenous Australian visual arts, Australia Council for the Arts, 2nd Edition, 2007. www.australiacouncil.gov.au/data/assets/pdf_file/0004/32368/Visual_arts_protocol_guide.pdf

Valuing Art, Respecting Culture: Protocols for working with the Australian Indigenous Arts and Craft Sector, National Association for the Visual Arts Ltd., 2001. www.visualarts.net.au/sites/default/files/VARC.pdf

Working and Walking Together - Supporting Family Relationship Services to Work with Aboriginal and Torres Strait Islander Families and Organisations, SNAICC, 2010. www.snaicc.asn.au/uploads/rsfil/02497.pdf