ABORIGINAL CULTURAL INCLUSION

GUIDE TWO: RESPECT

How to engage respectfully with Aboriginal people while working in WA's tourism sector.

GOVERNMENT OF WESTERN AUSTRALIA
Tourism WESTERN AUSTRALIA
WESTERN AUSTRALIA WALKING ON A DREAM
WAITOC.COM Ancient Tracks-New Journeys

ACKNOWLEDGEMENT OF COUNTRY

Tourism Western Australia and the Western Australian Indigenous Tourism Operators Council (WAITOC) acknowledges Aboriginal people as the First Peoples of Western Australia. We pay our respects to all Aboriginal people in Western Australia, and we celebrate the diversity of Aboriginal people and honour their continuing connection to Country, culture, family, and community.

We recognise and appreciate the invaluable contributions made by Aboriginal people across many generations in shaping Western Australia as a premier tourism destination.

LANGUAGE STATEMENT:

We recognise the diversity of First Peoples living throughout Western Australia. This document uses the term ‘Aboriginal’ in recognition that Aboriginal people are the original people of Western Australia. At a regional or local level, the traditional language group name is often used.

Across Australia through government, the term for Aboriginal and Torres Strait Islander peoples may be referred to as Indigenous peoples. The diversity of terms used to acknowledge peoples continues to alter. The diversity of acknowledgement includes Indigenous, First Peoples, First Nations, Traditional Owners, Traditional Custodians and identification by the traditional language groups.

Note: It is always best practice to ask Aboriginal people or groups how they would like to be referred to.

ARTIST BIO

Madeleine Edwards - Jalani Media

Madeleine Edwards is a Jaru woman from the Kimberley region of Western Australia and the founder of creative agency Jalani Media. She holds a Bachelor of Commerce (Major in Marketing) from the University of Western Australia. Madeleine seamlessly blends traditional and contemporary techniques, honouring her cultural heritage while embracing modern storytelling. Her practice spans digital art and acrylic paintings on canvas, where she draws upon the natural beauty of Jaru Country.

Maddie designed the illustrations for each guide, drawing inspiration from its themes and content.

GUIDE INTRODUCTION

This guide is an educational resource designed to assist non-Aboriginal tourism operators to engage and work respectfully with Aboriginal people and Aboriginal tourism businesses.

It is one of four guides that advocates for Aboriginal cultural inclusion within the tourism industry. The guides collectively aim to:

- Remove barriers from learning about Aboriginal culture.
- Inform the development of best practice protocols for your business so you can work respectfully with your local Aboriginal community.
- Highlight the importance of Indigenous Cultural Intellectual Property (ICIP) and how to ensure ICIP is honoured throughout the operation of your business.
- Promote the cultural safety and inclusivity of Aboriginal people in all areas of the tourism industry.

These guides are a starting point for learning and are living documents that may evolve over time. We recognise that English words are used across these guides to describe Aboriginal concepts that, like any language, might not specifically fit the English understanding of that word.

QUICK REFERENCE LINKS

How do I best engage and communicate with Aboriginal people respectfully?	6
What cultural information, products, or services can I share or sell as a non-Aboriginal person or business?	8
What is the difference between 'Intellectual Property' and 'Indigenous Cultural and Intellectual Property' and why is this relevant to my business?	14
Indigenous Cultural and Intellectual Property (ICIP) Checklist	18
Checklist Analysis and Recommendations	20
Read the full Aboriginal Cultural Inclusion Guides series	21
Want to take your cultural knowledge and understanding to the next level?	21

USE AS A HANDY REFERENCE GUIDE OR READ ALL GUIDES ONE TO FOUR CONSECUTIVELY TO MAXIMISE YOUR LEARNING OUTCOMES.

DISCLAIMER

The information contained in this guide is for informational purposes only and should not be regarded as legal advice on any matter. It is recommended that independent legal advice is sought for your business where appropriate.

HOW DO I BEST ENGAGE AND COMMUNICATE WITH ABORIGINAL PEOPLE RESPECTFULLY?

Australia has the world's oldest living culture, dating back over 60,000 years. With the size and scale of Western Australia and the Aboriginal people within it, cultural differences between Aboriginal people, communities, and language groups may vary greatly across urban, regional and remote areas. This impacts on the way individual Aboriginal people, businesses, organisations, and communities conduct their business dealings.

PLANNING AN ENGAGEMENT

- When planning a meeting or visit on Country, first identify:
  - Whose Country will I be on; and
  - Who is the appropriate person who can speak for that Country, business, organisation, or community?

Find more information about 'Whose Country am I on?' in Aboriginal Cultural Inclusion Guide One: Country.

INITIATING THE ENGAGEMENT

- When making first contact, clearly explain the reason for your meeting request prior to arrival – this is a great first step towards a courteous engagement.

CREATING A CULTURALLY SAFE ENVIRONMENT

- Cultural safety refers to the environment, relationships and systems that enable individuals to feel safe and valued. Cultural safety enables people to participate and practise their cultural, spiritual and beliefs systems, free from racism and discrimination.
- How to initiate cultural safety:
  - Respectful communication
  - Two-way dialogue
  - An environment that values all contributions
  - Recognition and avoidance of stereotypical barriers
  - Shared knowledge

COMMUNICATION

- Traditional Aboriginal culture and knowledge has been passed down verbally over generations. Whilst English is the first language of many Aboriginal people, this may not be the case for some people from regional/ remote Aboriginal communities.
- The impact of colonisation has led to the loss of language and challenges with literacy, which can often create a barrier for meaningful engagement with some Aboriginal people.
- Speaking face to face (or 'yarning') is an ideal way to share ideas and information, and to establish a business relationship.
- By speaking clearly and engaging in active listening, miscommunication may be avoided.
- For some Aboriginal people, looking someone straight in the eye may be considered rude or disrespectful. Whilst this may not be the case for all Aboriginal people, it is important to be aware of the cultural context and not apply a negative interpretation when eye contact is avoided in face-to-face meetings.
- For more complex business interactions, the engagement of a language or interpretive service, or a facilitator such as a Native Title Representative body or the relevant Prescribed Body Corporate, may assist with engagement.

DECISION MAKING

- Be mindful that Aboriginal people, cultural knowledge holders, men or women, for example, may possess different responsibilities, protocols, obligations, or authority to share information, or make decisions.
- It can take time for decisions and agreements to be made as cultural protocols and obligations are observed.

AGREEMENTS

- On agreement it is commercially beneficial to ensure a written or recorded audio/visual agreement between parties.
- Assistance for the Aboriginal person, business, organisation, or community may prove valuable through the facilitation of engagement through a language or interpretive service, Native Title Representative Body, or a Prescribed Body Corporate to ensure the agreement is accurate, equitable, and reflects the agreement of both parties.

PROTECTION OBLIGATIONS

- It is vital any Aboriginal cultural intellectual property remains the property of the Aboriginal custodian/s and is only shared by the Aboriginal individuals or communities with the authorisation to do so.

TOURISM TIP

Building trust and rapport over time is the best way to establish and grow strong business relationships.

WHAT CULTURAL INFORMATION, PRODUCTS, OR SERVICES CAN I SHARE OR SELL AS A NON-ABORIGINAL PERSON OR BUSINESS?

The quick answer is if you are non-Aboriginal, if you don't own it, or have the appropriate authority or permission, it is not yours to share or sell.

FOR FURTHER CLARIFICATION AND EXAMPLES, READ ON.

It is everyone's responsibility to respect the rights Aboriginal people have, and want to have, to protect their cultural heritage.

It is important to protect traditional Aboriginal culture and expression from:

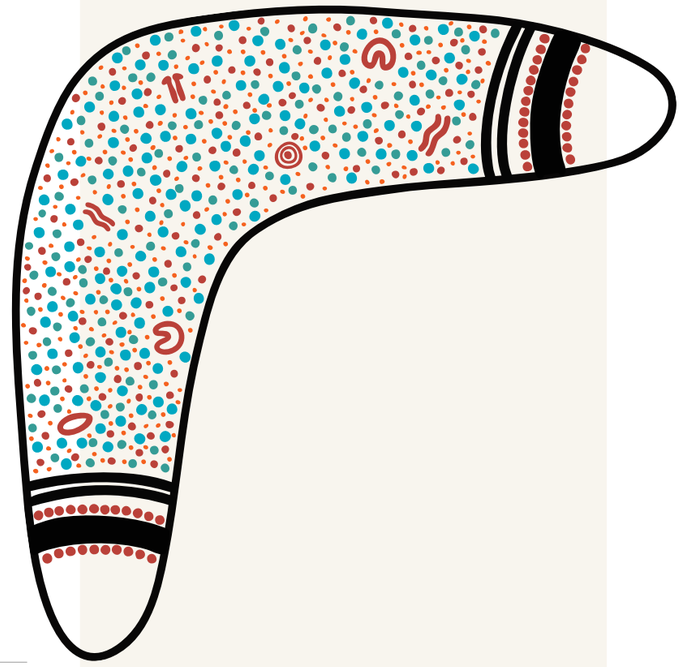
a) Being shared by a non-Aboriginal person or business; or

b) Being shared or sold by a non-Aboriginal person or business without the appropriate authority or permission from the relevant custodian or authorised person.

WHAT ARE EXAMPLES OF TRADITIONAL ABORIGINAL CULTURE AND EXPRESSION?

- Intangible cultural property e.g. stories passed on orally
- Music e.g. a song
- Performances e.g. dance, film, storytelling, voice recordings, ceremonies
- Artistic work e.g. painting, craftworks, graphic design
- Languages
- Tangible cultural property e.g. sacred sites, sacred objects, burial grounds
- Documentation of Indigenous peoples' heritage in all forms of media e.g. reports, films, sound recordings
- Writing e.g. a book, story

Traditional Aboriginal culture and expression is considered 'Indigenous Cultural and Intellectual Property' (ICIP) which is also often referred to as 'Aboriginal Cultural Intellectual Property' or 'Cultural Heritage'.[1]



1 | Arts Law Centre of Australia - Indigenous Cultural and Intellectual Property

HOW CAN I INCLUDE ABORIGINAL CULTURE IN MY TOURISM PRODUCT OR SERVICE AS A NON-ABORIGINAL PERSON OR BUSINESS?

WHAT IS RESPECTFUL AND APPROPRIATE?

Here's some tourism-related examples for consideration:

Use official Aboriginal place names in business materials, content, tours etc.	Respectfully keeping Aboriginal languages alive, for example: Boorloo (Perth) in Noongar language or Rubibi (Broome) in Yawuru language. Find more about Aboriginal place naming and guidelines at **Landgate**; refer to the **AIATSIS Map of Indigenous Australia**[2], or speak to your local Aboriginal Corporation, Land and Sea Council, or Prescribed Body Corporate.
Recognise Country and First Peoples through an Acknowledgement of Country.	Provided at the beginning of your tour, on your website, email signatures, guest compendiums etc. Find more information about Acknowledgement of Country in Aboriginal Cultural Inclusion Guide One: Country.
Recognise history and culture through the presentation of historical (post-colonisation), general knowledge, and scientific information.	Don't ignore it and don't 'own it'. State your sources and be respectful.
Procure authentic Aboriginal-made products for inclusion or sale in your business – ethically sourced with the appropriate acknowledgements and permissions.	For example: display of Aboriginal owned or created artworks; native bush food products; or retail sale of books or homewares. Note: a warning should be displayed on material which could contain images, voices, film, artwork, and stories of Aboriginal people who have passed away.

2 | Australian Institute of Aboriginal and Torres Strait Islander Studies

HOW CAN I INCLUDE ABORIGINAL CULTURE IN MY TOURISM PRODUCT OR SERVICE AS A NON-ABORIGINAL PERSON OR BUSINESS?

WHAT IS RESPECTFUL AND APPROPRIATE?

Here's some tourism-related examples for consideration:

Sign up to the Indigenous Art Code.	A set of rules and guidelines that Dealer Members, both Aboriginal and non-Aboriginal businesses, commit to follow to ensure ethical practices and fair treatment of Aboriginal and Torres Strait Islander artists. Sign up **here**.
Commission an Aboriginal person, business, organisation, or community to develop Aboriginal resources or products that enable the respectful inclusion of Aboriginal culture in your business operations – ethically sourced with the appropriate acknowledgements and permissions.	For example: artwork, audio guide, written guide, video recordings etc. Note: a warning should be displayed on material which could contain images, voices, film, artwork, and stories of Aboriginal people who have passed away.
Establish equitable partnerships with Aboriginal-owned and operated businesses to supply authentic products or services.	For example: inclusion of an Aboriginal guided tour in your tour itinerary; wholesale supply of products for your store; or the engagement of a local cultural knowledge holder to deliver a Welcome to Country at your event.
Promotion of local Aboriginal businesses or organisations to continue learnings.	For example: refer your customers to an Aboriginal business, corporation, or Prescribed Body Corporate for authentic cultural experiences, education opportunities, or further information.

TOURISM TIP

Equity and Fairness - When securing a product/service, business deal, collaboration, or partnership with an Aboriginal person, business, organisation, or community, ensure everyone clearly understands their agreed roles and terms; the relevant permissions are received; and there is equity and positive outcomes to be achieved for all parties.

The appropriate remuneration must also be negotiated and confirmed with the product or service provider reflective of the time, effort, product, service, and any Aboriginal cultural intellectual property involved.

WARNING:

Whilst being inclusive of Aboriginal culture in your tourism business it is imperative consumers are not led to incorrectly believe you are an Aboriginal business or creator of Aboriginal-made products.

AVOIDING CONSUMER CONFUSION - EXAMPLES FOR NON-ABORIGINAL BUSINESSES

- Don't sound like an Aboriginal tour business e.g. avoid words like dreaming, bush foods, storytelling etc.
- Don't look like an Aboriginal business e.g. avoid content, imagery, graphic design, styling etc. that may be interpreted as an Aboriginal product or service.
- Don't present or sell Aboriginal products (such as art or craft, books, photographs etc.) without the appropriate ethical partnerships, acknowledgements and permissions in place.
- Avoid use of Aboriginal Country or language group names in business, tour, experience, or product names noting this may exclude commonly used official place names.

By maintaining your own business' authenticity and integrity, you are respectfully, as a non-Aboriginal person/business, safeguarding Aboriginal cultural heritage and traditions.

MORE INFORMATION AND FREQUENTLY ASKED QUESTIONS ARE PROVIDED IN ABORIGINAL CULTURAL INCLUSION GUIDE THREE: LANGUAGE & PROTOCOL

‘INTELLECTUAL PROPERTY’ AND ‘INDIGENOUS CULTURAL AND INTELLECTUAL PROPERTY’

WHAT IS THE DIFFERENCE BETWEEN ‘INTELLECTUAL PROPERTY’ AND ‘INDIGENOUS CULTURAL AND INTELLECTUAL PROPERTY’ AND WHY IS THIS RELEVANT TO MY BUSINESS?

Intellectual Property (IP) refers to creations of the mind. It could include a brand, logo, invention, design, artistic work, or even a new plant variety.[3] In a business, this may include:

- A new or better way to deliver a good or service compared to the current offering;
- Novel inventions or systems;
- Confidential information, secrets, or goodwill; or
- Any component of your business which adds value.

Common forms of IP assets typically identified in tourism businesses may include logos; pictures; trade names; know-how; branding; trade secrets; data; processes; drawings; product labelling; ideas; confidential information; and others.

Common forms of Registered IP include Trade Marks (e.g. logo, phrase, word, letter, sound, packaging); Patents (e.g. new technology, devices, substances or processes); and Design Rights (e.g. the overall visual appearance of new and distinctive products).

3 | IP Australia www.ipaustralia.gov.au/understanding-ip

Indigenous Cultural and Intellectual Property (ICIP), also known as Aboriginal Cultural Intellectual Property or Cultural Heritage refers to all the rights that Aboriginal people have, and want to have, to protect their cultural heritage.

ICIP can come in diverse forms of traditional Aboriginal culture and expression. As outlined earlier in this guide these can include:

- Writing e.g. a book, story
- Music e.g. a song
- Performances e.g. dance, film, storytelling, voice recordings, ceremonies
- Artistic work e.g. painting, craftworks, graphic design
- Languages
- Tangible cultural property e.g. sacred sites, sacred objects, burial grounds
- Intangible cultural property e.g. stories passed on orally
- Documentation of Aboriginal peoples’ heritage in all forms of media e.g. reports, films, sound recordings

The idea of ICIP is based on the principle of self-determination and is said to include the following rights[4]:

- Right to protect traditional knowledge and sacred cultural material;
- Right to ensure that traditional laws and customary obligations are respected, particularly when money is made from ICIP;
- Right to be paid for use of ICIP, particularly if it has been used in a way which is inconsistent with traditional laws or without the appropriate permission;
- Right to full and proper attribution or naming of the community, family or individuals connected with the ICIP;
- Right to prevent insulting, offensive, and misleading uses of ICIP in all media; and the
- Right to control the recording of cultural customs and expressions, and language which may be essential to cultural identity, knowledge, skill, and teaching about Aboriginal culture.

4 | Arts Law Centre of Australia - Indigenous Cultural and Intellectual Property

WHY IS THE PROTECTION OF IP AND ICIP RELEVANT TO MY BUSINESS?

- The reasons behind the protection of Intellectual Property (IP) are generally understood by business owners and operators, and why we need to protect, for example, our IP assets (such as trade names, trade secrets, logos etc.), or registered IP (such as trademarks, patents and design rights).
- Most of us are also aware of Australian intellectual property laws that can protect individuals and businesses.
- With regards to Indigenous Cultural Intellectual Property (ICIP) however, many people do not have the awareness or understanding of some (or many) types of ICIP resulting in actions and business activities that are disrespectful, culturally inappropriate, offensive, or hurtful to Aboriginal people, or in some cases, unlawful.

Australian Intellectual Property laws only protect some forms of ICIP and only recognise the rights of individuals (not communal rights). Laws may not protect some ICIP such as products or processes based on traditional knowledge, or those that have been handed down orally over generations (as opposed to written down or recorded).

- With enhanced understanding and respect for Aboriginal culture, ICIP, and opportunities for the appropriate inclusion of Aboriginal culture in tourism products and services offered by non-Aboriginal people or businesses, positive outcomes may be achieved.

How?

- **Inclusion & Connections -** By respectfully enhancing Aboriginal cultural inclusion and connections in your tourism activities, you are helping Aboriginal people to secure sustainable economic, social and job outcomes.
- **Reconciliation -** A pathway to reconciliation, healing and strengthening relationships between Aboriginal and non-Aboriginal members of our communities is presented.
- **Diversification -** You are diversifying your business operations, products or services which may also diversify (and potentially increase) your industry networks and target consumer markets.
- **Destination Development -** You are playing an important role in assisting the growth of Western Australia's reputation as a rich and diverse destination for Aboriginal cultural experiences, and a unique point of difference over other travel and experiential destinations.

TOURISM TIP

Visit Creative Australia: Protocols for using First Nations Cultural and Intellectual Property in the Arts **here**.

INDIGENOUS CULTURAL AND INTELLECTUAL PROPERTY CHECKLIST

QUESTION 1: DOES YOUR BUSINESS INCLUDE ABORIGINAL CULTURAL CONTENT IN ANY OF THE FOLLOWING?

Example	Yes	No
Delivery of cultural activities (e.g. tours, experiences, workshops, presentations, performances, training)	☐	☐
Cultural content in tour/activity script (e.g. traditional stories, Dreamtime, pre-colonisation history)	☐	☐
Use of Aboriginal language in your business, product, or service name (excludes official place names)	☐	☐
Visitation of sacred sites	☐	☐
Demonstration of artefacts or sacred objects	☐	☐
Food products (e.g. bushtucker, native bush foods)	☐	☐
Bush medicine or healing products	☐	☐
Consultancy services	☐	☐
Branding, design	☐	☐
Marketing activities (e.g. advertisements, website, social media)	☐	☐
Videos or recordings	☐	☐
Guides or publications	☐	☐
Music or songs	☐	☐
Dance, choreography, costumes	☐	☐
Sale of Aboriginal-made products (e.g. art, craft, artefacts, homewares, beauty products, food products, clothes, accessories, books)	☐	☐
Display or sale of material which could contain images, voices, film, artwork, or stories of Aboriginal people who have passed away	☐	☐

QUESTION 2: HAVE YOU, OR ARE YOU PLANNING TO, FILM, PHOTOGRAPH OR RECORD AN ABORIGINAL PERSON/S FOR INCLUSION IN YOUR COMMERCIAL TOURISM OPERATIONS?

Example	Yes	No
Trade or media famil featuring Aboriginal people, cultural sites, objects etc.	☐	☐
Sales and marketing collateral	☐	☐
Digital media content	☐	☐
Commentary	☐	☐
Activities	☐	☐
Guides, compendiums	☐	☐
Recorded Welcome to Country	☐	☐

QUESTION 3: DO YOU COMMERCIALLY SELL PRODUCTS THAT REPRESENT (OR MAY BE INTERPRETED AS) ABORIGINAL CULTURE?

(e.g. art, craft, artefacts, homewares, beauty products, food products, clothes, accessories, books etc.)

Example	Yes	No
You sell authentic Aboriginal-made products but are unsure if you have the appropriate ICIP registration, acknowledgements, payments, or permissions in place?	☐	☐
You sell products that may be interpreted as Aboriginal-made but they are made or reproduced by a non-Aboriginal person or company.	☐	☐

CHECKLIST ANALYSIS AND RECOMMENDATIONS

As your cultural awareness and understanding grows, you are better equipped to analyse the situation and make an informed and respectful decision moving forward.

If your answer to any of the above questions is 'Yes', consider the following actions relevant to your situation:

Your Situation	Tourism Tip
You have deemed elements of your business operations or activities to be (or potentially be) disrespectful, harmful, or hurtful to Aboriginal people.	Investigate further, seek advice from key Aboriginal leaders or organisations such as WAITOC or your local Prescribed Body Corporate and correct as necessary.
My business shares information about Aboriginal culture, history and Dreamtime stories as part of the tour delivered by a non-Aboriginal person.	There are restrictions around the information you can share as a non-Aboriginal person. Seek permission from the appropriate individual or community group and/or remove any restricted content from your offering. Content may include secret/sacred sites and stories, images of deceased people, objects that may have strict cultural protocols around its use. This applies to verbal, written and audio-visual formats.
Have you determined if there is an associated fee and/or formal acknowledgement required for the use of this cultural service and sharing of ICIP?	Ensure ICIP is respected, acknowledged and compensated financially as appropriate.
Do you buy/sell works by Aboriginal artists?	Sign up to the Indigenous Art Code at **www.indigenousartcode.org**
Still unsure about your specific situation and need some advice?	Seek advice from your Aboriginal suppliers, partners, local Aboriginal Corporation or Prescribed Body Corporate. Visit **nativetitle.org.au/find/pbc**

TOURISM TIP

- **For more general information about IP**, visit the IP Australia website at www.ipaustralia.gov.au/understanding-ip
- **For more general information about ICIP**, visit the Arts Law Centre of Australia website at www.artslaw.com.au

If you are unsure about cultural authenticity or ICIP in your tourism business, contact the relevant product/service provider; speak with the appropriate cultural knowledge holder; Aboriginal Corporation; Prescribed Body Corporate; or seek legal advice.

READ THE FULL ABORIGINAL CULTURAL INCLUSION GUIDES SERIES

How to engage respectfully with Aboriginal people while working in WA's tourism sector:

Access all four guides on the TCWA website.

CLICK HERE

WAITOC AND TCWA TRAINING PROGRAMS

Want to hear about the **WAITOC and TCWA Advanced Aboriginal Cultural Inclusion Training Programs**?
Please register your interest by emailing tcwa@tourismcouncilwa.com.au

CLICK HERE

This guide was proudly funded by Tourism Western Australia in partnership with the Western Australian Indigenous Tourism Operators Council (WAITOC).

We wish to thank all contributors to this guide including Breakaway Tourism, WAITOC, Tourism Western Australia and Tourism Council WA.

Illustrations by © Jalani Media