

RAP good practice guide

Using Aboriginal or Torres Strait Islander artworks: getting it right

Within the RAP community, many organisations choose to engage Aboriginal and/or Torres Strait Islander artists during the design of their RAP cover artwork, or for other activities within their RAP. During this process, it is important to understand the protocols and procedures that should be followed as well as Indigenous cultural and intellectual property and Copyright laws. The following resource will help guide you along this journey.

Understanding protocols and laws

Visual arts

Aboriginal and Torres Strait Islander artwork can come in a number of different mediums. For example, music, writing, visual arts, media arts, performing arts. This guide, refers to visual arts, specifically any artwork you wish to use for your RAP—e.g. on the front cover, throughout the document, or to include on brochures, posters and any other forms of promotional material.

Aboriginal and Torres Strait Islander cultural diversity

It is important to recognise that Aboriginal and Torres Strait Islander cultures are diverse and complex. This resource should therefore be used as a 'first step' and an introduction, rather than an exhaustive guide. Please ensure that you consult with Aboriginal and Torres Strait Islander stakeholders when commissioning an Aboriginal and Torres Strait Islander artwork for your RAP.

Copyright and Indigenous Cultural and Intellectual Property

It has been widely commented that current Australian intellectual property laws, such as the *Copyright Act 1968 (Cth)*, provide inadequate levels of protection for Aboriginal and Torres Strait Islander intellectual property and cultural heritage. For example, the *Copyright Act 1968 (Cth)* is aimed at protecting individual creators of arts, rather than protecting communal rights. It is also designed to protect artistic works, but offers little protection against the reproduction of cultural knowledge, stories or artistic styles.

Laws all over the world known as "intellectual property laws" protect some of the things that people produce as a result of their intellectual effort. The things protected include artworks and designs. Australian intellectual property laws *only* protect some forms of Indigenous Cultural and Intellectual Property.

It is therefore important for organisations to go above and beyond the minimum legal requirements.

Getting it right

During the [RAP development process](#), Reconciliation Australia will remind you upon conditional endorsement that *'If using Aboriginal and/or Torres Strait Islander artwork or imagery in your RAP, please acknowledge the artist and the story behind it.'* However, the process of obtaining Aboriginal and Torres Strait Islander art for your RAP will begin much earlier than this.

The following provides some 'first steps' to ensure you have considered laws and protocols well before sending your final RAP to Reconciliation Australia for endorsement.

Important questions to ask yourself

- Who is the artist and has your organisation taken time to build a relationship?
- Where is the artist from?
- Have you received permission from the artist to produce the artwork in the exact way you intend to?
- Have you come to an agreement with the artist about payment?
- Have you considered what you will do if the artist passes away?
- Have you discussed and received permission to reproduce the artwork in different ways and through different mediums? E.g. posters, t-shirts, online, through social media etc.
- Have you consulted with the local Elders and Traditional Owners about the appropriateness of producing this artwork on your RAP?
- Have you acknowledged the artist appropriately?
- Have you shared enough accurate information about the artist and artwork in your RAP?
- Have you considered how this artwork may be accepted by the community? For example, if you are a company in Melbourne and you have engaged an artist from Sydney, have you thought about this and consulted the necessary parties?

Stock images

The rule of thumb is to ensure any artwork or photos used are done so in a considered, meaningful and respectful way.

Do not use stock images for Aboriginal or Torres Strait Islander artwork. It is difficult to genuinely acknowledge the artist and the meaning behind the artwork from an online image database. It is also important that an artist be remunerated, this would not be possible if artwork was obtained from a stock image database.

This advice also extends to any photos of Aboriginal and Torres Strait Islander people. Please avoid using stock images of First Nations people.

Ensure permissions are sought from photographers and individuals depicted in all photographs. All photos in a RAP should be appropriately captioned and help to explain your reconciliation journey and future commitments.

Useful Resources

We encourage you to learn more about through these helpful resources listed here:

- The **Australian Council for the Arts**: [Protocols For Using First Nations Cultural And Intellectual Property In The Arts](#) Terri Janke & Company: True Tracks®: a pathway to Indigenous engagement
- **Copyright Agency** information on [permissions and licenses](#)
- The **Arts Law Centre of Australia** Artists in the Black [information sheet](#) on Indigenous Cultural and Intellectual Property.
- The **Indigenous Art Code** [website](#).
- The **Fake Art Harms Culture** [campaign](#).
- The Narragunnawali: Reconciliation in Schools and Early Learning professional learning resource on Visual Arts.
- The [Copyright Act 1968](#).

Suggested Deliverables for your RAP

If your organisation would like to support the Aboriginal and Torres Strait Islander arts sector and do more in this space, consider including the following deliverables in your RAP.

- Support the 'Fake Art Harms Culture' campaign to lobby the Australian Government to address the proliferation of fake Aboriginal and Torres Strait Islander art and art products.
- Develop relationships with local Aboriginal and Torres Strait Islander artists.
- Ensure all Aboriginal and/or Torres Strait Islander artwork in our offices are labelled – or accompanied by – information that explains who the artist is and where they are from

Have more questions? Contact us at rap.team@reconciliation.org.au