

Respecting the
**Indigenous Cultural
and Intellectual
Property (ICIP) rights**
of other artists and
communities.



Information for
Artist Members

Aboriginal and Torres Strait Islander artists obtain cultural knowledge, including designs and stories, throughout their lives through relation with their Elders, their communities and their lived experience.

This allows them to know the Indigenous Cultural and Intellectual Property (ICIP) they can and can't represent in their artwork.



We recognise that not all Aboriginal and Torres Strait Islander artists create artwork representing their and their community's ICIP. We also acknowledge that colonisation has impacted the cultural inheritance of many Aboriginal and Torres Strait Islander peoples.

Using ICIP that belongs to other artists or communities without their consent **isn't fair** and goes against the purpose of the Code.

Respecting the rights of other artists and communities helps create a fair and transparent market.

“ The ecosystem, the environment we live in, is full of natural resources.

Our art is our resource; it belongs to us, we use it in a ceremonial context, and it is a resource for our survival. If control of that resource is taken away from us, we cannot meet our cultural obligations, we cannot use it for our families' benefit.

Exploiting our resources needs to be negotiated on our terms, we need to have control of how that's done.

”

— Dr B. Marika AO, Yolŋu Artist, 2017



Aboriginal and Torres Strait Islander artists are increasingly recognised and sought after in Australia and internationally. Selling and licensing artwork can provide significant opportunities and income for many artists.

The Indigenous arts sector has grown because of the skills of artists and the cultural value artists and communities derive from the practice of cultural expression, also referred to as **Indigenous Cultural Intellectual Property (ICIP)** or **‘cultural heritage’**.

What are we talking about when we say **Indigenous Cultural and Intellectual Property (ICIP)**?

Indigenous Cultural and Intellectual Property (ICIP), cultural expression or cultural heritage are grounded in the **thousands of generations** of Aboriginal and Torres Strait Islander people observing and living with the all-encompassing environment and the resulting knowledge that comes from that multigenerational and multidimensional lived experience.



The content of such expression is **unique to Aboriginal and Torres Strait Islander people** and is used as a vehicle to transmit knowledge, culture, and stories. Such cultural expression, and the knowledge that informs the cultural expression, forms both tangible and intangible cultural heritage.

Collectively owned, this cultural heritage is **continuously looked after** and forms the identity of Aboriginal and Torres Strait Islander groups from which the heritage originates.



ICIP forms part of, and is expressed in, Aboriginal and Torres Strait Islander **cultural expression** and **artwork, languages, performances, music** and **writings**.

IartC has heard that not all artists are familiar with the term ICIP; some don't like it, and some communities have their own words to explain this. We have decided to continue using ICIP because most people seem to be familiar with it, and with the Australian Government's commitment to developing legislation to protect ICIP, more people are becoming familiar with it.

While not yet recognised under Australian law, there are certain **rights** that are attached to ICIP including:

The right to ensure that **traditional and customary laws are respected**, particularly when money is made from ICIP

The right **to be paid** for the use of ICIP

The right of **full attribution or naming of the community** connected to the ICIP

Right to **stop offensive or misleading uses** of ICIP

Right to **control the recording or use** of ICIP



What is lartC's role?

Indigenous Art Code (lartC) is increasingly approached by artists to assist in matters relating to ICIP, including where an artist believes their and their community's ICIP has been copied, misused or breached by another artist.

Our role in this space is to facilitate discussion in the context of lartC Membership, rather than to be a decision-making body about cultural knowledge disputes.

IartC isn't the "culture police".

We can't tell people what they can and can't paint or if they should or shouldn't be identifying as Aboriginal or Torres Strait Islander people from particular Country, Community and Language Groups.

We acknowledge that existing bodies and decision-making frameworks in communities are the right places for these issues to be discussed and addressed.



What we are
doing about
these concerns,
and why

Because of these issues, we have to think carefully about Artist Membership, the obligations of artists as IartC members, and ensure that all existing and future members understand what membership means.

We held a workshop with artists and leaders representing diverse Aboriginal and Torres Strait Islander cultures and lived experiences. Lots of things were discussed about what IartC can do, should do and what isn't for us to do in this space, because we want to make sure Artist Membership is solid and meaningful.

This conversation has included:

That IartC Artist Membership **should not** be the first step in an artist's journey to "authenticate" or "legitimise" their art practice.

Talk about the **importance** of artists **respecting** other Aboriginal and Torres Strait Islander artists and communities.

Artists talked about the **laws** in their community guiding what, why, and how they create artwork. How it is **harmful** when other artists disregard the cultural protocols they are responsible for and guided by. It is **unfair** that they **exploit** and profit from something that's **not theirs**.



INDIGENOUS
ART CODE
ARTIST MEMBER

The need for IartC Artist Membership to **include declarations and protocols** for artists to commit to regarding who they are and whether they have the **cultural authority** to create the artwork they are making.

If individuals have recently discovered their Aboriginal or Torres Strait Islander ancestry, creating artwork that **misappropriates** other Aboriginal or Torres Strait Islander people's knowledge **shouldn't be** where you start that exploration.

There is a new lartC Artist Member declaration that you will need to complete:

ICIP Declaration about my artwork

lartC asks you to sign this declaration to uphold and value Indigenous Cultural and Intellectual Property (ICIP) as an integral part of your Artist Membership.

In the same way, lartC asks all members not to infringe on an artist's copyright and to behave fairly and transparently. We also ask you not to infringe on Indigenous Cultural and Intellectual Property (ICIP) belonging to another artist or community.

This declaration does not address all the ICIP issues an artist may face but instead provides a framework to guide behaviour and decision-making regarding lartC Membership.

In the creation, selling and promotion of my artwork:



I confirm I have read the Respecting the Indigenous Cultural and Intellectual Property (ICIP) rights of other artists and communities information sheet for IartC Artist members.



I declare that when using and drawing upon Indigenous Cultural and Intellectual Property (ICIP), such as images, symbols, songs, dance, stories and other cultural knowledge, in creating my artwork or in collaboration with others, I have discussed and gained the appropriate consent to use this ICIP to create my artwork.



I declare that I will not use or misappropriate Indigenous Cultural and Intellectual Property (ICIP), which I do not have the cultural authority to use.



I declare that if I do not know if I have consent or authority to use the Indigenous Cultural and Intellectual Property (ICIP), including but not limited to images, symbols, songs, dance, stories and other cultural knowledge, I will not use it.



I declare that I will not make representations about belonging to language, community and traditional owner groups (and having rights to associated ICIP) where I cannot demonstrate I am recognised as such by members of the community, language and traditional owner groups.

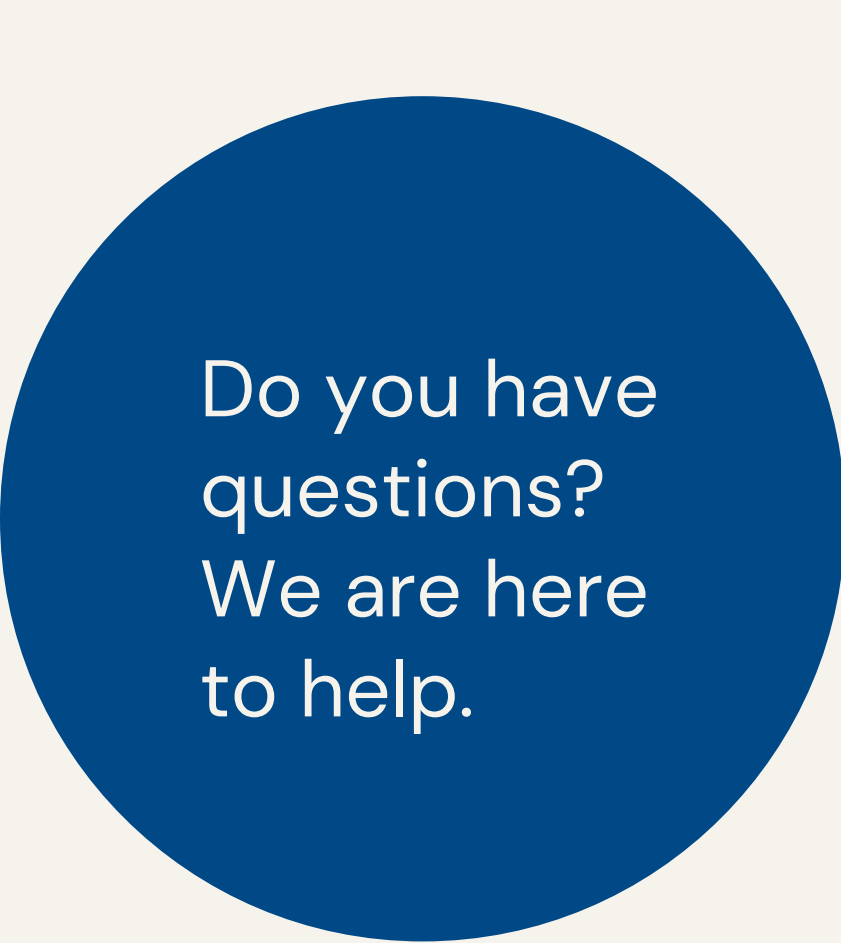


I commit to respecting and valuing Indigenous, Cultural and Intellectual Property (ICIP) belonging to my community and all Aboriginal and Torres Strait Islander communities.



I understand that IartC may, from time to time, ask me for further documentation or information concerning this declaration.





Do you have
questions?
We are here
to help.

Call us on **0438 327 848** or email
membership@indigenoustartcode.org

We acknowledge the challenges of having this conversation with our members, artists, and community. It is an ongoing discussion and IartC's work in this space is evolving.

If you have any questions about this work or need assistance applying for, updating, or renewing your membership, please contact us.

If you are an artist having problems with businesses or individuals who buy, sell or license your artwork we can provide advice and also connect you with other organisations that will help.