



# Stand-alone legislation to protect Indigenous Cultural and Intellectual property

## What is Indigenous Cultural and Intellectual Property?

Indigenous Cultural and Intellectual Property (ICIP) refers to the rights First Nations people have, and want to have, in relation to their culture.

Other terms used are **traditional knowledge** and **traditional cultural expressions**. **Traditional knowledge** describes any form of knowledge acquired in a traditional context. **Traditional cultural expressions** describes the various ways in which this knowledge is expressed including language, music, stories, dance, as well as visual arts and crafts.

## The issue

The current legal framework does not provide adequate protections to ensure that only authentic art made by First Nations artists and communities with the approval of traditional custodians are created and sold. According to the Productivity Commission, over half of souvenirs and merchandise sold do not meet these criteria.

## Our commitment

Through the National Cultural Policy, *Revive*, the Australian Government committed \$13.4 million over 4 years to introduce new stand-alone legislation and other measures, to protect traditional knowledge and cultural expressions, including to address the harm caused by fake art, merchandise and souvenirs.

## A staged approach

To ensure the legislation is developed as quickly as possible to take action on fake art, we are developing the legislation in stages. The first stage will address the issue of fake visual arts, merchandise and souvenirs.

## Community engagement

We want to hear a wide range of views and are holding 41 public engagement sessions in 38 locations across Australia, from 4 March to 6 May. You can also participate in one of three online sessions to be held on 3, 14 and 26 June.

## First Nations-led

The legislation will be developed through a First Nations-led process. We are establishing a formal partnership with First Nations people to guide the development of the legislation. Expressions of interest for First Nations people to be members of the partnership will be available soon on our website, visit, [www.arts.gov.au/ICIP](http://www.arts.gov.au/ICIP).

## Have your say!

We want to hear particularly from First Nations people, including artists and organisations, on what you want protected under the new stand-alone legislation.

Have your say and help us deliver Australia's first stand-alone legislation to protect First Nations cultural expression.

Register to join a public engagement session or you can have your say online on our website, visit [www.arts.gov.au/ICIP](http://www.arts.gov.au/ICIP).

If you would like to talk to us directly, contact us at [ICIP@arts.gov.au](mailto:ICIP@arts.gov.au) or [1800 006 992](tel:1800006992) (opt 4).

# Community Engagement

## 2024 Locations and Dates

Location	Date
<b>ACT</b>	
Canberra	6 May
<b>NT</b>	
Alice Springs	25 March
Darwin	16 April
Katherine	17 April
Yirrkala	18 April
<b>NSW</b>	
Coffs Harbour	11 March
Lismore	12 March
Tweed Heads	13 March
Wollongong	3 April
Sydney	4 April
Parramatta	5 April
Albury-Wodonga	8 April
Wagga Wagga	9 April
Dubbo	10 April
Walgett	11 April
Moree	12 April
<b>QLD</b>	
Brisbane	11 April
Cairns	12 April
Rockhampton	22 April
Gold Coast	23 April
Sunshine Coast	24 April
Mount Isa	26 April
<b>SA</b>	
Ceduna	14 March
Port Augusta	15 March
Adelaide	18, 19 March
<b>TAS</b>	
Burnie	4 March
Launceston	5 March
Hobart	6, 7 March
<b>TSI</b>	
Thursday Island	15 April
<b>VIC</b>	
Bairnsdale	8 March
Shepparton	12 March
Ballarat	13 March
Melbourne	14, 15 March
<b>WA</b>	
Kununurra	22 April
Broome	23 April
Perth	29 April
Geraldton	30 April
Port Hedland	1 May

## Topics for discussion

The government recognises many First Nations communities and individuals have shared their views on this topic in the past. We deeply appreciate the time First Nations people have taken to do this and we will take that information into account as we develop the new law. We are also aware not everyone may have told the government what they would like to see in a new law. So, this consultation session is an opportunity for you to tell us what you would like to see in a new law, whether it's for the first time or not. The questions have been influenced by feedback First Nations peoples have given us before, about the important problems a new law could help solve.

## Scope of the legislation

*We are doing a staged approach to the legislation. The first stage will deal with fake art, merchandise and souvenirs. Later stages will address broader ICIP rights.*

- Which aspects of ICIP do you want protected under the new law?
  - All art forms, symbols and designs?
  - Languages?
  - Medicine?
  - Traditional foods?
  - Biotechnology?
  - Ecological knowledge?
  - Spiritual knowledge?
  - Artificial intelligence and emerging technologies?

- What are the rights for Traditional Owners that you want to see protected?

## Key concepts

- What should be the key principles and objectives of the new law?
  - Free, informed and prior consent
  - Cultural harm – the harm caused by the use of appropriation of First Nations art and culture.

## Key Terms and definitions

- Which terms do you prefer:
  - Indigenous/First Nations/Aboriginal and Torres Strait Islander?
  - Ownership/Custodianship?
  - Traditional Owner/ Traditional Custodian?

## Communal ownership

- How should communal custodianship/ownership of ICIP be recognised when several families may have rights to a design/symbol/style/story?
- How should decisions to approve the use of ICIP be made?
- How should free, informed and prior consent be ensured?
- Who will speak for community? Who will be the rights holders?
- How should ICIP disagreements be resolved within communities?

## Enforcement

- How do Traditional Owners/ Custodians want to take action against possible breaches of their cultural rights?
  - Independently?
  - With the assistance of a central cultural authority?
  - Government or a Government agency to take action on their behalf?
- How should harm caused by breaches of cultural rights be addressed?

## Other measures

- What assistance would help Traditional Owners to protect their art?