



Extract from Aboriginal Protocols

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Acknowledgments

Port Stephens Council acknowledges Australia's First Peoples, Aboriginal and Torres Strait Islander peoples, as the Traditional Owners of the lands, waters and skies of Australia.

Port Stephens Council is situated on the lands of the Worimi People. We pay respect to Worimi Elders past and present. May we walk the road to tomorrow with mutual respect and admiration as we care for the beautiful lands and waterways together.

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Important legal notice

The laws and policies referred to in this publication are current as of 27 November 2024. Any reference to laws and policies are for general use only and should not be relied upon for legal advice for a specific matter. For such matters, it is recommended to obtain professional legal advice from a suitable, qualified legal practitioner.

Terminology

For the purposes of this Framework, the term 'Aboriginal' is preferred, in recognition that Port Stephens Council exists on Aboriginal land. Where we refer more broadly to Indigenous peoples generally, this is intended to respectfully refer to Australia's Indigenous peoples, First Nations Australians, the First Australians, First Peoples of Australia and/or Australian Aboriginal and Torres Strait Islander peoples.

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Guiding Principles

Local custodians and the Worimi traditional owners have strongly connected with the True Tracks® Principles as a foundation for this Framework. This foundation has been expanded to incorporate the key values and priorities of the local Worimi community – including the need for inclusivity, wellbeing, education, and relationship-building.

These Guiding Principles form the community's expectations that the Council must meet when engaging with the Worimi and local Aboriginal community and their culture.

True Tracks® Principles

The True Tracks® Principles, developed by Terri Janke and Company, are a flexible framework that can guide Council's use of ICIP and engagement with Aboriginal peoples and communities. The Principles are not hierarchical and relate closely to each other, often overlapping – as is the nature of ICIP itself. The True Tracks® Principles should be considered at the outset of a project and incorporated from the planning stages through to delivery. They are intended to guide staff to consider the issues that may be applicable to a project or activity involving ICIP.



PRINCIPLE 1 – RESPECT

Council respects Aboriginal peoples' right to maintain, control, protect and develop their diverse cultures and ICIP, as recognised in Article 31 of the [United Nations Declaration on the Rights of Indigenous Peoples \(UNDRIP\)](#).

How Council applies this Principle:

- Conduct Welcomes to Country or Acknowledgments of Country at the beginning of meetings, events, activities and projects, to recognise the ongoing custodianship of Aboriginal people over the lands, waters and skies of our LGA.
- Recognise the cultural diversity of Aboriginal peoples, and continually seek to learn, understand and respect the different customary laws of people in the Port Stephens area.
- Builds and strengthens relationships with Aboriginal peoples in the Port Stephens area, to work for shared outcomes and achieve community aspirations.

PRINCIPLE 2 – SELF-DETERMINATION

Council supports the right of Aboriginal peoples to self-determination over their ICIP. Council will include, encourage and empower Aboriginal peoples in decision-making processes that involve or affect their ICIP. Aboriginal peoples are entitled to freely determine and pursue their economic, social and cultural development; and provide consent or refuse consent on matters that affect their economic, social and cultural affairs.

How Council applies this Principle:

- Engage Aboriginal people as project consultants, advisors, and cultural heritage experts.
- Work with Aboriginal advisory groups on projects and activities.
- Where specified by Aboriginal community partners, Council will respect and follow community-specific cultural rules and protocols.

PRINCIPLE 3 – FREE, PRIOR INFORMED CONSENT AND CONSULTATION

Council recognises that Aboriginal peoples have the right to have their Free, Prior and Informed Consent sought for the use of their ICIP. FPIC is the international standard for seeking consent for Indigenous peoples, as described in Article 19 of the UNDRIP.

Consultation and consent activities should aim to establish and maintain long-term, trusting and meaningful relationships with Aboriginal custodians and contributors. These activities must not be extractive or undertaken with a view to 'ticking-a-box'.

How Council applies this Principle:

- consult with relevant Aboriginal peoples (including language custodians, artists, individuals, groups, communities and knowledge holders).
- Keep communication lines open, and seek consent for any adaptations or changes to the original plan or scope.
- Inform Aboriginal peoples about the risks and implications of giving consent to use ICIP, and ensure that Aboriginal custodians have all relevant information and adequate time with this information prior to consent being given.

- Use appropriate consent forms and contractual agreements that include reference to ICIP.
- Agreements are written in simple, clear language, and give Aboriginal people enough time to review them and seek their own legal advice when needed.

PRINCIPLE 4 – INTERPRETATION

Council recognises that Aboriginal peoples have the right to maintain, protect and develop the past, present and future manifestations of their cultures. As the guardians of their cultures, Aboriginal peoples should hold and exercise self-determined power in the representation or interpretation of their ICIP.

How Council applies this Principle:

- Consult and seek the advice of relevant Aboriginal peoples to ensure interpretations of any ICIP depicted are accurate and respectful.
- Signage and other depictions of ICIP may include accompanying stories, to explain the cultural significance of the work.
- Seek review and approval for any translations (e.g. for language words) or explanatory text attached to artworks and other material from the relevant knowledge holder, and/or their communities.

PRINCIPLE 5 – INTEGRITY AND VALUING CULTURE

Council recognises and respects the dignity and diversity of Aboriginal cultures, traditions, histories and aspirations. Maintaining the integrity of ICIP is vital for the continuing practice of culture Council will ensure that its activities showcase, uphold and maintain the value of Aboriginal culture, practices and ways of knowing, being and doing.

How Council applies this Principle:

- Seek the advice of Aboriginal people in relation to any ICIP or cultural knowledge, and respect any cultural obligations, requirements or restrictions that may apply.
- Seek consent before making any adaptations or changes to works or materials incorporating ICIP (e.g. graphic design of an Aboriginal artwork for signage).
- Allow time in project plans for Aboriginal peoples to consider any reinterpretation of cultural material.

PRINCIPLE 6 – SECRECY AND PRIVACY

Council respects the right of Aboriginal peoples to the secrecy of their cultural and religious practices, sacred and secret information in accordance with customary laws. Privacy and confidentiality concerning aspects of Aboriginal people's personal and cultural affairs is respected.

How Council applies this Principle:

- Consult Aboriginal peoples on any issues of secrecy or confidentiality related to ICIP, and respect any requests from Aboriginal people around those issues.
- Apply cultural sensitivity and warning statements to materials incorporating ICIP.
- Respect Men's and Women's business in Council projects and activities.

- If advised that information is culturally sensitive and should not be made to the public, Council will handle the information in line with the wishes of the contributors, including withdrawing from publication where possible.

PRINCIPLE 7 – ATTRIBUTION

Council publicly acknowledges Aboriginal peoples as the owners and custodians of their ICIP.

How Council applies this Principle:

- Attribute Aboriginal people, knowledge holders and communities as the custodians of ICIP, where ICIP is incorporated in Council works.
- Ask Aboriginal contributors how they wish to be attributed, and put processes in place to ensure the attribution notice is not lost over time.

PRINCIPLE 8 – BENEFIT SHARING

Council respects the value of ICIP and ensures that Aboriginal peoples share in the benefits produced by the use of their ICIP, especially if this ICIP is utilised for a commercial purpose or is widely applied. Benefit sharing can take many forms, monetary and non-monetary. At its heart, it's about demonstrating respect, consultation with community and ensuring the benefits are returned to Aboriginal peoples.

How Council applies this Principle:

- Discuss benefit-sharing at the outset when consulting with Aboriginal people in relation to a project.
- Negotiate fair and equitable benefits for Council applications of ICIP, sufficiently valuing the contribution, skill and knowledge of Aboriginal contributors.
- Consider wider community benefits, e.g. capacity building, identified employment opportunities, etc.
- Include benefit sharing arrangements in project contracts.

PRINCIPLE 9 – MAINTAINING CULTURE

Council recognises that Aboriginal cultures are living, evolving cultures. Aboriginal peoples have the right to revitalise, use and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literature. Protecting ICIP is integral to culture being appropriately, accurately and sensitively maintained and passed on for the benefit of future generations.

How Council applies this Principle:

- Consult with Aboriginal peoples to consider how a proposed use of ICIP might affect future use by others who are entitled to inherit that ICIP.
- Respecting cultural rules and protocols, including understanding cultural processes for sensitive information, deceased persons, etc.
- Maintain relationships with relevant Aboriginal people and groups to ensure ongoing protection and respect for ICIP rights. This may include:
 - Seeking a next-of-kin from Aboriginal contributors to consult with in the event the contributor is incapacitated or has passed away;

- Establishing clear lines of communication and feedback processes for projects involving ICIP;
- Repatriating knowledge or information to source communities to support them in achieving their own outcomes for cultural maintenance.

PRINCIPLE 10 – RECOGNITION AND PROTECTION

Council recognises that ICIP rights and obligations exist in perpetuity, and the recognition and protection of ICIP must therefore be ongoing. Council applies a best practice combination of Australian law, protocols and policies to recognise and protect ICIP rights.

How Council applies this Principle:

- Use written licences, agreements and cultural consent forms for the use of ICIP.
- Ongoing education and awareness of non-First Nations peoples in relation to ICIP and Aboriginal engagement.
- Recognise that Australian law does not adequately protect the use of ICIP, and use best practice standards to go beyond legal requirements and ensure not to exploit ICIP.

Our Community Principles

TRUTH-TELLING AND ACKNOWLEDGING THE HURT

Council recognises and acknowledges the historical and ongoing impacts of colonisation, and the associated trauma and sensitivity when dealing with colonial histories.

How Council applies this Principle:

- Empower Aboriginal voices in truth telling and sharing stories about Aboriginal histories and experiences.
- Invite Aboriginal people to collaborate on heritage events, festivals and exhibitions, to share diverse experiences.

INCLUSION

Council acknowledges the breadth of the Aboriginal community and culture in Port Stephens. Council will strive to be inclusive of the needs, interests and priorities of all Aboriginal peoples, and ensure that it creates opportunities for Aboriginal peoples across Council activities.

How Port Stephens applies this Principle:

- Consult widely with Aboriginal people in Port Stephens, while respecting that Worimi people have the exclusive right to speak on Worimi culture.
- Share opportunities across the community, while respecting cultural protocols around cultural authority.

LOCAL KNOWLEDGE

Port Stephens recognises the importance of Traditional Ownership, and recognising the connection between Traditional Owners and Country. Worimi Country covers the largest area of the Port Stephens Local Government Area (LGA), but the LGA also connects to

Wonnarua Country to the west. Council recognises the place and role of Worimi people in speaking for Worimi Country, culture, language, story and people.

How Port Stephens applies this Principle:

- Consult with recognised Worimi people and cultural authorities on matters relating to Worimi culture, e.g. art, story, language.

TRANSPARENCY

Engagement with Aboriginal people must be open, honest, and meaningful.

How Council applies this Principle:

- Ensure FPIC is represented in all collaborations, activities and projects.
- Meet with Aboriginal people face to face to discuss projects, where possible.
- Continue to engage during and after projects, to maintain relationships and give regular updates on progress and changes.

COMMITMENT TO ACTION

Council must be committed to implementing good processes and genuinely acting on this Protocol.

How Council applies this Principle:

- Educate staff on good engagement and collaboration with Aboriginal people.
- Develop capacity and improve operational process within organisation to deliver on Protocol commitments.
- Seek opportunities to employ Aboriginal people within Council to support Protocol outcomes.