

POLICY:	PROTOCOL FOR RELATIONSHIPS BETWEEN THE ABORIGINAL AND TORRES STRAIT ISLANDER COMMUNITIES AND BATHURST REGIONAL COUNCIL
DATE ADOPTED:	Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477 Director Cultural & Community Services Report #1 Policy 4 June 2008 Council 18 June 2008 Minute Book No. 10443
ORIGINAL ADOPTION:	Director Cultural & Community Services Report #1 Policy 4 June 2008 Council 18 June 2008 Minute Book No. 10443
FILE REFERENCE:	09.00031
OBJECTIVE:	To establish protocols for communication with and engagement of Aboriginal and Torres Strait Islander community representatives.

What is an Aboriginal & Torres Strait Islander Protocol?

Aboriginal and Torres Strait Islander protocol refers to appropriate ways of including Aboriginal and Torres Strait Islander cultural material and working with Aboriginal and Torres Strait Islander people and their communities.

Much diversity exists between the different Aboriginal and Torres Strait Islander cultures in Australia making it impossible to create one set of rules for working with Aboriginal and Torres Strait Islander material and people, but there are some basic principles that act as a guide to working in a respectful way. Aboriginal and Torres Strait Islander protocol refers to these principles.

The following protocol has been drawn from various sources as follows, and modified for use with local Aboriginal and Torres Strait Islander community representatives.

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- Australia Council, the Federal Government's principal arts funding and advisory body. Source: www.ozco.gov.au
- NSW Premier's Department at www.premier's.nsw.gov.au
- NSW Department of Education & Training, Science in Context, Working with Aboriginal Communities at www.anu.edu.au
- Arts NSW Policies & Principles at www.arts.nsw.gov.au
- ABC Message Stick Cultural Protocols for Aboriginal and Torres Strait Islander Reporting in the Media at www.abc.net.au/message/proper

What is Aboriginal and Torres Strait Islander Cultural Knowledge?

Aboriginal and Torres Strait Islander Cultural Knowledge is knowledge relating to the cultural practices and the heritage of Aboriginal people. (Source: Arts NSW Policies and Principles).

Significant issues in the cultural identity of both Aboriginal and Torres Strait Islander people include:

- kinship.
- recognition and respect as a distinctive people.
- relationship to land and sea.
- preservation of customs, laws and language. (Source: ABC Message Stick Cultural Protocols at www.abc.net.au/message/proper).

What is Aboriginal and Torres Strait Islander Heritage?

" Heritage consists of the intangible and tangible aspects of the whole body of cultural practices, resources and knowledge systems that have been developed, nurtured and refined (and continues to be developed nurtured and refined) by Aboriginal and Torres Strait Islander people and passed on by Aboriginal and Torres Strait Islander people as part of expressing their cultural identity." This definition was formulated by Terri Janke and published in her book, *Our Culture: Our Future*, p 11.

The United Nations Report of the Seminar on the Draft Principles and Guidelines for the Protection of the Heritage of Aboriginal and Torres Strait Islander People by the Chairperson-Rapporteur: Mrs. Erica-Irene Daes (Geneva, 28 February - 1 March 2000) describes heritage as:

- The heritage of Aboriginal and Torres Strait Islander peoples has a collective character and is comprised of all objects, sites and knowledge including languages, the nature or use of which has been transmitted from generation to generation, and which is regarded as pertaining to a particular people or its territory of traditional natural use. The heritage of Aboriginal and Torres Strait Islander peoples also includes objects, sites, knowledge and literary or artistic creation of that people which may be created or rediscovered in the future based upon their heritage.
- The heritage of Aboriginal and Torres Strait Islander peoples includes all moveable cultural property as defined by the relevant conventions of UNESCO; all kinds of literary and artistic creation such as music, dance, song, ceremonies, symbols and designs, narratives and poetry and all forms

of documentation of and by Aboriginal and Torres Strait Islander peoples; all kinds of scientific, agricultural, technical, medicinal, biodiversity-related and ecological knowledge, including innovations based upon that knowledge, cultigens, remedies, medicines and the use of flora and fauna; human remains; immovable cultural property such as sacred sites of cultural, natural and historical significance and burials.

- Every element of an Aboriginal and Torres Strait Islander peoples' heritage has owners, which may be the whole people, a particular family or clan, an association or community, or individuals, who have been specially taught or initiated to be such custodians. The owners of heritage must be determined in accordance with Aboriginal and Torres Strait Islander peoples' own customs, laws and practices. (Source: Arts NSW Policies and Principles).

What are some of the characteristics of Aboriginal and Torres Strait Islander Cultural Knowledge?

- Aboriginal and Torres Strait Islander Cultural Knowledge:
 - Has been held and passed on by Aboriginal people for thousands of years. It changes and develops as Aboriginal culture changes and develops.
 - Is sometimes owned communally by a family, clan or group.
 - Is often held by a particular custodian in the family or clan.
 - May be passed on by the holders of the knowledge according to particular rules. These rules are sometimes referred to as customary law.
 - Is often learned and taught by talking and listening, rather than reading and writing. Aboriginal Cultural Knowledge is often not written down or recoded by the people who teach it or learn it. (Source: Arts NSW Policies and Principles).

Protocol Principles

Respect

The rights of Aboriginal and Torres Strait Islander people to own and control their cultures should be respected. Diversity of Aboriginal and Torres Strait Islander cultures should be acknowledged and encouraged. Aboriginal and Torres Strait Islander worldviews, lifestyles and customary laws should be respected in contemporary life.

Aboriginal and Torres Strait Islander Control

Aboriginal and Torres Strait Islander people have the right to self-determination in their cultural affairs.

Consultation, Communication and Consent

Aboriginal and Torres Strait Islander people should be consulted on the way in which their history, community, interviews, lives and families are represented and used.

Aboriginal and Torres Strait Islander people should be consulted on the use and representation of their Aboriginal and Torres Strait Islander Cultural and Intellectual Property.

Prior to use, Aboriginal and Torres Strait Islander peoples should be informed on the implications of consent.

Consultation should address the communal nature of Aboriginal and Torres Strait Islander society and cultural expression.

Interpretation, Integrity and Authenticity

Aboriginal and Torres Strait Islander people should be consulted concerning the integrity and authenticity of the ways in which their history, community, interviews, lives and families are represented.

Aboriginal and Torres Strait Islander people should be consulted concerning the integrity and authenticity of the representation of their cultural and intellectual property.

Secrecy and Confidentiality

The right of Aboriginal and Torres Strait Islander people to keep secret and sacred their cultural knowledge should be respected. Sacred and secret material refers to information that is restricted under customary law. For instance some information may only be learned or viewed by men or women, or only after initiation.

Aboriginal and Torres Strait Islander people have the right to maintain confidentiality about their personal and cultural affairs.

Attribution

Aboriginal and Torres Strait Islander people should be given proper credit and appropriate acknowledgement for their achievements.

Aboriginal and Torres Strait Islander people should be given proper credit and appropriate acknowledgement for their contributions and roles in the development of stories.

Aboriginal and Torres Strait Islander people should be given proper credit and appropriate acknowledgement for the use of their cultural material.

Continuing Cultures

Aboriginal and Torres Strait Islander people have responsibility to ensure that the practice and transmission of Aboriginal and Torres Strait Islander cultural expression is continued for the benefit of future generations.

This responsibility should be respected by journalists and incorporated in any dealings with material on Aboriginal and Torres Strait Islander peoples.

Sharing of Benefits

The contribution of Aboriginal and Torres Strait Islander people should be recognised by payment where appropriate. Aboriginal and Torres Strait Islander people have the right to be paid for the use of their Aboriginal and Torres Strait Islander Cultural and Intellectual Property. Payment or voluntary contributions should be discussed up front.

The issue of copyright ownership of the story, image, music, contributions and artwork should be discussed up front.

Aboriginal and Torres Strait Islander people should have the right to control exploitation of their cultural and intellectual property. If consent is given Aboriginal and Torres Strait Islander people have the right to share in the benefits from any commercialisation of their Aboriginal and Torres Strait Islander cultural material.

Recognition and Protection under the Law

Aboriginal and Torres Strait Islander people have the right to protection of their cultural and intellectual property.

Australian law and policies should be implemented to respect and protect Aboriginal and Torres Strait Islander rights to their Cultural and Intellectual Property.

(These principles are sourced from ABC Message Stick Cultural Protocols at www.abc.net.au/message).

Consultation, Communication and Consent

Consultation

Research should identify the people to contact to discuss a proposal. Prior informed consent is fundamental to effective and culturally appropriate dealings with Aboriginal and Torres Strait Islander peoples.

The nature, purpose and proposed outcomes of the proposal should be disclosed to participants prior to seeking agreement to any involvement in the process. Payment of fees and any copyright issues should also be discussed. Source: (ABC Message Stick Cultural Protocols at www.abc.net.au/message/proper).

Communication

Respect for the communal nature of Aboriginal and Torres Strait Islander social structures is essential in the process of consultation, communication and consent. It is generally not sufficient to consult with one person. It is generally

necessary to consult with a series of people, families or clan representatives to inform, consult and seek consent.

"The complex relationships and obligations found in extended families of Aboriginal and Torres Strait Islander Australians means that added responsibilities, not normally expected of non-Aboriginal and Torres Strait Islander families are imposed on Aboriginal and Torres Strait Islander group members. This can affect the ways deals or agreements might be achieved". Source: (ABC Message Stick Cultural Protocols at www.abc.net.au/message/proper).

Respect for protocols when referring to a person who has passed away must be checked and followed in research, interview, writing and publication stages.

Respect for Aboriginal and Torres Strait Islander time frames and decision making processes is essential during these processes also. Aboriginal and Torres Strait Islander people may take some time to consider an issue. Decision-making processes may require further consultation, further thought and discussion or further information. A group may have to wait until everyone can be present, meetings may need to be scheduled around cultural obligations.

Consent

Where possible it is also advisable to gain an understanding of any tensions between non-Aboriginal and Torres Strait Islander people and Aboriginal and Torres Strait Islander people in an area, and between the Aboriginal and Torres Strait Islander people in an area. It is important for the community, and for the quality of the consultation, that these tensions are taken into consideration.

How to contact the community

Each community has individual and unique reasons and beliefs. You can never generalise about what you do for one community is then exactly the same for another, even if it is a neighbouring community. It is recommended that you approach each community and request with respect what you would like to do and ask each community individually

One question that is always raised is "how do you contact the right people and the right community".

1. As a general rule a Community Council, often described as Lands Council, represents most communities.
2. Other representative organizations and committees may exist within the local community.
3. Many government and non-government agencies have Aboriginal and Torres Strait Islander staff whose role may include representing the Aboriginal and Torres Strait Islander community or advocacy on Aboriginal and Torres Strait Islander issues that may be contacted through their employer.
4. Community members and family members may be contacted through local community centres.

5. Broader level communication may occur through Aboriginal & Torres Strait Islander media e.g. Message Stick, Koori Mail or Indigenous Times.

Council responsibilities

To develop, in partnership with the local Aboriginal community, a protocol for consulting and working with Aboriginal community members. (This document).

To keep a register of contact details for spokes people that are put forward by the local Aboriginal community.

To adhere to any preferences offered by the local Aboriginal community as to who Council should contact in any specific order or for any specific role. (See Method below).

Aboriginal Organisation responsibilities

To develop a protocol, in partnership with Council, for consulting and working with Council.

To keep the register of contact details up to date by providing Council with information on changes to contact details.

To advise Council of a preferred method for which Council can contact members of the Aboriginal community.

Method for Council to consult or work with the local Aboriginal community and/or its members:

- That proposals be referred to the Bathurst Aboriginal Lands Council, the Indigenous Co-ordination Centre Aboriginal Community Working Party for Bathurst; the Bathurst Local Aboriginal Consultative Committee, Towri Corporation and the Bathurst Wiradjuri Aboriginal Corporation.
- That Council request that proposals be placed before a meeting of each of the above groups so members (including community members) can consider, record and advise a decision on a proposal.
- That Aboriginal organizations and committees circulate the proposal to members using their established processes and respond to Council within a period of four to six weeks.
- Where shorter communication deadlines exist, (example requests for Welcome to Country Ceremonies) Council, may consult with individual Aboriginal Organisations and Committees on a rotating basis.

Use of Images

That the input to or decisions made on a proposal by each of the above groups be returned to Council for consideration and action.

Consultation is important for decisions on images used of Aboriginal and Torres Strait Islander people. The proposal or project may meet all protocols but this can be undermined by the use of inappropriate accompanying images. Consult with Aboriginal and Torres Strait Islander people about appropriate images.

Images of people should be checked that they do not include images of people who have passed away.

Warning:

ABC Television, Radio and Online have a warning that is used in the introduction to most programs. The warning below is copyright of the ABC Aboriginal and Torres Strait Islander Programs Unit and you are able to seek permission to use this for your own programs. Contact ABC Aboriginal and Torres Strait Islander Program Unit at ipu@your.abc.net.au

WARNING: "Aboriginal and Torres Strait Islander viewers are warned that the following program may contain images and voices of deceased persons".

Copyright ownership of any information provided should be discussed, and where possible, Aboriginal and Torres Strait Islander people's rights to maintain copyright ownership should be discussed, disclosed and respected.

Images should be related to the story/project/issue. It is inappropriate to place an image of Torres Strait Islander dancers next to a promotion on NSW South Coast dancers.

Use of the Flag(s)

The Aboriginal Flag is red, black and yellow - the bottom half is red, the top black and a yellow sun is represented in the middle.

The Torres Strait Islander flag is green, black and blue, incorporating a white Dari (headdress) and a white five pointed star beneath it.

There are some important considerations that need to be observed when using Aboriginal and Torres Strait Islander flags:

- Make sure that you use the right flag in stories relating to Aboriginal and Torres Strait Islander people
- For Aboriginal and Torres Strait Islander media events - the preferred protocol is to use both flags.
- Make sure both flags are reproduced, hung and depicted the right way. Often the Aboriginal flag is reproduced upside down.
- You may not need direct permission to reproduce the flag if reporting news.
- For commercial use, special permission would need to be sought from the copyright owners.
- Permission needs to be sought from Harold Thomas for use of the Aboriginal flag if you are a government department reproducing it for any Aboriginal and Torres Strait Islander unit work wear or reports/brochures etc. Price would have to be negotiated by Harold Thomas. There is only one flag company that holds his permission to mass manufacture the flag.
- For permission to reproduce the Torres Strait Island flag: contact the Island Coordinating Council.

Aboriginal Ceremonies

Aboriginal people are the original owners of the land and it is important that

this special position of Aboriginal people is recognised and incorporated into official protocol to enable the wider community to share in Aboriginal culture and facilitate better relationships between Aboriginal people and the general community.

By incorporating Aboriginal cultural practices/ceremonies into official events we are able to:

- Recognise and pay respect to Aboriginal peoples, cultures and heritage.
- Communicate Aboriginal cultural practices to the broader community to promote respect and understanding.
- Demonstrate that Aboriginal cultures are living through maintenance and practice of ceremonies and protocols.
- Demonstrate recognition of Aboriginal people unique position which can assist in building relationships and partnerships.

The type of ceremony undertaken at an official event should be appropriate to the nature and size of each event in accordance with the procedures set out below and negotiations with local traditional owners of the land.

It is important to note that ceremonies and practices differ from place to place. The planning timetable of official events should allow time for negotiations with Aboriginal communities, as well, discussion and decision making within those communities. Source: (Aboriginal Cultural Protocols and Practices Policy at www.premier's.nsw.gov.au).

Minimum requirements

When planning an official event, Council should consult with the Aboriginal Community representative bodies as described above to obtain specific information on:

- Appropriate ceremonies and performances.
- Traditional owners of the land who should be contacted.
- Contacts for Aboriginal cultural practice provider.

As a minimum requirement, an *Acknowledgement of Country* ceremony should be undertaken. A protocol for the ceremony is provided below. At events at which flags are shown, the order of display, from an audience perspective from left to right, the Australian flag, the NSW flag, the Aboriginal flag and the Torres Strait Islander flag.

Major Official Events

All major official events, where members of the public, representatives of Council or other Governments and/or the media are present, should include a Welcome to Country ceremony or Acknowledgement of Country. Events in this category include:

- commemorations and major festivals;
- conferences held by Council;
- International events (including sporting events) held in the Bathurst Region of which Council is an organiser or sponsor.

Agencies and communities are encouraged to be innovative in recognising Aboriginal culture and heritage. Other ceremonies or practices may also be undertaken as considered appropriate by Aboriginal people, including dances and performances. However, as indicated above, a Welcome to Country should be incorporated into all Council major events.

Australia Day

Council's Australia Day Celebrations are focused on celebrating Australian culture and society in the present multicultural context and promote the community moving forward together. It is in this light that all Australians are invited to participate.

Aboriginal people within the Bathurst Region may/may not choose to participate in Council organized Australia Day Celebrations, however Council should consult with the Aboriginal community to invite their participation and input to event planning, and their advice in relation to appropriate traditional areas of the land to perform ceremonies.

Appropriate Ceremonies

Source: (Aboriginal Cultural Protocols and Practices Policy at www.premier's.nsw.gov.au).

Welcome to Country

The Welcome to Country ceremony should, where possible, be undertaken by traditional owners of the land, locally recognised Aboriginal community spokesperson or locally or a recognised cultural service provider.

There is no exact wording when Welcoming to Country. As such, the content of the ceremony should be negotiated between the agency and the provider with reference to the nature of the event and community practices. Generally, providers offer participants local Aboriginal history and cultural information and will go on to welcome the delegates to the country.

Acknowledgement of Country

An *Acknowledgement of Country* is a way that non-Aboriginal people can show respect for Aboriginal and Torres Strait Islander heritage and the ongoing relationship of traditional owners with the land.

A Chair or Speaker begins the meeting by acknowledging that the meeting is taking place in the country of the traditional owners. On occasion, there may be disputes about who the traditional owners are. Those who acknowledge the country, can 'acknowledge *all* the traditional owners of the land' or can 'acknowledge the traditional owners of *this land*' without naming those people. Acknowledging Country in this way will not cause offence where there is some potential or actual dispute around ownership.

Typical Acknowledgement of Country statements can include:

- I would like to acknowledge that this meeting is being held on the traditional lands of the (appropriate group) people.

- I would like to acknowledge that this meeting is being held on Aboriginal land and recognise the strength, resilience and capacity of Aboriginal people in this land.

Smoking Ceremony

Smoking ceremonies are conducted by Aboriginal people with specialised cultural knowledge. Smoking ceremonies should be performed by traditional owners of the land who hold this cultural knowledge or people nominated by the traditional land owners. The ceremony's purpose is to cleanse the space in which the ceremony takes place. Given the significant nature of the ceremony, smoking ceremonies are usually performed at major events.

Other Ceremonies

As indicated previously, other ceremonies may be undertaken along with those outlined above. Agencies are encouraged to consult with local Aboriginal communities on the best form of recognition for each event the ceremony reflects the NSW Government's commitment to Reconciliation.

Fee for Service

In providing cultural services, artistic performances and ceremonies Aboriginal people are using their intellectual property. As such providers of these services are entitled to remuneration. Payment can be negotiated between the cultural service provider and the agency.