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# True Tracks®: *Using Law and cultural protocols in language revitalisation*

**Presenters:**  
Laura Curtis, Senior Solicitor



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24 October 2023

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**WARNING:**

*Aboriginal and Torres Strait Islander participants are warned that the following discussion may contain the names and images of deceased persons, and words and descriptions which may be culturally sensitive.*


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## Terri Janke and Company

We acknowledge the Traditional Owners of the land where we work, live and create. We pay our respects to Elders past and present. We celebrate the continuing practice of culture, the sharing of stories and knowledge in respectful ways.



Celebrating 23 years in 2023

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## Languages are integral to First Nations Culture



2022-2032 | INTERNATIONAL DECADE OF  
**Indigenous Languages**

[2022-2032 International Decade of Indigenous Languages | Indigenous.gov.au](https://www.indigenous.gov.au)

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## The law if failing First Language revitalisation

**Two key shortcomings:**

**1. Practical hurdles**

**2. Issue of copyright ownership**

*Language is intrinsically linked to Indigenous peoples' way of life, culture and identities. Language brings meaning to cultural heritage and articulates the intricate relationships between Indigenous peoples and their connection to their land and community.*

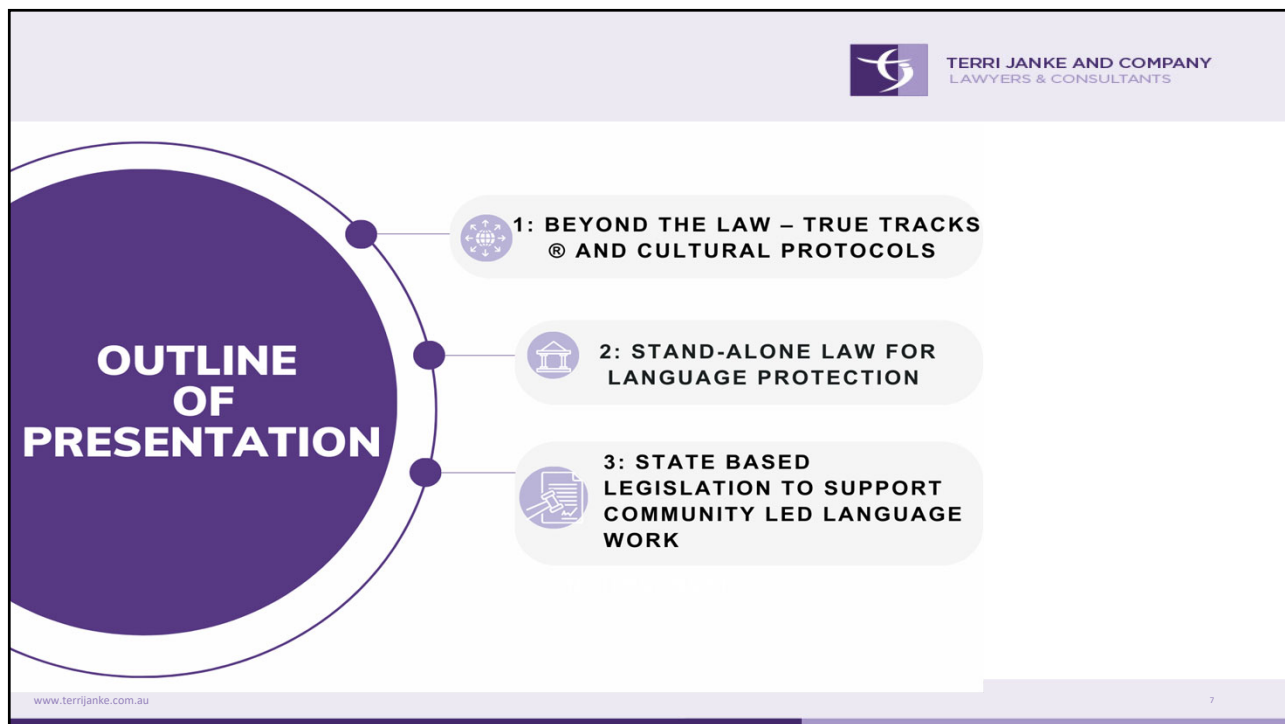
[Rediscovering Indigenous Languages project | State Library of NSW](#)

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<b>Language material</b>	<b>Copyright work</b>
<b>Oral words</b>	No copyright protection
<b>Words in songs handed down through the generations, not attributed to a songwriter and not recorded</b>	No copyright protection
<b>Composed song/music in Aboriginal language</b>	Musical work
<b>Language dictionary</b>	Literary work-compilation
<b>Printed dictionary</b>	Published edition has copyright
<b>Language website</b>	Compilation of literary work, artistic works
<b>Language software</b>	Literary work
<b>Language video resources</b>	Film
<b>Oral tapes/ recordings taken of Aboriginal speaker</b>	Sound recording
<b>Mobile phone apps and podcasts</b>	Literary works, artistic works - compilation

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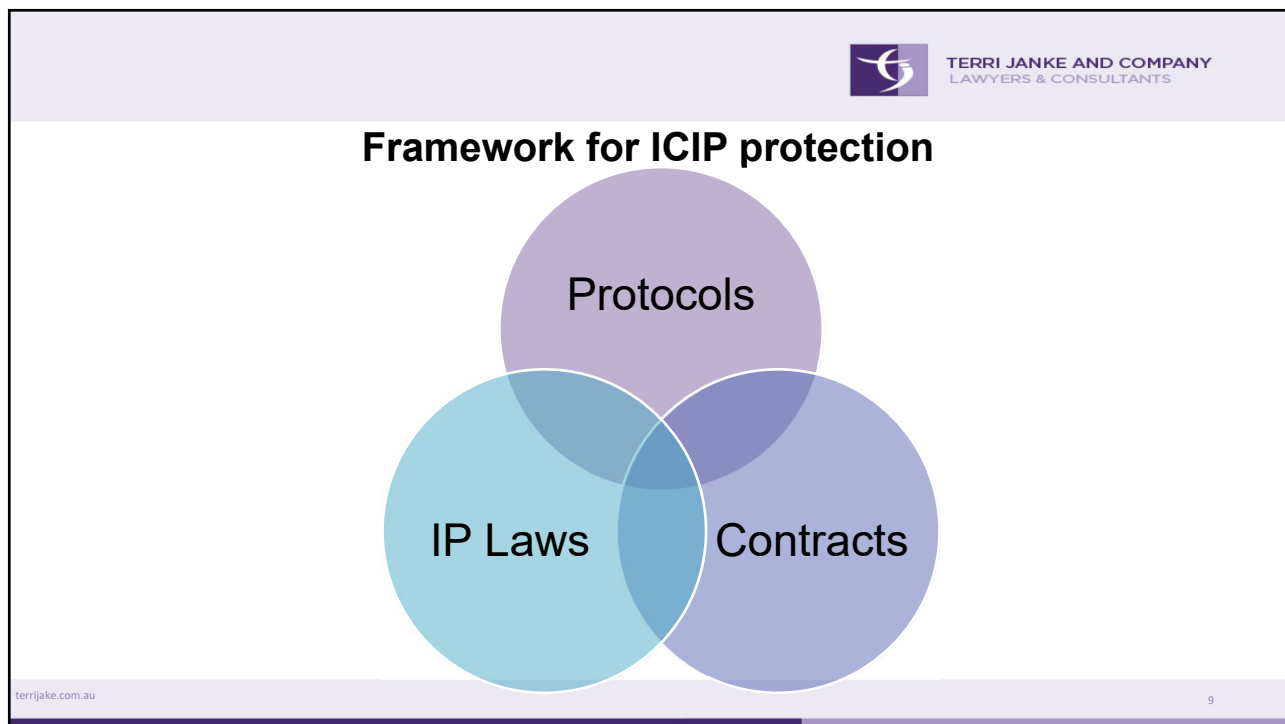
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**BEYOND THE LAW:  
TRUE TRACKS AND CULTURAL  
PROTOCOLS**


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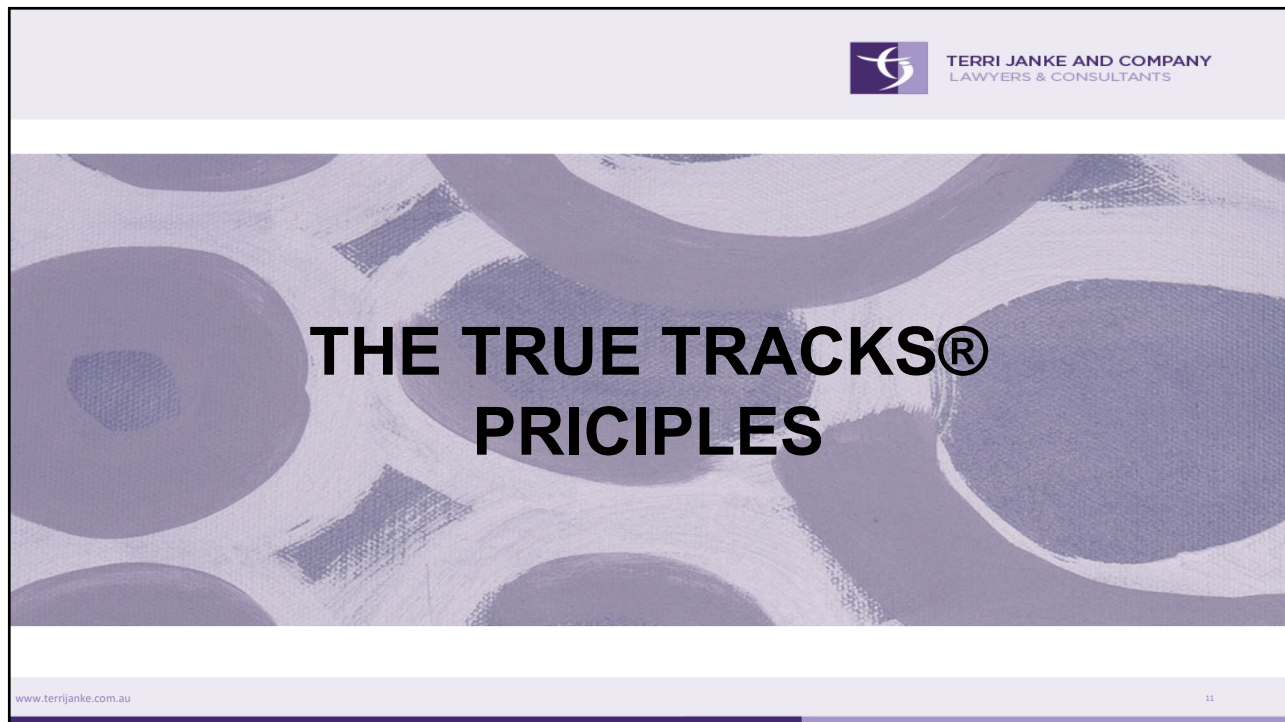
## Cultural Protocols

**Cultural Protocols are the leading industry practice for successful Indigenous engagement.**

- Cultural Protocols are emerging and growing in importance in many industries, including the Arts, Museums and Galleries, Research, Libraries and Archives, Development and business.
- Cultural Protocols:
  - are effective and respectful frameworks for using ICIP and for engaging with Indigenous people and communities;
  - go beyond the law to respect Indigenous peoples' rights and cultural differences;
  - encourage ethical conduct and promote interaction based on good faith and mutual respect.


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**TRUE TRACKS® Protocols**



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- 1 RESPECT
- 2 SELF DETERMINATION
- 3 CONSENT & CONSULTATION
- 4 INTERPRETATION
- 5 CULTURAL INTEGRITY
- 6 SECRECY & PRIVACY
- 7 ATTRIBUTION
- 8 BENEFIT SHARING
- 9 MAINTAINING INDIGENOUS CULTURE
- 10 RECOGNITION & PROTECTION

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The graphic is a slide titled "True Tracks® Ten Point Checklist". It features the logo of Terri Janke and Company Lawyers & Consultants in the top right corner. The slide is divided into three main sections, each with a numbered circle above it. Section 1 is "Respect", section 2 is "Self - Determination", and section 3 is "Consent & Consultation". Each section contains a brief description of the principle.

**1**  
**Respect**  
Indigenous people have the right to protect, maintain, own, control and benefit from their ICIP.

**2**  
**Self - Determination**  
Indigenous people have the right to self-determination. Indigenous people should be encouraged and empowered in decision-making processes about projects that affect their ICIP.

**3**  
**Consent & Consultation**  
Free prior informed consent for use of ICIP should be sought from Indigenous people. This involves ongoing negotiation and informing custodians about the implications of consent. Consultation with the owners of ICIP should take place.

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**True Tracks® Ten Point Checklist**



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**4**

**Interpretation**  
Indigenous people are responsible for maintaining their ICIP and the interpretation of their ICIP.

**5**


**Cultural Integrity**  
Maintaining the integrity of ICIP is important to Indigenous people and for the continuing practice of culture.

**6**

**Secrecy and Privacy**  
Indigenous people have the right to keep secret their sacred and ritual knowledge in accordance with their customary laws. Privacy and confidentiality concerning aspects of Indigenous people's personal and cultural affairs should be respected.

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**True Tracks® Ten Point Checklist**



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**Attribution**

It is respectful to acknowledge Indigenous people as traditional owners and custodians of their ICIP by giving them attribution.

**8**

**Sharing benefits**

Indigenous people have the right to share in the benefits from the use of their culture, especially if it is being commercial applied. The economic benefits from use of their ICIP should also flow back to the source communities.

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**True Tracks® Ten Point Checklist**



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**9**

**Maintaining Indigenous Culture**

In maintaining Indigenous cultures, it is important to consider how a proposed use of ICIP might affect future use by others who are entitled to inherit the ICIP. Importance and respect should be given to Indigenous cultural practices such as dealing with deceased people and sensitive information

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**Recognition and Protection**

Australian policy and law should be used to recognise and protect ICIP rights. For example, copyright laws, protocols and contracts can be used to help ensure ICIP recognition and protection.




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**Check out our website for upcoming True Tracks® Workshops:** [True Tracks | Terri Janke and Company](#)

**Dr Janke's book, *True Tracks*, can be purchased here:** [True Tracks, Respecting Indigenous knowledge and culture by Terri Janke | 9781742236810 | Booktopia](#)

**TRUE TRACKS®**  
*A Pathway to Indigenous Engagement*

**YOUR PRESENTERS:**

 **Laura Melrose**  
Solicitor

 **Shekira Cardona**  
Solicitor

**WEDNESDAY 15 NOV**  
10AM - 2PM AEDT


*"The depth of knowledge, protocols, practices, tools and case studies covered a complex range of topics focusing on ICIP and have challenged us to make a positive impact on the work we do"*  
- Attendee from Monash University

**Who is it for?** **LIVE ON ZOOM**

Anyone who wants to create an impact and a deeper engagement with Indigenous people on projects. This includes project managers, researchers, Indigenous engagement specialists, artists, creators and curators and people working with Indigenous cultural heritage material. Museums and galleries, government and corporates who are developing Reconciliation Action Plans (RAPs) The workshop covers engagement & pathways; ICIP; policies & protocols; contracts; case studies; and the True Tracks 10 Principles framework.

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**STAND ALONE LAW  
FOR LANGUAGE PROTECTION**

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**WHAT WOULD BE IN THE NEW LAW**

**WHAT IS THE NEW LAW**

**HOW WOULD IT HELP LANGUAGES**

**Three notable features of the proposed new law:**

- 1. Recognition of Indigenous Knowledge**
- 2. Recognition of communal ownership**
- 3. Enforcement mechanisms for infringement**

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**STATE BASED LEGISLATION TO  
SUPPORT COMMUNITY LED  
LANGUAGE WORK**

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## International examples of language legislation

- **The Aboriginal Languages Recognition Act** in Manitoba, Canada (2010),
- **The Official Languages Act** in the Northwest Territories, Canada (1988), and
- **The Native American Languages Act** (1990) in the United States.

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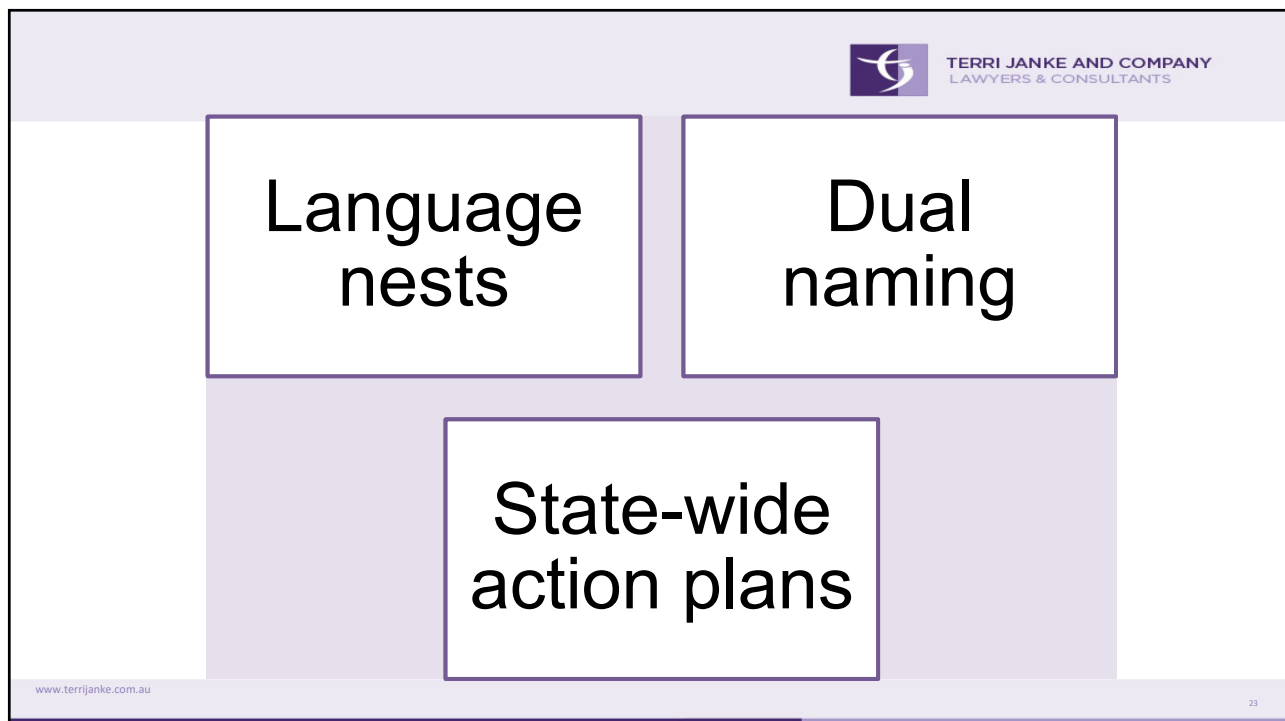
## State legislation and policy has an essential supporting role to play in language projects

- In New South Wales, the *Aboriginal Language Act 2017* (NSW) established the **Aboriginal Languages Trust**.
- **The Trust** is working on 2022-2027 Strategic Plan.

[Aboriginal Affairs NSW - Aboriginal Languages Trust Strategic Plan](#)

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**Thank you!**

**Contact us:**

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