

Document 1

From: [Digitisation Demand](#)
To: [REDACTED]
Subject: ESCALATION FW: CD-21303129-1/1 – Cultural permission required PUBLISHING
Date: Wednesday, 28 May 2025 3:03:00 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)
[image013.png](#)

S 47F

S 47F

[REDACTED]

S 47F

Are you able to escalate or respond to this?

The decision has come from IE that cultural permission is required for publishing. The image itself is available on Trove, is from 1803, and depicts Indigenous peoples engaging in daily life in the foreground of the British settlement of Sydney Cove.

[REDACTED]
[REDACTED]
[REDACTED]

S 47C

Thank you,

[REDACTED]

[REDACTED] | Pronouns: she/her
[REDACTED] vices

S 47F



Trove acknowledges First Australian peoples as the Traditional Custodians of the country and their continued connection to land, sea, and culture. Trove pays their respect to the resilience and strength of Ancestors and Elders past, present, and emerging and extends that respect to all First Australian peoples.

From: [REDACTED] <[REDACTED]@gmail.com>
Sent: Wednesday, 28 May 2025 2:20 PM
To: Digitisation Demand [REDACTED]@nla.gov.au>
Subject: Re: CD-21303129-1/1 – Cultural permission required PUBLISHING

S 47F

Hi [REDACTED]

S 47F

I am still at a loss as to what "content" of this 1803 French, out of copyright, image results in it being captured by the Libraries ICIP protocol.

As you suggest, to clarify this for me, could you please escalate my enquiry to the next level of assessment within your organisation.

Specifically I seek an understanding as to why you have classified this image as :

"The image falls under the following ICIP categories:

"predominantly [referring] to the history of First Nations people in Australia, including images, recordings, text and fictionalised accounts of such histories" when the >90% of the image appears to depict the British settlement at Sydney Cove through the eyes of the French engraver"

and is said to

"Contains, depicts or describes First Nations ceremonies, dance, song or other practices (whether performed by First Nations or non-Indigenous persons)" - could you please highlight where in the image, **"First Nations ceremonies, dance, song or other practices"** are depicted and what these might be?

Thanks

[REDACTED]
[REDACTED]
[REDACTED]

S 47F

On Mon, May 26, 2025 at 2:19 PM Digitisation Demand [REDACTED]@nla.gov.au> wrote:

Dear [REDACTED],

S 47F

I am satisfied that I have outlined the conditions under which the Copies Direct service will be able to fulfil your request. This decision has been internally reviewed and deemed appropriated.

Further information on the National Library of Australia [Indigenous Cultural and Intellectual Property \(ICIP\) Protocol](#) is available online should you require it.

If you are not satisfied with the above decision, please let me know and I will have the matter escalated.

Kind regards,

OV



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From: [REDACTED] <[REDACTED]r@gmail.com>
Sent: Tuesday, 20 May 2025 8:34 PM
To: Digitisation Demand <[REDACTED]s@nla.gov.au>
Subject: Re: CD-21303129-1/1 – Cultural permission required PUBLISHING

Dear [REDACTED]

S 47F

Just to clarify the Library's position exactly with regard to the claimed ICIP of this image are you saying that:

1. The depiction of the three Aboriginal people in the lower left corner of the image, which I have indicated in red(see attached), is what you are classifying as "First Nations ceremonies, dance, song or other practices (whether performed by First Nations or non-Indigenous persons)" ?

2. Are you also advising that this image "Refers predominantly to the history of First Nations people in Australia" ? Given that the image "predominately refers to" the British settlement in Sydney cove, depicting British buildings, ships, and farm and town landscapes this does seem contradictory? The images of the Aboriginal people only occur in about 5 to 10% of the images area.

I would welcome you clarification on exactly what part(s) and aspects of the image fall under you r to advise categories

Thanks

[REDACTED]
 [REDACTED]

On Tue, May 20, 2025 at 4:55 PM Digitisation Demand <[REDACTED]@nla.gov.au> wrote:

Dear [REDACTED],

The image falls under the following ICIP categories:

- Refers predominantly to the history of First Nations people in Australia, including images, recordings, text and fictionalised accounts of such histories
- Contains, depicts or describes First Nations ceremonies, dance, song or other practices (whether performed by First Nations or non-Indigenous persons)

I hope you have found this information useful.

Kind regards,

[REDACTED]

S 47F

[REDACTED]
[REDACTED]
[REDACTED] OV



Trove acknowledges First Australian peoples as the Traditional Custodians of the country and their continued connection to land, sea, and culture. Trove pays their respect to the resilience and strength of Ancestors and Elders past, present, and emerging and extends that respect to all First Australian peoples.

From: [REDACTED] <[REDACTED]@gmail.com>

S 47F

Sent: Tuesday, 20 May 2025 4:20 PM

To: Digitisation Demand <[REDACTED]@nla.gov.au>

Subject: Re: CD-21303129-1/1 – Cultural permission required PUBLISHING

Thanks [REDACTED] for your prompt reply, and for the additional information.

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However, my principal inquiry regards **what is the actual** "traditional knowledge/traditional cultural expression/secret and sacred material and information/or documentation of First Nations peoples' heritage in all forms of media" that is contained in this image of a French 1803 etching?

Which part(s) of this image trigger its classification as being subject to the Library's ICIP protocol?

Thanks

[REDACTED]
[REDACTED]
[REDACTED]

S 47F

On Mon, May 19, 2025 at 2:24 PM Digitisation Demand <[REDACTED]@nla.gov.au> wrote:

Dear [REDACTED],

Hopefully, the below information will help you resolve your enquiry.

As you're aware, the National Library of Australia [Indigenous Cultural and Intellectual Property \(ICIP\) Protocol](#) requires that where ICIP has been identified researchers need to have approval from the relevant First Nations communities in order to access and publish the materials. Adherence to the Indigenous Cultural and Intellectual Property (ICIP) Protocol is a condition of access and publishing where ICIP has been identified in the National Library of Australia collections. ICIP exists separately to copyright, and an item may have both ICIP and copyright holders.

ICIP incorporates:

- traditional knowledge
- traditional cultural expression
- performances
- cultural objects
- human remains and tissues
- the secret and sacred material and information, and
- documentation of First Nations peoples' heritage in all forms of media.

This list may be useful if you need help identifying the relevant communities:

<https://www.library.gov.au/first-australians/indigenous-cultural-and-intellectual-property/contact-points-indigenous-cultural>

If you require research assistance our Ask a Librarian service can help direct your search:

<https://www.library.gov.au/services/contact-us/ask-librarian>

Kind regards,

[REDACTED]

S 47F

[REDACTED] | [REDACTED]
[REDACTED] ov.



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From: [REDACTED] <[REDACTED]@gmail.com>

S 47F

Sent: Wednesday, 14 May 2025 4:36 PM

To: Digitisation Demand <[REDACTED]@nla.gov.au>

Subject: Re: CD-21303129-1/1 – Cultural permission required PUBLISHING

Hello

With regard to your suggestion that "community permission" be sought before my application for a copy and re-publishing rights on my web-site are granted, could you please

first advise me on the following so I better understand the requirements of the Library's ICIP protocol:

1. In the image under application,

[Nouvelle-Hollande, Nouvelle Galles du Sud, vue de la partie meridionale de la ville de Sydney, capitale des colonies anglaises aux terres australes et de l'embouchure de la riviere de Parramatta 1803 \[picture\] / Lesueur del.; grave a l'eau-forte par Pillement, termine par Duparc](#)

could you please advise why the image (or which parts of the image) may fall under your ICIP protocols?

2. My understanding is that the original artwork was created by a Frenchman and published in France? It is now out of copyright and if any inherent rights were still in operation would they not be held by the French, rather than by an Australian Aboriginal organisation?

3. I have received advice that the ICIP protocols are not law in Australia - they are offered as recommendations only. Could you please clarify this for me? Is it a legal requirement to obtain "community permission" or is it a recommendation only?

4. If permission is required, I am not qualified to know who in modern Australia would have the required status to provide that permission. Can you please advise on which modern day person or organisation has the required status to grant permission and why they have that status?

Once I receive your advice I think I will be better placed to proceed as per your quest.

Thanks

[REDACTED]
[REDACTED]
[REDACTED]

S 47F

On Mon, Mar 31, 2025 at 2:04 PM Digitisation Demand <[REDACTED]@nla.gov.au> wrote:

Dear [REDACTED],

Your order CD-21303129-1/1 has been considered in accordance with [Australian Indigenous Cultural and Intellectual Property \(ICIP\) Protocol](#).

The National Library of Australia recognises the enduring rights of First Nation Australians as the authority on their cultural knowledge and requires further community permissions before we can provide the digitised content for your PUBLISHING request.

The library recommends using the following link: [Contact points for Indigenous Cultural and Intellectual Property \(ICIP\) | National Library of Australia](#)

as a starting point to help determine which community permission should be sought from. Permission should be to the effect of:

To the National Library of Australia,

As a recognised representative of the [X] community, I give permissions for [name or organisation] to have access and retain a copy of the following material: [Nouvelle-Hollande. Nouvelle Galles du Sud, vue de la partie meridionale de la ville de Sydney, capitale des colonies anglaises aux terres australes et de l'embouchure de la riviere de Parramatta 1803 \[picture\] / Lesueur del.: grave a l'eau-forte par Pillement, termine par Duparc](#) to be used for publishing purposes. This material may be made available in the following format:

- Display on website

Once permission has been granted, this can be forwarded to our inbox at: [redacted]@nla.gov.au . Please ensure you quote your request number CD-21303129-1/1.

Please be advised that the process of seeking permission may take some time and should be factored into the timeframes around the intended use. We have temporarily closed your order, noting that your credit card has not been charged.

Kind regards,
Digitisation on Demand

Digitisation on Demand | National Library of Australia
[redacted]@nla.gov.au | nla.gov.au

The National Library of Australia (NLA) acknowledges Australia's First Nations Peoples – the First Australians – as the Traditional Owners and Custodians of this land and gives respect to the Elders – past and present – and through them to all Australian Aboriginal and Torres Strait Islander people.

