

FIRST NATIONS PEOPLES' RIGHTS WORKING GROUP



Post Meeting Papers: First Nations People's Rights Working Group Meeting #2

Thursday 15 February 2024 | 12pm to 1:30pm AEST/ 2pm to 3:30pm NZST

Contents

Meeting minutes

Action Register

Attendees

Attachments

- 1) Meeting Slide Deck

Minutes

Item	Action required	Delegation
1. Welcome Chair - Alan Dayeh (ERM) <ul style="list-style-type: none">o Acknowledgement of Countryo Minutes from last meetingo Principles of Participation	For information	All
2. Special presentation and Q&A - Indigenous Peoples and Local Communities component of TNFD Stan Lui, Owner/Director of Five Cubed Environmental Indigenous Consultants <ul style="list-style-type: none">• The Indigenous people and local communities (IPLC) refers to two groups of people. Indigenous people refer to those indigenous to a land or traditional owners. Whereas, local communities extends to individuals in places like the continent of Africa where they do not have a definition of indigenous or indigenous individuals who are not currently living on their native land.• IPLC consultants provided detailed feedback into the Taskforce on Nature-related Financial Disclosures (TNFD), developing some key points of which included: Inclusion of indigenous voices, recognition and stewardship, promotion of indigenous sustainable practices, and enhancing biodiversity conservation, and ensuring the TNFD respects and prompts the cultural heritage and social values of IPLC fostering inclusivity and environmental governance.• It was also acknowledged that some challenges faced and continue to be faced include, consolidating diverse indigenous perspectives into a unified framework, the risk of tokenism and resource constrains.	For more information, please contact Stan Lui (Five Cube Environmental Indigenous Consultants)	All

<ul style="list-style-type: none"> • In regard to net zero, to engage successfully and equitably with IPLC whilst working towards net zero it is important that: Sovereignty is respected, principles of free prior informed consent (FPIC) are implemented, cultural sensitivity and inclusion are prioritised, equitable partnerships and collaborations are maintained, traditional knowledge is recognised and integrated work is done to build the capacity and empower IPLC, transparency and accountability are a key aspect, long term and flexible commitments are made to benefice IPLC, environmental justice is achieved and we use a human rights-based approach. • Reflections on post apology were made as earlier in the week was the anniversary of the National Apology to the Stolen Generations. The events post the apology have highlighted the importance of genuine respectful engagement with IPLC for sustainable changes as well as an increase in the value of indigenous knowledge and the recognition of IPLC's right to self-determination. <p>Stefani Eagle, Consulting Director - Cultural Heritage of ERM</p> <ul style="list-style-type: none"> • Guidelines for meaningful and respectful engagement is often informed by state and commonwealth legislation, however TNFD is referencing global guidance documents such as the United Nations Guiding Principles on Business and Human Rights (UNGP), the Convention on Biological Diversity (CBD) and the United Nations Declaration on the Rights of Indigenous People (UNDRIP). It is not only engaging with the principles of FPIC but also going beyond the minimum legislative requirements and instead aligning itself with leading or best practices. • There is a mix in the level of effectiveness depending on the approach when it comes to engaging and consulting with IPLC. Reflections included that the biggest predictor of an organisation's success is their culture as well as how willing they are to invest in their relationship with IPLC. • We are seeing a new emergence of converging practices, especially in biodiversity management and cultural and natural heritage management. This is moving us away from siloing nature and cultural heritage management. • When considering the risks and impacts, we can also take time to examine the opportunities being created. It is crucial for IPLC to not only be involved in the care, maintenance, and conservation but also the economic benefits and the ownership/ co-management of nature positive solutions. 	<p>For more information, please contact Stefani Eagle (ERM)</p>	
<p>3. Industry and Working Group updates</p> <p>First Nations Investment Markets (Will Leak, Mercer)</p> <ul style="list-style-type: none"> • Our First Nations Investment Market Research works toward Objective Five, which is to support First Nations investment markets and economic empowerment. • After receiving two sponsors last year, Future Super and Ethical Partners, the sub-group was able to bring in two consultants. • The development of this research will include phases one & two which include a market scan and a period for industry consultation lead by Nick Wappett. There has been a lack of engagement within phase two from external parties. This may be due to a lack of approach within the industry. However this phase is still ongoing. 	<p>For more information on First Nations Investment Marketplaces, please contact Will Leak</p>	<p>All</p>

<ul style="list-style-type: none"> Phase three will be led by another consultant which will focus on consolidating the feedback and propose appropriate recommendations. <p><i>Note: Chair Alan Dayeh departed and handed over to Jess Rowe, RIAA to continue the meeting.</i></p> <p>Dhawura Ngilan Business and Investor Initiative (Mel Sutton, KPMG)</p> <ul style="list-style-type: none"> The Dhawura Ngilan Business and Investor Initiative (DNBII) Guide is a tool for investors and businesses to use when attempting to uphold best practices. It is a policy document that sets out high level goals, ambitions for legislative reform and proposed systemic change. The DNBII initiative can be broken down into three phases, developing material, piloting the guide with business and investors and consolidating learnings. We are currently in the middle of phase two. The guide will be formally launched at the end of March. <p>Aotearoa New Zealand (Temuera Hall, TAHITO)</p> <ul style="list-style-type: none"> In the central north island during the 1850s, the Māori iwi (Māori tribes) started a mighty king movement called Kingitanga. This group was formed to establish a similar role and status to the monarch and was an attempt to halt the Māori iwi's alienation from their native land. A National Hui was called to discuss concerns around the policy reform being implemented by the new coalition government. The main concerns were: <ul style="list-style-type: none"> Dialling back the use of mighty language in government departments and peoples access to learning the language. Government departments being instructed to use their English names Government is removing the Mighty health authority Removing Māori iwi's control over their water and putting water control back in councils' responsibility Review of the treaty (In progress) The appealing of the smoke free laws <p>First Nations Protection Alliance (Anirudha Nagar, National Native Title Council)</p> <ul style="list-style-type: none"> The current commonwealth law is in line with the Aboriginal and Torres Strait Islander Heritage Protection Act of 1984. This allows an Aboriginal and/or Torres Strait Islander or their representative, to apply for an emergency or a longer-term declaration, where they need to protect cultural heritage. However, these declarations must still be approved by the environment minister. As many of this system does not comply with the UNDRIP, conversations are currently being had to offer solutions around: <ul style="list-style-type: none"> Who can make a declaration? What the creating of a First Nations body of people to make decisions around their heritage should look like Expanding the times when one can make a declaration. Expanding definition on cultural heritage to include intangible cultural heritage. Stronger penalties 	<p>For more information on the Dhawura Ngilan Business and Investor Initiative, please contact Mel Sutton (KPMG)</p> <p>For more information on Aotearoa (New Zealand), please contact Tem Hall (TAHITO)</p> <p>For more information on the First Nations Protection Alliance, please contact Anirudha Nagar (National Native Title Council)</p>	
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<p>4. Other Business and Updates (Jess Rowe, RIAA)</p> <p>2024 Working Group Plan</p> <p>The major pieces of work planned thus far include:</p> <ul style="list-style-type: none"> • Dhawura Ngilan Business and investors initiative • First Nations Investment Market Research <p>EOI open for chair of the working group</p> <p>The FNPRWG is currently looking for a new chair. EOI's are open and can be accessed here. Feel free to submit your own or engage in conversations with colleagues you'd like to encourage to apply.</p> <p>RIAA Conference</p> <p>The RIAA Conference will be held in Sydney on the 1st and 2nd May. Below are two sessions we would like to highlight with this working group:</p> <ul style="list-style-type: none"> • Paving the way for First Nations Investment Markets: Insights from RIAA's First Nations Peoples' Rights Working Group • 'Indigenous First, Impact First' Workshop run by Benson Saulo and Erin Levey from First Australians Capital <p>Further information on the RIAA Conference and tickets can be found here.</p>	<p>For more information please contact Noa Godsell (RIAA)</p>	<p>All</p>
<p>Next Meeting: 16th May 2024 – Register Here</p>	<p>Register</p>	<p>All</p>

Action Register

Ref	Action	Delegation	Status
New			
12/24	Next Meeting - Thursday 16 May – Register HERE	All	Pending
11/24	Submit any amendments to the Minutes to Noa Godsell (RIAA)	All	Pending
10/24	Contact Jess Rowe (RIAA) or Alan Dayeh (Chair) with any inputs on the working work plan for 2024	All	Pending
9/24	For more information on the RIAA 2024 Conference, please contact Noa Godsell (RIAA)	All	Pending
8/24	For more information on the First Nations Protection Alliance, please contact Anirudha Nagar (National Native Title Council)	All	Pending
7/24	For more information on Aotearoa (New Zealand), please contact Tem Hall (TAHITO)	All	Pending
6/24	For more information on the Dhawura Ngilan Business and Investor Initiative, please contact Mel Sutton (KPMG)	All	Pending
5/24	If you have capacity to help with the interview process for the First Nations Investment Market Research please contact Will Leak (wanting 5-8 people)	All	Pending
4/24	Reform Objective Five Sub-Working group and share draft when available	Will Leak	Pending
3/24	For more information on First Nations Investment Market Research , please contact Will Leak	All	Pending
2/24	For more information on the TNFD's relationship with IPLC, please contact Stefani Eagle (ERM)	All	Pending
1/24	For more information on the TNFD's relationship with IPLC, please contact Stan Lui (Five Cube Environmental Indigenous Consultants)	All	Pending

Attendees (44)

	First Name	Last Name	Company
1.	Yolande	Pepperall	Clean Energy Finance Corporation
2.	Kate	Gowdie	Fama
3.	Francis	Masakadza	Fidante Partners
4.	Francis	Masakadza	Fidante Partners
5.	Erin	Levey	First Australians Capital
6.	Will	Bartlett	First Sentier Investors
7.	Xavier	Hatch	Melior Investment Management / Adamantem
8.	Will	Leak	Mercer
9.	David	Whittaker	Northcape Capital Pty Ltd
10.	Ivor	Gibbons	Perpetual Limited
11.	Kaitlin	Priestley	Pinnacle Investment Management Group
12.	Sonia	Auld	QIC - Queensland Investment Corporation
13.	Justin	Welfare	QIC - Queensland Investment Corporation
14.	Lisa	Domagala	Solaris Investment Management Limited
15.	Temuera	Hall	TAHITO Ltd
16.	Venn	Purnell	Active Super
17.	Emily	Dafter	Australian Retirement Trust
18.	Gemma	Porter	Aware Super
19.	Raveen	Kuhadas	Cbussuper
20.	Jessie	Pettigrew	Equip Super
21.	Jackie	Radisich	Future Super
22.	Terina	Williams	New Zealand Superannuation Fund
23.	Caleb	Adams	E&P Financial Group
24.	Claudia	Mah	Ethical Investment Services Pty Ltd
25.	Mayleah	House	Ethical Partners Funds Management
26.	Robyn	Parkin	Ethical Partners Funds Management
27.	Deborah	Cotton	(Indigenous Leadership And Engagement) - UTS Business School
28.	Kate	Gill-Herdman	Corrs Chambers Westgarth
29.	Stefani	Eagle	ERM Australia
30.	Alan	Dayeh	ERM Australia
31.	Mel	Sutton	KPMG Banarra
32.	Shannon	Taylor	Minderoo Foundation
33.	Amanda	Young	Pollination Capital Partners Pty Limited
34.	Briony	Doyle Galovic	Responsible Investment Association Australasia
35.	Jess	Rowe	Responsible Investment Association Australasia
36.	Isabella	Marotta	Responsible Investment Association Australasia
37.	Noa	Godsell	Responsible Investment Association Australasia
38.	Emily	Morris	Responsible Investment Association Australasia
39.	Larissa	Taylor	Savoir Consulting: ESG, Sustainability, Food & Agribusiness
40.	Sumanth	Kedilaya	Yarra Capital Management
41.	Romy	Faulkner	ASCI
42.	Stan	Lui	Five Cubed Environmental Indigenous Consultants
43.	Anirudha	Nagar	National Native Title Council
44.	Abi	Curtis	UNPRI

First Nations Peoples' Rights Working Group Meeting #1

Thursday 15 February



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Association Australasia

First Nations Peoples' Rights Working Group Meeting #4



Alan Dayeh, Chair of RIAA's First Nations Peoples' Rights Working Group & Managing Principal at ERM

Principles of participation

- Confidentiality - Chatham House Rule
- No self-promotion
- Declaration of conflicts of interest
- Representation
- Collaboration between members
- Positive change in practice/policy
- Not to engage in or discuss competitively sensitive information
- Apolitical

Conversation and Q&A - Indigenous Peoples and Local Communities component of TNFD



Stan Lui, Owner/Director at Five Cubed Environmental Indigenous Consultants



Stefani Eagle, Consulting Director, Cultural Heritage at ERM

Industry and Working Group updates

- **First Nations Investment Markets**
(Will Leak and Nick Wappett)
- **Dhawura Ngilan Business and Investor Initiative**
(Mel Sutton, KPMG Banarra)
- **Aotearoa New Zealand**
(Temuera Hall, TAHITO)
- **First Nations Heritage Protection Alliance**
(Anirudha Nagar, First Nations Heritage Protection Alliance)

DHAWURA NGILAN BUSINESS AND INVESTOR INITIATIVE



Global Compact
Network Australia



First Nations
HERITAGE PROTECTION
ALLIANCE



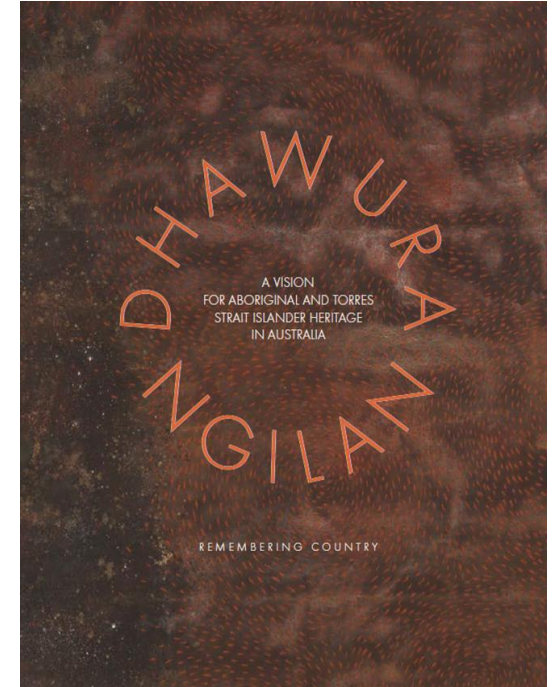
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Dhawura Ngilan: A vision for Aboriginal and Torres Strait Islander Heritage in Australia

The Dhawura Ngilan Vision has four vision statements:

1. Aboriginal and Torres Strait Islander people are the Custodians of their heritage. It is protected and celebrated for its intrinsic worth, cultural benefits and the wellbeing of current and future generations of Australians.
2. Aboriginal and Torres Strait Islander heritage is acknowledged and valued as central to Australia's national heritage.
3. Aboriginal and Torres Strait Islander heritage is managed consistently across jurisdictions according to community ownership in a way that unites, connects



Dhawura Ngilan Business and Investor Initiative



Terri Janke & Co (drafter
and lead research
partner)

Investor Working Group

Business Working Group

First Nations Engagement
(FNHPA)

Dhawura Ngilan Business and Investor Initiative

A Guide for Business

- exposure draft released in August 2023

A Guide for Business and Investors

- exposure draft released in December 2023

Dhawura Ngilan (Remembering Country): A Vision for Aboriginal and Torres Strait Islander Heritage

A Guide for Businesses

Prepared by Terri Janke and Company Pty Ltd

[Exposure Draft August 2023]

Dhawura Ngilan Business and Investor Initiative

<https://culturalheritage.org.au/dhawura-ngilan-business-investor-initiative-2023/>



Global Compact
Network Australia

Dhawura Ngilan (Remembering Country): A Vision for Aboriginal and Torres Strait Islander Heritage

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Dhawura Ngilan Principles for the Private Sector



Figure 1. Dhawura Ngilan Principles and Actions

Dhawura Ngilan Business and Investor Initiative

A Guide for Investors

- Background and context
 - Dhawura Ngilan vision
 - Key concepts
 - How businesses and investors can use the guide
- Principles 1-6
 - Explanation of Principle and Key Actions
 - Case studies and examples
 - What businesses can do
 - Table of principles and key actions
 - What investors can do
 - Table of principles and due diligence questions
 - Table of principles and red flags

FPIC is:	FPIC is not:
✓ A dynamic and ongoing process	✗ A one-off authorisation
✓ co-design – equal decision-making roles, listening and implementing feedback	✗ only consultation, or consultation as a 'tick box' process
✓ sensitive to the context of the project; communities and histories	✗ viewed narrowly
✓ allowing time for all parties to properly consider	✗ rushed to meet deadlines
✓ may require multiple consents from interested parties	✗ consent from one person
✓ open lines of communication and regular updates between First Nations groups and partners	✗ only reaching out when you have deadlines
✓ having policies and processes established to stand the test of time	✗ relationships rely on individuals without a succession plan
✓ working creatively to make mutually beneficial	
✓ recorded in agreements	
✓ the project only goes ahead with the agreement of the First Nations community/ies	

Figure 2. FPIC in practice

CASE STUDY: Tipakalippa and the sea country drilling project³⁷

Munupi Elder Dennis Tipakalippa successfully challenged an application by Santos to expand their gas drilling project off the Tiwi Islands, on the grounds of insufficient consultation with traditional owners. Consultation with the Tiwi Land Council and the Northern Land Council were found to be not enough, as those bodies did not represent interests in sea country.

Santos' argument that it was 'unworkable' for companies to identify and consult with a large group of individuals instead of representative bodies was rejected. The Court also noted that it should not be assumed that sending an email with an information package (even if followed up with another email) constitutes adequate consultation.

Key takeaway: Consultation processes must be robust, comprehensive and adaptable. Simply because a process is difficult or time- or resource-intensive is not an acceptable reason for it not happening.

Dhawura Ngilan Business and Investor Initiative

A Guide for Investors

1.5. What investors can do

Principle	Key due diligence questions
The company respects, values and celebrates First Nations cultural heritage	<ul style="list-style-type: none"> Do you have a human rights policy that commits to respecting all internationally recognised human rights, including those in the UNDRIP? How has your company embedded human rights throughout the organisation? How is this reflected in governance, due diligence and remediation systems? Do you have any other policy for First Nations engagement? Is it embedded at a high level and throughout the practice and business of the organisation? Are First Nations rights included in your ethics framework, statement of values or similar? Do you have a Reconciliation Action Plan (RAP) or a similar First Nations engagement strategy? Are First Nations outcomes a regular item on the agenda during Board and executive meetings? Do you report on First Nations outcomes to shareholders and other stakeholders? E.g., in ESG or sustainability reporting? How do you ensure First Nations peoples' rights are discussed at the Investment Committee/Leadership Forums? Have you established an inclusive and detailed engagement process? Have you established methods to measure engagement such as a due diligence checklist? Do you develop due diligence checklists, which includes criteria related to the Dhawura Ngilan Principles? Do you assess investment managers on their approach to First Nations Rights? Have your staff undertaken cultural competency training? Do you have any community investments and supported projects? How are First Nations outcomes considered in these projects?
The company empowers First Nations leadership and respects First Nations	<ul style="list-style-type: none"> Do your staff give acknowledgments of Country at meetings and events? Where appropriate, does the Company organise a Welcome to Country at meetings

Red flags

Principle	Red flags
The company respects, values and celebrates First Nations cultural heritage	<ul style="list-style-type: none"> Companies that have a First Nations Rights Policy that does not refer to globally recognised conventions. Companies that use opaque language in policies.
The company empowers First Nations leadership and respects First Nations peoples' right to self-determination	<ul style="list-style-type: none"> Companies that do not have any detailed, long-term plans for partnerships with First Nations people. Companies that only hire non-First Nations organisations to do Cultural Heritage assessment, where that is not the preference of the Traditional Owners.
The company recognises the rights of First Nations people as Custodians of their cultural heritage	<ul style="list-style-type: none"> Companies that do not refer to the impact that their activities may have on living cultural heritage practices and First Nations health and wellbeing.
The company respects First Nations cultural heritage as living heritage	<ul style="list-style-type: none"> Companies that have no evidence to show how they respect cultural heritage as living heritage. Companies that have no evidence to demonstrate how they support and understand intangible cultural heritage. Companies that do not recognise their impacts on spiritual connection. Companies that frame First Nations culture or peoples historically, without appropriate recognition that First Nations culture is a living culture and may change over time.

Dhawura Ngilan Business and Investor Initiative

Next Steps:

- **Stage 1** – development of principles drawn from Dhawura Ngilan and preparation of the draft guides for investors and businesses as well as a draft (COMPLETE)
- **Stage 2** - facilitating uptake and adoption of the finalised guides and piloting a model for their sustainable delivery for the business and investment sectors (NOW)
- **Stage 3** – consolidate and scale up sustainable implementation of the guides

Industry and Working Group updates

- **First Nations Investment Markets**
(Will Leak and Nick Wappett)
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Other business updates

- 2024 Working Group Plan
- Openings of EOIs for the chair

RIAA CONFERENCE AUSTRALIA 2024

Navigating the race through ESG
growth and tightening regulations



1 & 2 May | ICC Sydney

Early bird
ends
29 February



Other business updates

- 2024 Working Group Plan
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Working Group Member Portal

All Working Group meeting minutes and recordings are uploaded to the RIAA Member Portal.

Access the portal using your Glue Up credentials here:



Working Group Meetings

Human Rights Working Group #1, Thurs 29 February - 12pm – 1.30pm AEDT / 2pm – 3.30pm NZDT

Nature Working Group #1, Friday 15 March - 12pm – 1.00pm AEDT / 2pm – 3.00pm NZDT

Aotearoa Collaborative Working Group – Monday 18 March 9am – 10.30am AEDT/11am – 12.30pm NZDT (hybrid event)

First Nations Peoples' Rights Working Group #2 , Thursday 16 May - 12pm – 1.30pm AEST / 2pm – 3.30pm NZST

View full list of [RIAA's events here](#).



Responsible Investment
Association Australasia

**RESPONSIBLE INVESTMENT
ASSOCIATION AUSTRALASIA**

Level 2, 696 Bourke St
Melbourne Vic, 3000
Australia

+61 3 7068 9456
info@responsibleinvestment.org
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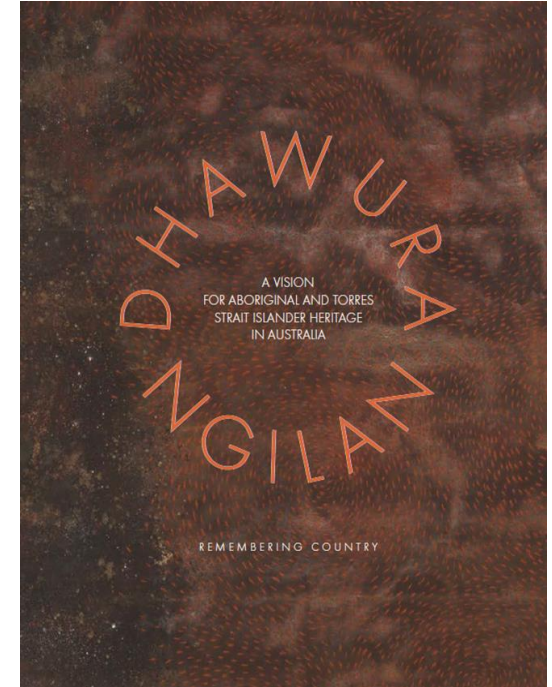
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Dhawura Ngilan Business and Investor Initiative

A Guide for Investors

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The company empowers First Nations leadership and respects First Nations peoples' right to self-determination	<ul style="list-style-type: none"> Companies that do not have any detailed, long-term plans for partnerships with First Nations people. Companies that only hire non-First Nations organisations to do Cultural Heritage assessment, where that is not the preference of the Traditional Owners.
The company recognises the rights of First Nations people as Custodians of their cultural heritage	<ul style="list-style-type: none"> Companies that do not refer to the impact that their activities may have on living cultural heritage practices and First Nations health and wellbeing.
The company respects First Nations cultural heritage as living heritage	<ul style="list-style-type: none"> Companies that have no evidence to show how they respect cultural heritage as living heritage. Companies that have no evidence to demonstrate how they support and understand intangible cultural heritage. Companies that do not recognise their impacts on spiritual connection. Companies that frame First Nations culture or peoples historically, without appropriate recognition that First Nations culture is a living culture and may change over time.

Dhawura Ngilan Business and Investor Initiative

Next Steps:

- **Stage 1** – development of principles drawn from Dhawura Ngilan and preparation of the draft guides for investors and businesses as well as a draft (COMPLETE)
- **Stage 2** - facilitating uptake and adoption of the finalised guides and piloting a model for their sustainable delivery for the business and investment sectors (NOW)
- **Stage 3** – consolidate and scale up sustainable implementation of the guides

Industry and Working Group updates

- **First Nations Investment Markets**
(Will Leak and Nick Wappett)
- **Dhawura Ngilan Business and Investor Initiative**
(Mel Sutton, KPMG Banarra)
- **Aotearoa New Zealand**
(Temuera Hall, TAHITO)
- **First Nations Heritage Protection Alliance**
(Anirudha Nagar, First Nations Heritage Protection Alliance)

Other business updates

- 2024 Working Group Plan
- Openings of EOIs for the chair

RIAA CONFERENCE AUSTRALIA 2024

Navigating the race through ESG
growth and tightening regulations



1 & 2 May | ICC Sydney

Early bird
ends
29 February



Other business updates

- 2024 Working Group Plan
- Openings of EOIs for the chair

Working Group Member Portal

All Working Group meeting minutes and recordings are uploaded to the RIAA Member Portal.

Access the portal using your Glue Up credentials here:



Working Group Meetings

Human Rights Working Group #1, Thurs 29 February - 12pm – 1.30pm AEDT / 2pm – 3.30pm NZDT

Nature Working Group #1, Friday 15 March - 12pm – 1.00pm AEDT / 2pm – 3.00pm NZDT

Aotearoa Collaborative Working Group – Monday 18 March 9am – 10.30am AEDT/11am – 12.30pm NZDT (hybrid event)

First Nations Peoples' Rights Working Group #2 , Thursday 16 May - 12pm – 1.30pm AEST / 2pm – 3.30pm NZST

View full list of [RIAA's events here](#).



Responsible Investment
Association Australasia

**RESPONSIBLE INVESTMENT
ASSOCIATION AUSTRALASIA**

Level 2, 696 Bourke St
Melbourne Vic, 3000
Australia

+61 3 7068 9456
info@responsibleinvestment.org
responsibleinvestment.org



Responsible Investment
Association Australasia