



Bushfood industry

Intellectual property

The Department of Primary Industries and Regional Development (DPIRD) has developed *Setting up for Success: Bushfoods* and the accompanying *Protection of Indigenous Ecological Knowledge for bushfood businesses* guides to help Aboriginal businesses entering, or growing their existing business, in the bushfoods industry.

The guides are available on the DPIRD website agric.wa.gov.au/aboriginal-business-development-0 or by contacting the Aboriginal Economic Development unit for more information and help, email aed@dpird.wa.gov.au or call +61 (0)459 867 908.

Once you have decided on a name for your new bushfoods business, developed a logo and branding, and sought permission for the use of cultural knowledge, consider the following:

- How will you protect your brand?
- How will you stop unauthorised use?

Intellectual property (IP) is the area of law that can be used to protect business branding and marketing. To protect your bushfood brand, you will need to use some or all of the following summarised IP Laws.

Trade marks

Trade marks are signs used in business to distinguish goods or services. For example, business trade marks could include your business name and logo, product names, slogan or any other unique identifier.

Business name registration does not give you any legal right to prevent other people using a similar name but registering your business name (or any other business identifier) as a trade mark does.

The more unique your business name, logo, product name or slogan, the easier it will be to register as a trade mark.

Copyright

Copyright protects original expressions of information and ideas, such as a written product recipe, logo or painting.

Copyright protection is automatic – you don't need to register your copyright interest to gain protection, as is required for trade marks.

You should always include a copyright notice on materials you create to assert your copyright interest, and notify people to not copy it without permission. For example:

Copyright ©, [your business name], [year].

Copyright © Red Rock Quandong Jam, 2021.

Patents

Developing bushfood products and participating in research and development projects with other people or organisations can lead to new discoveries and inventions that can be protected. For example, the discovery of a new way to extract unique compounds from a native plant.

If you are developing a product from plant knowledge, consider registering a patent over your inventions. A patent will give you exclusive commercial right to use your inventions for some time.

Plant Breeder's Rights

If you are experimenting with native plant products and developing new varieties of plant species, consider registering them with IP Australia. Once registered, you will have exclusive rights to benefit from use of the new plant species for some time.

Confidential information

If you have information that you don't want to be used by other people, you may be able to protect it as 'confidential information'. To prevent people sharing your confidential information without your consent, you must tell them it's confidential by giving them verbal or written notice or getting them to sign a Non-Disclosure Agreement (NDA).



Front cover photo: Maalinup Aboriginal Gallery bushfoods, image courtesy of Tourism Western Australia;
cover artwork: Damper by Beryl Ponce, image courtesy of Spinifex Hill Studio

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