

# AIATSIS

AUSTRALIAN INSTITUTE OF ABORIGINAL  
AND TORRES STRAIT ISLANDER STUDIES

# AIATSIS Code of Ethics for Aboriginal and Torres Strait Islander Research

**Warning: Aboriginal and Torres Strait Islander readers should be aware that this document may contain sensitive information, images or names of people who have since passed away.**





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Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS)

GPO Box 553, Canberra ACT 2601

Phone 61 2 6246 1111

Email [ethics@aiatsis.gov.au](mailto:ethics@aiatsis.gov.au)

<http://aiatsis.gov.au/ethics>

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The AIATSIS logo is derived from the Koko Bera-Kungen Shield created by George Wilson, Claude Ponto and John William Malcolm. The logo was first published by the Institute's Council in 1963. Today, AIATSIS continues to work with the families of the creators to develop the story of the shield.

The featured artwork is by Kamilaroi artist Leah Brideson and was commissioned for the AIATSIS Code of Ethics for Aboriginal and Torres Strait Islander Research. Leah is a descendent of the Kamilaroi people from the Gunnedah region. Leah is a self-taught Aboriginal artist who creates 'Visual Yarns' or stories through her paintings, in which are inspired from her Country, her family history, her culture and the local landscape. Leah also works for the ACT Education Directorate as a Cultural Integrity Coordinator, supporting schools and teachers to embed Aboriginal and Torres Strait Islander cultures in the curriculum whilst using art as a platform to share her culture and educate the wider community.

The artwork is now part of the AIATSIS Collection.

**Title: Warranggal Baynyi ('strong ripple' in Gamilaraay language)**

This piece represents a strong ripple of perspectives, relationships and knowledge in Aboriginal and Torres Strait Islander research. Encompassing the central principal of integrity, the open pathways of understanding, respect, relationship building and reciprocity connect the four principles of leadership, self-determination, impact and value and sustainability and accountability (four outer circles). All concepts within this piece are interconnected with the relationship Aboriginal and Torres Strait Islander people have with the land, water and sky and holistically acknowledges our strengths, knowledge, beneficence and cultural integrity.

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# Executive summary

The Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) *Code of Ethics for Aboriginal and Torres Strait Islander Research* is informed by the recognition of and respect for the rights of Indigenous<sup>1</sup> peoples as articulated in the *United Nations Declaration on the Rights of Indigenous Peoples*.<sup>2</sup> As such, AIATSIS recognises that Aboriginal and Torres Strait Islander peoples have the right to be fully engaged in any processes, projects and activities that may impact on them.

The AIATSIS Code outlines four principles that underpin ethical Australian Indigenous research; these are: Indigenous self-determination, Indigenous leadership, impact and value, and sustainability and accountability. Each principle frames a set of responsibilities for researchers, institutions and review bodies when conducting Aboriginal and Torres Strait Islander research.

Aboriginal and Torres Strait Islander research includes all research that impacts on or is of particular significance to Aboriginal and Torres Strait Islander peoples, including the planning, collection, analysis and dissemination of information or knowledge, in any format or medium, which is about, or may affect, Indigenous peoples, either collectively or individually.

The AIATSIS Code sets national standards for the ethical and responsible conduct of all Aboriginal and Torres Strait Islander research, across all disciplines and methodologies. It is for use by those undertaking research, reviewing research or funding research, including individuals, universities, governments, industry and community organisations.

This Code is consistent with and supports the *Australian Code for the Responsible Conduct of Research* and the *National Statement on Ethical Conduct in Human Research*.<sup>3</sup> It provides guidance on the application of those standards in Aboriginal and Torres Strait Islander research.

The AIATSIS Code is issued pursuant to AIATSIS' legislative function to provide leadership in ethics. Compliance with this Code is required for all research funded by or undertaken under the auspices of AIATSIS, the Australian Research Council (ARC) and the National Health and Medical Research Council (NHMRC), and other institutions or bodies that have adopted the AIATSIS Code.

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1 The term 'Indigenous' refers to both Aboriginal and Torres Strait Islander.

2 [https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2019/01/UNDRIP\\_E\\_web.pdf](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2019/01/UNDRIP_E_web.pdf)

3 <https://www.nhmrc.gov.au/sites/default/files/documents/attachments/grant%20documents/The-australian-code-for-the-responsible-conduct-of-research-2018.pdf>; <https://www.nhmrc.gov.au/about-us/publications/national-statement-ethical-conduct-human-research-2007-updated-2018>

# Introduction

## Purpose

The purpose of the *AIATSIS Code of Ethics for Aboriginal and Torres Strait Islander Research* (the *AIATSIS Code* or *this Code*) is to promote ethical and responsible practice in Aboriginal and Torres Strait Islander research in Australia, to increase the contribution of Indigenous knowledge to Australian research, to ensure research has a positive impact for Aboriginal and Torres Strait Islander peoples, and to continuously improve the quality and standards of research in this area.

The principles in this Code are informed by the recognition of and respect for the rights of Indigenous peoples as articulated in the *United Nations Declaration on the Rights of Indigenous Peoples*.<sup>4</sup> As such, we recognise that Aboriginal and Torres Strait Islander peoples have the right to be fully engaged in any processes, projects and activities that may impact them. The AIATSIS Code recognises that Indigenous peoples have the right to control and maintain their culture and heritage, and that means benefiting from research undertaken by, with and about them.

The establishment of written guidelines for research conduct not only ensures that the expectations and standards of practice are clearly understood and shared, but also assists in building Aboriginal and Torres Strait Islander peoples' confidence in the research community and its practices.

The *Australian Institute of Aboriginal and Torres Strait Islander Studies Act 1989* (Cth) requires AIATSIS to provide leadership in ethics and protocols for research and activities relating to collections about Aboriginal and Torres Strait Islander peoples.<sup>5</sup> AIATSIS is the sole Commonwealth body with these responsibilities and this Code is issued pursuant to that legislated function.

## Structure

The AIATSIS Code is structured according to four principles that underpin ethical and responsible Aboriginal and Torres Strait Islander research, which are:

1. Indigenous self-determination
2. Indigenous leadership
3. Impact and value
4. Sustainability and accountability.

Each principle includes a set of responsibilities for conducting Aboriginal and Torres Strait Islander research.

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4 Ethical guidelines and professional standards for the conduct of research have been informed by international human rights instruments, dating back to the World Medical Association's *Declaration of Helsinki* of 1964 (e.g. National Statement, Preamble, p. 3 refers to international human rights instruments); the Declaration, [https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2019/01/UNDRIP\\_E\\_web.pdf](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2019/01/UNDRIP_E_web.pdf)

5 An Aboriginal and Torres Strait Islander collection is any collection of data, records or materials that contains information from or about Aboriginal and Torres Strait Islander peoples, including cultural information, individual information, administrative records, tissue or other biological samples.

This Code is accompanied by the *Guide to Applying the AIATSIS Code of Ethics for Aboriginal and Torres Strait Islander Research*, which provides advice on how to put the principles in to practice. The AIATSIS Code and the Guide are supported by online resources, including case studies, tools and templates, that are available on the AIATSIS ethics website.

## Why a new code?

AIATSIS first published ethics guidelines in 1999 and, at the time, they represented a new approach to research ethics that repositioned Indigenous peoples from subjects of research to partners in research. The guidelines were regularly revised to reflect developments in critical areas that had emerged since previous editions. To mark the twentieth anniversary of the AIATSIS guidelines, we have undertaken a comprehensive review to ensure that AIATSIS continues to set the highest standards of ethics and support for human rights in Aboriginal and Torres Strait Islander research. While the principles in the 2012 edition are largely retained, they have been reorganised into a new framework and augmented to reflect emerging standards and developments.<sup>6</sup>

The review was guided and informed by the AIATSIS Research Ethics Committee, the AIATSIS Research Advisory Committee, the AIATSIS Council, roundtables of Pro Vice Chancellors (Indigenous), consultation with key stakeholders, public submissions and expert advice.

## The relationship of this code to other national standards

This Code forms part of the Australian framework for ethical and responsible conduct of research, established under the *Australian Code for the Responsible Conduct of Research*<sup>7</sup> and including the *National Statement on Ethical Conduct in Human Research*<sup>8</sup> (referred to throughout as the Code for Responsible Research and the National Statement, respectively). This Code provides further guidance on the application of those standards in Aboriginal and Torres Strait Islander research. The AIATSIS Code of Ethics should be read in conjunction with the *United Nations Declaration on the Rights of Indigenous Peoples 2007* (the Declaration), the *Code for Responsible Research* and the *National Statement*.

Within this framework, this Code sets consistent national standards for the ethical and responsible conduct of all Aboriginal and Torres Strait Islander research. This Code may articulate additional requirements to achieve the objectives of respect and recognition set out in the Code for Responsible Research and the National Statement. These should not be interpreted as conflicting or inconsistent standards.

This Code has been developed in consultation with the National Health and Medical Research Council (NHMRC), the Australian Research Council (ARC) and the National Indigenous Australians Agency (NIAA). Compliance with this Code is required for all research funded by or undertaken under the auspices of AIATSIS, ARC and NHMRC. Other institutions, professional associations and organisations are encouraged to adopt this Code as mandatory.

6 For cross-references to the fourteen principles in the previous AIATSIS *Guidelines for Ethical Research in Australian Indigenous Studies 2012* (GERAIS), <https://aiatsis.gov.au/research/ethical-research>

7 <https://www.nhmrc.gov.au/sites/default/files/documents/attachments/grant%20documents/The-australian-code-for-the-responsible-conduct-of-research-2018.pdf>

8 <https://www.nhmrc.gov.au/about-us/publications/national-statement-ethical-conduct-human-research-2007-updated-2018>

The NHMRC's *Ethical Conduct in Research with Aboriginal and Torres Strait Islander Peoples and Communities: Guidelines for Researchers and Stakeholders 2018* and *Keeping Research on Track II* (collectively, the NHMRC Indigenous Research Ethics Guidelines<sup>9</sup>) are consistent with this Code and can provide additional guidance for researchers on values and ethics when working with Indigenous people. The NHMRC Guidelines also apply to all research to which the National Statement applies but do not cover the full range of content addressed by this Code. ARC and NHMRC grant guidelines and grant agreements<sup>10</sup> require compliance with both the NHMRC Guidelines and this Code.<sup>11</sup>

Researchers may take further guidance or be required to comply with other guidelines, such as:

- ethical considerations in quality assurance and evaluation activities (NHMRC 2014)
- other specific codes and guidelines applying to research involving animals and certain biomedical and clinical research (see NHMRC *Ethics and Integrity*<sup>12</sup>).

This Code supersedes and replaces the AIATSIS *Guidelines for Ethical Research in Australian Indigenous Studies 2012* (GERAIS). All references to GERAIS in Australian research codes and guidance should be taken to refer to this Code.

## When does the AIATSIS Code apply?

This Code applies to all Aboriginal and Torres Strait Islander research including research activities relating to Aboriginal and Torres Strait Islander collections. In the Australian context, research has generally been defined as 'investigation undertaken to gain knowledge and understanding' and casts a wide net in terms of what constitutes research.<sup>13</sup>

This Code applies to academic research carried out in and by universities and publicly funded research agencies, governments and the private sector. Its scope extends to human research,<sup>14</sup> archival research and re-use of data, formal evaluation and any other research activity.

The principles and practices outlined in this Code may also be applicable to activities that may not constitute research, but can impact upon, or be of importance to, Aboriginal and Torres Strait Islander peoples, such as quality assurance and program monitoring and engagement, particularly by governments.

9 <https://www.nhmrc.gov.au/research-policy/ethics/ethical-guidelines-research-aboriginal-and-torres-strait-islander-peoples>; <https://www.nhmrc.gov.au/about-us/resources/keeping-research-track-ii>, respectively. The current NHMRC Indigenous Ethics Guidelines were preceded by the *Values and Ethics: Guidelines on Ethical matters in Aboriginal and Torres Strait Islander Health Research* (2003), *Keeping Research on Track* (2005) and the earlier *NHMRC Guidelines on Ethical Matters in Aboriginal and Torres Strait Islander Health Research* (1991).

10 The NHMRC Funding Agreement can be found here, <https://www.nhmrc.gov.au/funding/manage-your-funding/funding-agreement>

11 A summary of how the provisions of the Code for Responsible Research, the National Statement, the NHMRC Guidelines and this Code work together can be found on the NHMRC and AIATSIS webpages, [https://www.nhmrc.gov.au/sites/default/files/documents/Indigenous%20guidelines/nhmrc-guidelines-framework\\_0.pdf](https://www.nhmrc.gov.au/sites/default/files/documents/Indigenous%20guidelines/nhmrc-guidelines-framework_0.pdf); <https://aiatsis.gov.au/research/ethical-research/aiatsis-code-ethics> respectively.

12 <https://www.nhmrc.gov.au/research-policy/ethics-and-integrity>

13 National Statement, p. 6, citing the Higher Education Funding Council for England, Scottish Higher Education Funding Council, Higher Education Funding Council for Wales, and Department for Employment and Learning Northern Ireland (2005) *Research Assessment Exercise 2008: Guidance to Panels*, p. 28.

14 Human research is defined by the National Statement to include research that is 'conducted with or about people, or their data or tissue' and is to be understood broadly.



## What is Aboriginal and Torres Strait Islander research?

Aboriginal and Torres Strait Islander research includes all research that impacts or is of particular significance to Aboriginal and Torres Strait Islander peoples, including the planning, collection, analysis and dissemination of information or knowledge, in any format or medium, which is about or may affect Indigenous peoples, either collectively or individually.<sup>15</sup> The AIATSIS Code applies to all Aboriginal and Torres Strait Islander research, regardless of whether the research intends to directly involve human participants, and specifically extends to the use of collections such as archives, datasets, collections of information or biospecimens that may not otherwise be categorised as human research.<sup>16</sup>

For the purposes of this Code, Aboriginal and Torres Strait Islander research should be understood as research that concerns or impacts Aboriginal and Torres Strait Islander peoples in any of the following ways:

- the research is about Aboriginal and Torres Strait Islander peoples, societies, culture and/or knowledge, Aboriginal and Torres Strait Islander policies or experience.
- the target population is Aboriginal and Torres Strait Islander individuals, groups, communities or societies.
- the target population is not explicitly Aboriginal and Torres Strait Islander individuals or communities but the research population includes a significant number of Aboriginal and Torres Strait Islander people.
- Aboriginal and/or Torres Strait Islander people have been incidentally recruited and researchers wish to do separate analysis of Indigenous-specific data.
- there are Aboriginal and Torres Strait Islander individuals or communities contributing to the research.
- there is new or pre-existing data related to Aboriginal and Torres Strait Islander peoples being used in the research.
- the research concerns Aboriginal and Torres Strait Islander peoples' lands or waters.

## Who should use the AIATSIS Code?

The AIATSIS Code of Ethics is intended for use by:

- any person conducting Aboriginal and Torres Strait Islander research
- any member of an ethical review body or other body reviewing Aboriginal and Torres Strait Islander research, including human research ethics committees (HRECs), grant assessment panels and data governance committees
- sponsors or commissioners of Aboriginal and Torres Strait Islander research, which includes any person or public or private organisation that is providing financial or other support to the project
- those involved in research governance and policy relating to research or management of collections, including the development of standards
- Aboriginal and Torres Strait Islander peoples, communities and organisations engaged in or with research.<sup>17</sup>

15 Walter M, Lovett R, Bodkin-Andrews G and Lee V, Indigenous Data Sovereignty Communique, Indigenous Data Sovereignty Summit, Canberra, 20 June 2018. <https://www.aigi.com.au/wp-content/uploads/2019/10/Communique-Indigenous-Data-Sovereignty-Summit-1.pdf>

16 The National Statement, Preamble, p. 3 is expressly limited to 'human research'. However, this definition, too, is framed broadly to include '... research conducted with or about people, or their data or tissue'.

17 Aboriginal and Torres Strait Islander communities may also find useful information in the NHMRC's *Keeping Research on Track II*, which is specifically designed to assist communities that are engaging with research.



Many Aboriginal and Torres Strait Islander communities are actively involved in managing research that concerns them, including through the development of local protocols and template agreements, establishing research priorities, and participating in and leading projects. Nevertheless, there is a positive obligation on researchers to ensure communities with which they engage are aware of their rights and what they should expect of researchers. In addition to the materials on the AIATSIS website, some useful guides have been developed specifically for Indigenous communities and organisations engaging with research, including NHMRC's *Keeping Research on Track II* 2018 and the Lowitja Institute's *EthicsHub*.<sup>18</sup>

This Code applies to all Aboriginal and Torres Strait Islander research conducted in Australia. We recognise that institutions involved in this research vary in size, maturity, experience and organisational structure. Similarly, researchers range in experience and skills, including Indigenous researchers, researchers with long-term relationships with particular communities, and those who are new to Aboriginal and Torres Strait Islander research. Accordingly, it is acknowledged that different policies and practices are capable of fulfilling the aim of this Code and attempts have been made to ensure that there are appropriate options for flexibility in its application.

## When is ethical review required?

All research must be conducted with ethics and integrity. Institutions that are regularly undertaking or sponsoring research have a responsibility to develop research governance frameworks to support this.

In the governance of research, there are different types of oversight and review that might be required depending on the level of risk associated with the research.<sup>19</sup> Currently, the National Statement requires all research with Aboriginal and Torres Strait Islander people to be subject to ethics review by a human research ethics committee with relevant skills and experience. This guidance is currently under review and is likely to change, to be consistent with the principle of proportionate review.<sup>20</sup>

This Code recognises that any assessment of risks and benefits of research must be considered in the context of the collective rights and interests of Indigenous peoples in relation to their lands, waters, cultures and histories.

It should not be assumed that Aboriginal and Torres Strait Islander research involving the use of existing collections of data or records that contain only non-identifiable data automatically carries minimal or no risk and can be exempted from review.<sup>21</sup> In addition, it cannot be assumed that desktop or archival research relating to Aboriginal and Torres Strait Islander people carries no risk to, or does not require engagement with Aboriginal and Torres Strait Islander peoples. Similarly, research in the physical sciences is increasingly engaging with Indigenous lands and knowledge and researchers in these fields should be aware of the related ethical considerations.

In applying this Code, care should be taken before determining that ethical review is not required, as relevant ethical issues can arise in these various types of research. A precautionary approach should be applied, recognising that guidance from an ethics review committee with experience in Aboriginal and Torres Strait Islander research can be of significant benefit.<sup>22</sup>

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18 <https://www.nhmrc.gov.au/about-us/resources/keeping-research-track-ii>; <https://www.lowitja.org.au/page/research/ethic-hub>

19 The National Statement, section 2.1.

20 The review of the National Statement, chapters 4 and 5, is due to be completed in 2021.

21 The National Statement, subsection 5.1.22(b), p. 85.

22 Registered HRECs with Indigenous expertise are listed at <https://www.nhmrc.gov.au/sites/default/files/documents/attachments/registered-hreecs.pdf>

The Australian Code for the Responsible Conduct of Research recognises the right of Aboriginal and Torres Strait Islander peoples to be engaged in research that affects or is of particular significance to them. Involving Indigenous people in the design and application of research governance frameworks in an Indigenous context can support appropriate decisions about ethical risk and review.

For certain areas of research, ethics review is prescribed in some States and Territories and is undertaken by Indigenous HRECs or institutional or government review committees. Some Aboriginal and Torres Strait Islander communities and representative organisations have their own ethics and/or cultural review bodies.

We acknowledge that there are some circumstances where ethics review by an external body may not be possible, for example research undertaken for litigation or native title claims, and alternative oversight or review may be required.

It is the responsibility of the researcher and the responsible institution to ensure that any decision that an activity is not research, or that ethical review is not required, accords with the standards of ethics and integrity established under the Australian Code for the Responsible Conduct of Research, the National Statement and this Code.<sup>23</sup>

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<sup>23</sup> The National Statement, subsection 5.1.23, p. 85. See also National Statement, Preamble, p. 4.

# The AIATSIS research ethics framework

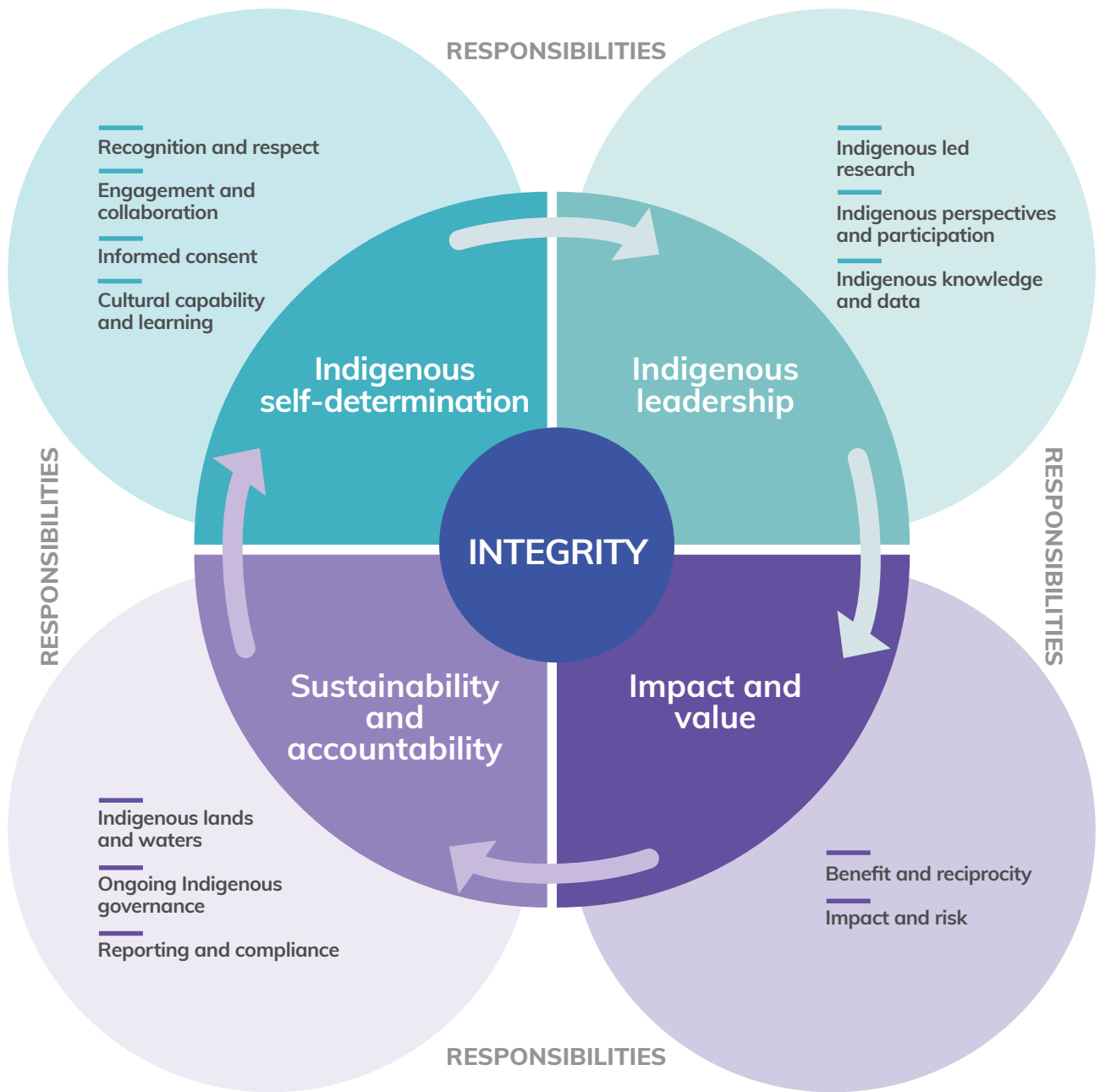
The AIATSIS research ethics framework is structured around four principles:

1. Indigenous self-determination
2. Indigenous leadership
3. Impact and value
4. Sustainability and accountability.

At the centre of these principles is the core ethical value of integrity and acting in the right spirit, as outlined below in the ethical foundations.

Each principle gives rise to responsibilities that are elaborated under the following headings:

- recognition and respect
- engagement and collaboration
- informed consent
- cultural capability and learning
- Indigenous led research
- Indigenous perspectives and participation
- Indigenous knowledge and data
- benefit and reciprocity
- impact and risk
- Indigenous land and waters
- ongoing Indigenous governance
- reporting and compliance.





# The ethical foundations

The AIATSIS Code respects Aboriginal and Torres Strait Islander values and worldviews, acknowledging the wisdom and diversity of Indigenous knowledge systems. When announcing the review of the AIATSIS guidelines, then AIATSIS Council Chair, Professor Michael McDaniel, said that engaging ethically means many things but ultimately it is about respect and honour.

*For me, it is yindyamarra, a Wiradjuri concept which means to act with honour and respect, wisdom, to go slowly and act responsibly, be gentle and polite and honest with each other, be careful of the words and actions you put out to the world and understand the impact they have.<sup>24</sup>*

There are many similar examples within Indigenous knowledge traditions that articulate how to act in the right spirit, with integrity and with respect for Country<sup>25</sup> and for all living things.

It is also useful to reflect on the consistent ethical foundation of the National Statement:

*'ethical conduct' is more than simply doing the right thing. It involves acting in the right spirit, out of an abiding respect and concern for one's fellow creatures.<sup>26</sup>*

This idea of ethical human engagement has interested philosophers and thinkers across all cultures for all time. However, our best selves do not always prevail. For Indigenous peoples, the ongoing experiences of colonisation, theft of lands and resources, disruption to societies and families, and suppression of culture and identity, is a denial of human dignity and respect. When done well, research can, and has, had positive impacts for Indigenous peoples, but research has not been immune to practices that are imbued with racism, exploitation and disrespect.

While conventional ethics frameworks emerge from the obligation to respect individual human dignity and protect the vulnerable, the ethical principles underpinning this Code proceed from a presumption of Indigenous authority as self-determining peoples, and as rights holders, whose knowledge and contribution to research must be recognised, respected and valued. This does not mean that individual Indigenous people may not be vulnerable as a result of their personal circumstances, and indeed may be more vulnerable due to the impact of colonisation, racism and intergenerational trauma.

The principles in this Code are underpinned by the value of integrity. In the same way, the National Statement places research merit and integrity as a threshold question before considering values of justice, beneficence and, finally, respect. The National Statement identifies respect as the common thread that draws together all other values and principles. 'Spirit and integrity' is also identified as the core value that underpins the NHMRC's guidelines, *Ethical Conduct in Research with Aboriginal and Torres Strait Islander Peoples and Communities*, which is demonstrated by commitment to all of the other values: cultural continuity, equity, reciprocity, respect, and responsibility.<sup>27</sup>

While to some extent in Australia standards for ethical and responsible conduct of Aboriginal and Torres Strait Islander research are upheld through requirements of compliance by funding agencies and research sponsors, at its heart ethical conduct depends on the values and integrity of researchers and institutions.

24 Native Title Newsletter 2019 Issue 2.

25 Country refers not only to the Land & Waters to which Indigenous people have a traditional relationship with, but is also inextricably linked to kinship, knowledge, beliefs, language and identity. Morgan, S., Mia, T., Kwaymullina, B. 2008. *Heartsick for country: Stories of Love, Spirit and Creation*. North Fremantle: Fremantle Press; Weir, Jessica K, Claire Stacey, and Kara Youngetob. 2011. *The benefits associated with caring for country: Literature review*. Canberra: AIATSIS.

26 The National Statement, Preamble, p. 3.

27 NHMRC 2018, *Ethical conduct in research with Aboriginal and Torres Strait Islander Peoples and communities: Guidelines for researchers and stakeholders*, pp.3–4.

# The Principles

## Principle 1 Indigenous self-determination

The recognition of, and respect for, Aboriginal and Torres Strait Islander peoples' right to self-determination is fundamental to all research conducted in Australia. This Code recognises Aboriginal and Torres Strait Islander peoples' unique connection to the land and waters of this continent from time immemorial. Australian research should embrace the fact that Aboriginal and Torres Strait Islander peoples have existed continuously as distinct societies, with diverse and unique laws, cultures, knowledge and worldviews that can inform research across a wide range of disciplines including physical sciences, social sciences and humanities.

The *United Nations Declaration on the Rights of Indigenous Peoples*<sup>28</sup> (the Declaration) articulates the rights of Indigenous peoples, many of which are directly relevant to how we design, engage in and conduct Aboriginal and Torres Strait Islander research. The right of self-determination underpins all of these; it affirms the distinct political status of Indigenous peoples and their rights to set priorities, make decisions, and freely pursue their own development on their own terms.<sup>29</sup> In exercising self-determination, Indigenous peoples also have rights, among others, to strengthen their institutions,<sup>30</sup> practice, teach and protect cultural traditions and knowledge systems<sup>31</sup> and develop and use their lands and waters.<sup>32</sup>

The right of Aboriginal and Torres Strait Islander peoples to be engaged in research that affects or is of particular significance to them is now a fundamental principle that underpins all research in Australia.<sup>33</sup> Engagement is different from consultation and, importantly, includes building relationships of trust from which respect and the integrity of the research can flow. The appropriate form of engagement will depend on the type of research and the objectives and desired impact of the research. (See Guide: 1.4. Indigenous engagement and project governance.)

The Australian Code for the Responsible Conduct of Research requires researchers to 'engage with Aboriginal and Torres Strait Islander peoples and respect their legal rights and interests and local laws, customs and protocols'.<sup>34</sup>

The National Statement requires evidence of such engagement.<sup>35</sup>

Aboriginal and Torres Strait Islander research projects that involve one or more communities or organisations should be underpinned by a negotiated agreement or protocol. Such agreements and protocols can articulate roles and responsibilities of researchers and partners and any understandings reached about how the research is to be undertaken. In the case of a contract, it can provide greater recognition of and protection for the rights of Indigenous peoples, particularly in relation to cultural and intellectual property, where the current law falls short. (See Guide: 1.3. Understanding Indigenous cultural and intellectual property.)

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28 <https://undocs.org/A/RES/61/295>

29 The Declaration, article 3.

30 The Declaration, articles 4, 5, 9 and 18.

31 The Declaration, articles 11–13.

32 The Declaration, articles 20, 23 and 32.

33 Australian Code for the Responsible Conduct of Research, principle 6, p. 2; see also responsibility 19, p. 4.

34 Australian Code for the Responsible Conduct of Research, responsibility 19, p. 4.

35 The National Statement, subsection 4.7.10, p. 79.

Moreover, consent is a fundamental tenet of ethical research.<sup>36</sup> For Aboriginal and Torres Strait Islander research, free, prior and informed consent of a people or group (in addition to any individual participants) is often necessary to enable the exercise of self-determination and effective engagement, including through culturally and linguistically appropriate mechanisms.

## Responsibilities

### *Recognition and respect*

- 1.1 Aboriginal and Torres Strait Islander research must be conducted in accordance with the United Nations Declaration on the Rights of Indigenous Peoples, including Indigenous peoples' right to self-determination.<sup>37</sup> Researchers are responsible for:
  - a. understanding the meaning of self-determination and the rights articulated in the Declaration and how these rights can be recognised in research
  - b. recognising and differentiating between individual, group and/or collective rights, responsibilities and ownership
  - c. undertaking research only if it does not conflict with individual rights, freedoms and dignity.
- 1.2 Aboriginal and Torres Strait Islander research must recognise and reflect the diversity of Indigenous peoples, as well as their shared experiences and worldviews.<sup>38</sup> This includes acknowledgement that:
  - a. Indigenous peoples have unique laws, languages, cultures, practices, histories and perspectives that should inform the research.
  - b. diversity exists among Indigenous peoples as individuals, families, communities, groups and nations.
  - c. generalisation or extrapolation of findings that masks diversity can do harm and such risks should be considered in the analysis of data.
- 1.3 Knowledge, practices, science, innovations and cultural expressions of Indigenous peoples must be respected, protected and maintained.<sup>39</sup> Researchers have a responsibility to:
  - a. understand the nature of Indigenous knowledge systems, cultural expressions and intellectual property (see Guide: 1.3. Understanding Indigenous cultural intellectual property)
  - b. acknowledge and appreciate Indigenous knowledge, practices and innovations and the contribution that such knowledge can make to research
  - c. ensure that the rights and interests of Indigenous knowledge holders and custodians are recognised and protected throughout the project and in research products and outcomes, including through legally binding arrangements for ownership of data and intellectual property, where necessary, to give effect to any agreement.
- 1.4 Institutions have a responsibility to ensure that their policies, procedures and templates are sufficiently flexible to support the recognition and protection of Indigenous peoples' rights and interests.

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36 The National Statement, subsections 2.2.1, 2.2.4 and 2.2.8, pp. 16–17.

37 The Declaration, article 3, states: 'Indigenous peoples have the right to self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development'.

38 The Declaration, article 13.

39 The Declaration, article 31.

## Engagement and Collaboration

- 1.5 At every stage, Aboriginal and Torres Strait Islander research must be founded on a process of meaningful engagement.
  - a. modes and intensity of engagement should be appropriate to the aim of the research and the priorities and interests of the communities engaged.
  - b. Indigenous peoples may have their own research protocols and processes for reaching decisions about participating in research that should be followed.
  - c. universities and research sponsors should be open to changing and developing their practices to respond to and accommodate local protocols.
- 1.6 Building relationships based on trust is a key foundation for Aboriginal and Torres Strait Islander research. Consequently:
  - a. engagement should involve an honest exchange of ideas about aims, methods and potential outcomes for all parties, with a view to strengthening Indigenous peoples' self-determination through participation and collaboration in research.
  - b. properly and fully informing Indigenous people about the aims and methods of a research project and its implications and potential outcomes allows them to decide for themselves whether to oppose or embrace the project or to suggest changes and to determine the extent to which they may want or need to be involved in the conduct of the project.
  - c. consultation and negotiation should achieve mutual understanding about the proposed research, including who will participate, how decisions will be made, the aims and objectives of the research, the resources required and how they will be distributed, and the benefits that may accrue.<sup>40</sup>
- 1.7 When Aboriginal and Torres Strait Islander research involves or is conducted in collaboration with a particular community, group or organisation, a written agreement (a protocol, memorandum of understanding or contract), wherever practical, should be entered into to clarify the understandings that have been reached.<sup>41</sup> (See Guide: 1.9. Research Agreements.)
  - a. the agreement should include the process for managing the Indigenous knowledge and intellectual property that exists prior to commencement; Indigenous knowledge, cultural expression and intellectual property that result from the research; and its reproduction in research products and outcomes, including commercialisation.
  - b. appropriate time must be given to allow community representatives, individual participants including Traditional Owners, and the wider Indigenous community to consider a proposed research agreement and to discuss its implications, both before the project begins and when it is reviewed at various stages throughout the project.
  - c. agreements should be reached jointly, including inclusion or recognition of Indigenous law and protocols appropriate to the project or partnership. Universities and institutions should be open to changing templates and practices to accommodate local approaches as appropriate, while maintaining consistency with the National Statement.

<sup>40</sup> The National Statement, subsection 4.7.3, p. 78.

<sup>41</sup> Additional guidance is provided by ARC, NHMRC & Universities Australia (UA), 2020, *Collaborative Research: A Guide Supporting the Australian Code for the Responsible Conduct of Research*, <https://www.nhmrc.gov.au/sites/default/files/documents/attachments/Collaborative-Research-Guide-20.pdf>



- d. agreements should contain agreed steps to resolve disagreements and disputes and to access independent complaint processes, including through local or Indigenous protocols or resolution processes.
  - e. agreements in the form of a contract can protect the community and the researcher because they are legally binding and may be required where there are legal implications arising from the agreement, for example in recognising or transferring intellectual property, committing funds or time, ownership of data, and/or distribution of benefits from commercialisation.
- 1.8 Researchers undertaking Aboriginal and Torres Strait Islander research should consider whether ethics review is required for the early stages of a project, including development of relationships and project design. Researchers should consider seeking separate ethics review for early stages of research if:
- a. information and data is to be recorded or collected during this phase, including Indigenous methods and approaches
  - b. the design process is to be documented and included in any publication.

#### *Informed consent*

- 1.9 Aboriginal and Torres Strait Islander peoples have a right to determine what research is and is not carried out in their communities. Before any research is undertaken, plans for research projects must show evidence of free, prior and informed consent of the relevant Indigenous peoples.
- a. informed consent of a group or people (in addition to individual participants within that group), is required where the collective rights, interests or knowledge of Indigenous peoples are involved.<sup>42</sup>
  - b. collective consent may be evidenced through partnership agreements and collaboration agreements with Indigenous research partners or other documentation of Indigenous engagement in the design, governance and conduct of the research.
  - c. an agreement to consent to the research can be given and recorded verbally, in writing or in a form that is consistent with the method (for example online surveys) and is culturally appropriate.<sup>43</sup>
- 1.10 Researchers are responsible for understanding the meaning of free, prior and informed consent (FPIC), and the steps that must be taken to give it effect. (See Guide: 2.1. Obtaining informed consent.)
- a. agreement to participate in or support research must be obtained prior to research being undertaken.
  - b. agreement must be voluntarily given, free from coercion, duress or pressure.<sup>44</sup>
  - c. participants and partners in research must understand the proposed research and its implications as well material details, as set out in the National Statement.<sup>45</sup>
- 1.11 Collective consent does not remove the requirement to respect individual rights to participate in Aboriginal and Torres Strait Islander research and individual consent requirements as set out in the National Statement.<sup>46</sup> Therefore:

<sup>42</sup> The National Statement, subsection 2.2.13, p. 18.

<sup>43</sup> The National Statement, subsection 2.2.5, p. 16.

<sup>44</sup> The National Statement, subsection 2.2.9, p. 17.

<sup>45</sup> The National Statement, section 1.7(b), p. 11 and subsections 2.2.1 and 2.2.6, pp. 16–17.

<sup>46</sup> The National Statement, subsection 3.1.18 provides guidance for developing recruitment strategies, including consideration of whether community engagement or agreements need to be in place prior to individual recruitment, (g), p. 29.

- a. where research involves access to and use of data and information that was collected for administrative or previous research purposes (secondary use of data), researchers must be aware of particular ethical issues that arise in relation to Indigenous data<sup>47</sup>
- b. individual consent should be obtained wherever possible
- c. where it is impossible or impractical to obtain consent for use of secondary data, institutions and researchers are responsible to ensure that:
  - i. a waiver is sought, in accordance with the National Statement,<sup>48</sup> from a HREC with experience in Aboriginal and Torres Strait Islander research or other Indigenous review body
  - ii. alternative Indigenous data governance arrangements are in place, including through community engagement, collective consent, or an Indigenous data governance committee.

1.12 Responsibility for maintaining the validity of consent is required throughout the life of the project.

- a. engagement throughout the stages of the project is necessary to ensure consent remains valid; therefore consent may need to be renegotiated.<sup>49</sup>
- b. partners and participants are entitled to withdraw from the research at any stage so, before consent is given for involvement in research:
  - i. the consequences of withdrawal of consent should be understood by all parties<sup>50</sup>
  - ii. agreement should be reached about what should be done with the contributions made to the research project by a partner or participant up to the date of the withdrawal, if that partner or participant withdraws.

#### *Cultural capability and learning*

1.13 Researchers are responsible for their own professional development and ongoing cultural learning and must be able to demonstrate a level of cultural competency and experience appropriate to the research project, including self-awareness, knowledge and understanding of relevant Indigenous culture, laws and protocols, and an ability to engage and communicate respectfully and effectively.<sup>51</sup>

1.13.1 Indigenous communities engaged with research have a right to request information and ask questions about the qualifications and experience of the researchers.<sup>52</sup>

1.14 Institutions have responsibilities to develop their cultural capabilities and to provide an environment that supports researchers to meet the standards expressed in this Code, including:

1.14.1 training researchers in Aboriginal and Torres Strait Islander research ethics and methods and ensuring researchers have the requisite skills to undertake their proposed research

1.14.2 providing a supportive environment for students and early career researchers to develop capacity and experience

47 See Walter, M 2016, 'Data politics and Indigenous representation in Australian statistics', in T Kukutai & J Taylor (eds.), *Indigenous data sovereignty: Toward an agenda*, Canberra, ANU Press, pp. 79–87.

48 The National Statement, subsections 2.3.9–2.3.12, pp. 21–22.

49 The National Statement, subsection 2.2.8, p. 17.

50 The National Statement, subsection 2.2.20, p. 18.

51 The National Statement, subsection 1.1(e).

52 See *Keeping Research on Track II*, p. 13.

- 1.14.3 providing time and resources for appropriate engagement, governance and methodologies
  - 1.14.4 creating a culturally safe environment
  - 1.14.5 building cultural capability among their people, policies, practices and procedures.
- 1.5 Human research ethics committees (HRECs) have a responsibility to build the cultural competency of their systems and membership through:
- 1.15.1 seeking expert advice or referring matters to another HREC where the committee lacks sufficient knowledge to provide an informed assessment<sup>53</sup>
  - 1.15.2 undertaking training in the application of ethical standards in Aboriginal and Torres Strait Islander research
  - 1.15.3 ensuring culturally competent review processes where review is undertaken by an ethics review body or process other than an HREC
  - 1.15.4 demonstrating respect for and valuing Indigenous methodologies, standpoints and ways of engaging with research practice.

## Principle 2 Indigenous leadership

To demonstrate merit, Aboriginal and Torres Strait Islander research should be led by Indigenous people.<sup>54</sup> Research is considered Indigenous-led in Australia when Aboriginal and/or Torres Strait Islander people have genuine decision-making responsibility and the research is informed by Indigenous priorities, values, perspectives and voices. Indigenous leadership should be evident both in the ‘why’ as well as the ‘how’ of research, from conceptualisation to communication of research. The National Statement supports this principle:

*The research approach should value and create opportunities to draw on the knowledge and wisdom of Aboriginal and Torres Strait Islander Peoples by their active engagement in the research processes, including the interpretation of the research data.<sup>55</sup>*

Identifying research that is a priority for, or meets the needs of, Aboriginal and Torres Strait Islander peoples or a particular community may draw on national priority settings, locally derived priorities or project-specific design. (See Guide: 1.4. Indigenous engagement and project governance.)

Researchers must be mindful to ensure that they work with and through appropriate bodies, including representative organisations such as Traditional Owner and native title corporations and/or those who exercise cultural authority on behalf of a nation or people,<sup>56</sup> such as Elders, knowledge holders or Law Bosses.<sup>57</sup> Community controlled organisations can also provide guidance in particular areas of expertise, for example, in health or housing.

<sup>53</sup> The National Statement, subsection 5.1.33.

<sup>54</sup> The National Statement, section 1.1, p. 10. Under the National Statement ‘merit’ is determined by factors such as justifiable benefits, appropriate methods, use of authority and novel research, qualifications of the team, respect for participants and appropriate resourcing. Indigenous leadership can be demonstrated in each of these domains.

<sup>55</sup> The National Statement, subsection 4.7.11, p. 79.

<sup>56</sup> The Declaration, article 18.

<sup>57</sup> “A boss is yungkupayi, someone ‘who freely gives,’ a ‘generous one.’ They will ‘look after’ (kanyiklu) people and country.” Fred Myers, 1986, Pintupi Country, Pintupi Self: Sentiment, Place and Politics Among Western Desert Aborigines, AIATSIS, Canberra. <https://toolkit.aigi.com.au/toolkit/4-1-indigenous-leadership#:~:text=A%20boss%20is%20yungkupayi%2C%20someone,Desert%20Aborigines%2C%20AIATSIS%2C%20Canberra>

Ideally, Aboriginal and Torres Strait Islander research should have Aboriginal or Torres Strait Islander researchers as project leaders and/or researchers, recognising the growing Indigenous research workforce and senior academic leadership. However, this is not always possible. Indigenous leadership can be demonstrated in many ways, for example through governance and oversight of the project or a program of work, partnerships and collaboration, or commissioning of research by Aboriginal and Torres Strait Islander organisations.

It is important to acknowledge that Indigenous people who are also researchers may have unique considerations not shared by non-Indigenous researchers when working in and outside of their community, including how ethical principles are applied.

This Code requires adherence to the principles of Indigenous data sovereignty and governance and the emerging theories and practice that underpin it. Indigenous data sovereignty both recognises the rights of Indigenous peoples to control the use of their data, wherever it is held (governance of data), and the importance of access to data for Indigenous decision making and self-determination (data for governance).<sup>58</sup>

## **Responsibilities**

### *Indigenous led research*

- 2.1 Aboriginal and Torres Strait Islander research projects must reflect the rights of Indigenous peoples to make decisions in matters that affect their rights, and to control the development and transmission of their culture and heritage and the use of their lands and resources.<sup>59</sup>
- 2.2 Indigenous led research is research in which Aboriginal and/or Torres Strait Islander people have genuine decision-making responsibility in relation to the project from conceptualisation and throughout the conduct of the project, analysis of data, interpretation of findings and communication of results.
- 2.3 Aboriginal and Torres Strait Islander research should respond to priorities determined by Aboriginal and Torres Strait Islander peoples and have key objectives that demonstrate intended beneficial impacts and outcomes, either at a local level or more broadly.
- 2.4 Aboriginal and Torres Strait Islander research projects must be able to demonstrate Indigenous leadership through the membership of the project team, governance arrangements, partnership agreements and/or direct involvement of Indigenous peoples in the design and conduct of the research, analysis of data, interpretation of findings and communication of results.

### *Indigenous perspectives and participation*

- 2.5 Aboriginal and Torres Strait Islander research must engage with Indigenous perspectives, worldviews and ways of operating, including through:
  - a. facilitating direct involvement in the research from the initial development of concepts and design of a project
  - b. engaging with Indigenous research and literature, both academic and community
  - c. engaging with Indigenous standpoints and methodologies and decolonising methodologies where appropriate
  - d. representing Indigenous authors and voices in the analysis and communication of research results.

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58 See Maïam nayri Wingara data sovereignty network, <https://www.maïamnayriwingara.org/>

59 The Declaration, article 31(1).



- 2.6 Aboriginal and Torres Strait Islander people have the right to participate in research projects and processes appropriate to their skills and experiences and to receive recognition and attribution proportionate to their contribution.<sup>60</sup>
- a. Aboriginal and Torres Strait Islander researchers and individuals should be meaningfully engaged in the research.
  - b. Aboriginal and Torres Strait Islander contributions to research should be appropriately attributed, acknowledged and resourced, including through authorship and communication of findings.
  - c. attribution of authorship and acknowledgement in publications must be by consent, including culturally appropriate acknowledgement.<sup>61</sup>
  - d. authorship should be considered and agreed at the early stages of research, revisited throughout the project and included in any data management plan.<sup>62</sup>
  - e. where there are no Indigenous researchers involved in a project, consideration should be given to building research capability in the relevant Aboriginal and Torres Strait Islander community.

#### *Indigenous knowledge and data*

- 2.7 Indigenous peoples have the right to manage the collection, interpretation and use of their information.
- a. ownership management and communication of research data and results should be negotiated between Indigenous peoples and the researcher or other parties based on the principles of Indigenous data sovereignty and governance.
  - b. processes should be agreed at an early stage for ownership, management and use of, access to, and distribution of research results. Written agreements are normally required to clarify and secure rights in data.
- 2.8 The contribution of Indigenous peoples' knowledge, resources and access to data should be acknowledged by ensuring ongoing ownership, control and/or access for Indigenous people to research results.
- 2.9 Institutions with responsibility for data access and use policies or design and management of data ecosystems should adopt Indigenous data sovereignty and governance principles.<sup>63</sup>
- a. where a conflict arises between accessibility and Indigenous peoples rights, then Indigenous peoples' rights should prevail.<sup>64</sup>
  - b. researchers must be aware of and apply the international data principles of FAIR (Findable, Accessible, Interoperable and Reusable) and CARE (Collective benefit, Authority, Responsibility and Ethics).<sup>65</sup>

60 Australian Code for the Responsible Conduct of Research, responsibilities 25 & 26, p. 4; NHMRC 2019, *Authorship: A guide supporting the Australian Code for the Responsible Conduct of Research (Authorship Guide)*, section 4.3. The Authorship Guide defines the threshold for intellectual and scholarly contribution that warrants authorship and specifically includes contribution to design and contribution of Indigenous knowledge, <https://www.nhmrc.gov.au/about-us/publications/australian-code-responsible-conduct-research-2018>.

61 *Authorship Guide*, section 4.1.

62 *Authorship Guide*, section 4.2.

63 Researchers may also find 2019, *Management of Data and Information in Research: A guide supporting the Australian Code for the Responsible Conduct of Research*, <https://www.nhmrc.gov.au/sites/default/files/documents/attachments/Management-of-Data-and-Information-in-Research.pdf> useful.

64 Australian Code for the Responsible Conduct of Research R8 and R22. ARC, NHMRC, UA 2019 *Management of Data and Information in Research: A guide supporting the Australian Code for the Responsible Conduct of Research*, p.2.

65 Force11 2016, The fair data principles, <https://www.force11.org/group/fairgroup/fairprinciples>; GIDA 2018, *CARE Principles for Indigenous data governance*, <https://www.gida-global.org/care>

## Principle 3 Impact and value

A shared agreement about the benefit, impact and value of research is of particular significance in Aboriginal and Torres Strait Islander research.<sup>66</sup> Research ethics frameworks are founded on research being of benefit and value to society and to those participating in the research. Research with Indigenous peoples must aim to benefit Indigenous peoples. Furthermore, for informed consent to be valid it requires mutual understanding of the benefits and risks.

Defining benefit and setting priorities for Aboriginal and Torres Strait Islander research should be informed by Indigenous perspectives, whether derived in relation to a specific project or more generally.<sup>67</sup> It is inappropriate and potentially harmful for researchers or institutions to presume to determine what is best or not appropriate for, or of benefit to, Aboriginal and Torres Strait Islander peoples. (See Principle 2: Indigenous leadership.)

Given the history of exploitation of Indigenous peoples, their lands and resources through processes of colonisation that includes research, Indigenous peoples may perceive risks of engaging in research through a different historical as well as different cultural lens. The benefit of the research project or partnership must be specific, tangible and agreed.

Research can have both immediate impacts on communities and individuals involved as well as longer-term impacts. While some research projects may have a large impact and return a small value, other projects may have a small impact and return a large value.

### Responsibilities

#### *Benefit and reciprocity*

- 3.1 Aboriginal and Torres Strait Islander people involved in research, or who may be impacted by research, should stand to benefit from and not be disadvantaged by the research.<sup>68</sup>
- a. research with Aboriginal and Torres Strait Islander peoples should aim to benefit them both generally and, where relevant, at a local level.
  - b. Aboriginal and Torres Strait Islander people who contribute knowledge, practices innovations, cultural expressions and intellectual property, skills, know-how, cultural expressions and products, and access to land and/or biological and genetic resources to a project should receive fair and equitable benefits.<sup>69</sup>
  - c. research activities and outcomes should include specific benefits that respond to the needs and interests of Aboriginal and Torres Strait Islander people, including those who participate in the project and others in the community who may be affected by the research.
  - d. benefits can be tangible or intangible and could include, among other things:
    - i. employment on the project and/or research training
    - ii. access to research results, including data, in a form that is useful and accessible
    - iii. assistance to access cultural records
    - iv. assistance with language, culture or music workshops
    - v. developing community educational resources.<sup>70</sup>

66 The Declaration, articles 20(1), 21(1) and 23.

67 The National Statement, subsection 1.1(a), p. 10.

68 The National Statement, section 1.6, p. 10, requires that the likely benefit justify any risks.

69 The National Statement, subsection 1.4(d), p. 10.

70 The National Statement deals specifically with reimbursements, subsection 2.2.11, p. 17.

- e. payments or financial benefits accruing to individual participants must be considered by an ethical review panel.
- f. benefits should be specified in any written agreement, including mutual benefits (i.e. benefits provided to the research project from Aboriginal and Torres Strait Islander participation and collaboration).

#### *Impact and risk*

- 3.2 Aboriginal and Torres Strait Islander research must aim to have a positive impact on or for Aboriginal and Torres Strait Islander peoples.
- 3.3 Prior to the beginning of the research there should be a shared understanding by all research partners and participants about the potential impacts and risks of the research project.
  - a. researchers should be aware that understandings of impact and risk may differ between researchers and community partners and individual participants.
  - b. statements of impact and risks must be honest, justifiable, realistic and clearly aligned to the objectives and outputs of the project. (See Guide: 1.10 Project design and planning for impact.)
  - c. risks must be communicated in appropriate formats and languages.
  - d. researchers should consider monitoring impact of the project over time, including after the project has closed.<sup>71</sup>

## **Principle 4 Sustainability and accountability**

Respect for Aboriginal and Torres Strait Islander peoples and their worldviews in the conduct of Aboriginal and Torres Strait Islander research requires researchers and institutions to have accountability, over the long term, for the impacts of their actions. In its simplest form, sustainability principles require that research is designed and conducted to meet both present and future needs.

Overall, sustainability means ensuring that Aboriginal and Torres Strait Islander research is environmentally, culturally, socially and economically sustainable. Indigenous peoples' connection to Country is essential to identity and cultural survival. For many Indigenous cultures, the land and waters not only sustain life, but are themselves alive and in relationship with people — to harm Country is to harm people. In this regard, there is no difference between the ethical considerations in scientific and social research.

Regardless of whether native title or land rights legislation have provided legal recognition of rights to Country, there are Traditional Owners or those who speak for and hold knowledge for Country across all parts of Australia. Aboriginal and Torres Strait Islander research can demonstrate respect for this custodianship and knowledge in many ways.

Sustainability also means ensuring that the knowledge and data collected during research projects are available for use by current and future generations, for example through the return of materials to communities and through appropriate archiving.

Accountability of researchers for the quality and impact of their research and engagement closes the circle on the ethical foundation of integrity by re-emphasising the responsibility of researchers and institutions.<sup>72</sup>

<sup>71</sup> For examples, see ARC 2019, *Engagement and Impact Assessment 2018–19 National Report*, <https://dataportal.arc.gov.au/EI/NationalReport/2018/>

<sup>72</sup> Australian Code for the Responsible Conduct of Research, principle 7.

In addition, it requires that projects are well planned and appropriately resourced, and deliver on promises made to Indigenous partners and contributors. Relationships built with communities and long-term benefits from research give rise to moral and personal obligations that need to be considered throughout a researcher's career. (See Guide: 4. Post project.)

## Responsibilities

### *Indigenous lands and waters*

- 4.1 Research projects should be designed and conducted in a manner that respects Indigenous peoples' right to maintain their connection to Country and to control, protect and develop their lands and resources.<sup>73</sup>
  - a. research, including scientific and environmental research conducted on Indigenous lands and waters, should be undertaken with the express permission of the Traditional Owners.
  - b. researchers should seek advice and guidance from traditional custodians and knowledge holders about the Country, including being accompanied while on Country.
  - c. researchers should 'walk lightly on Country' and minimise the environmental and cultural impact of research.<sup>74</sup>
- 4.2 Aboriginal and Torres Strait Islander research should support Aboriginal and Torres Strait Islander peoples to maintain, control, protect and develop heritage and knowledge, including sciences, technologies, genetic and biological resources and customs.<sup>75</sup>
  - a. researchers should seek to incorporate — and if doing so, should attribute — Indigenous scientific and ecological knowledge in Australian science.
  - b. Aboriginal and Torres Strait Islander peoples should benefit from, including holding ownership in, commercial development of scientific and biological research derived from their lands and waters.

### *Ongoing Indigenous governance*

- 4.3 Indigenous people have the right to manage the creation, collection, analysis, interpretation, management, storage, dissemination, access, re-use, disposal of and access to their data.
  - a. data and information that may have cultural significance or value to Indigenous governance decision-making should normally be retained and appropriately archived for future use in accordance with Indigenous data governance principles.<sup>76</sup>
  - b. the ongoing governance and control of storage and future access requires planning during the research design phase and an appropriate and proportionate management plan should be in place.
  - c. where data and materials are deposited with a trusted repository, it should be accompanied by appropriate metadata including information about the ethical context in which the material was created.
  - d. researchers should take into account existing data standards and protocols across collection, storage and use, and anticipate the evolving nature of technology to the extent possible and how these interact with Indigenous governance of the materials.

<sup>73</sup> The Declaration, article 26.

<sup>74</sup> Australian Code for the Responsible Conduct of Research, principle 5.

<sup>75</sup> The Declaration, articles 11–13 and 31.

<sup>76</sup> National Statement, subsection 3.1.74.



## Reporting and compliance

- 4.4 Aboriginal and Torres Strait Islander research projects should include appropriate mechanisms and procedures for honest and transparent reporting on the research project.<sup>77</sup> This should include reporting to all parties on the progress of the research, including any changes to the project.
- a. reporting to Indigenous partners and contributors should be in a form that is culturally appropriate, useful and informative.
  - b. reporting should include any changes to the ethical aspects of the project. Note that changes to ethical aspects of the project may require a report to the responsible HREC, a variation to the project ethics proposal, and/or further ethical review.
  - c. research partners and participants should be made aware of institutional processes for reporting on breaches of this Code, the Australian Code for the Responsible Conduct of Research and the National Statement, including breaching of agreements.<sup>78</sup>

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<sup>77</sup> Australian Code for the Responsible Conduct of Research, principles 1 and 3.

<sup>78</sup> See *Collaborative Research: A Guide*, p. 4 and ARC, NHMRC & UA 2018, *Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research*; <https://www.nhmrc.gov.au/sites/default/files/documents/attachments/Collaborative-Research-Guide-20.pdf>; <https://www.nhmrc.gov.au/sites/default/files/documents/reports/guide-managing-investigating-potential-breaches.pdf>, respectively.

# List of definitions

Aboriginal and Torres Strait Islander collection	Refers to any collection of data, records or materials that contains information from or about Aboriginal and Torres Strait Islander peoples, including cultural information, individual information, administrative records, tissue or other biological samples.
Aboriginal and Torres Strait Islander research	Includes all research that impacts or is of particular significance to Aboriginal and Torres Strait Islander peoples, including planning, collection, analysis and dissemination of information or knowledge, in any format or medium, which is about and may affect Indigenous peoples both collectively and individually. The AIATSIS Code applies to all Aboriginal and Torres Strait Islander research, regardless of whether the research intends to directly involve human participants, and specifically extends to the use of collections such as archives, datasets, collections of information or biospecimens that may not otherwise be categorised as human research.
Country	Refers not only to the Land & Waters to which Indigenous people have a traditional relationship with, but is also inextricably linked to kinship, knowledge, beliefs, language and identity. <sup>1</sup> Morgan, S., Mia, T., Kwaymullina, B. 2008. Heartsick for country: Stories of Love, Spirit and Creation. North Fremantle: Fremantle Press; Weir, Jessica K, Claire Stacey, and Kara Youngetob. 2011. The benefits associated with caring for country: Literature review. Canberra: AIATSIS.
Ethical conduct	Is more than simply doing the right thing. It involves acting in the right spirit, out of an abiding respect and concern for one's fellow creatures.
Human research	Is defined by the National Statement to include research that is 'conducted with or about people, or their data or tissue' and is to be understood broadly. The National Statement, Preamble, p. 3 is expressly limited to 'human research'. However, this definition, too, is framed broadly to include '... research conducted with or about people, or their data or tissue'.
Indigenous	Refers to both Aboriginal and Torres Strait Islander.
Merit	The National Statement 1.1, p.10. Under the National Statement 'merit' is determined by factors such as justifiable benefits, appropriate methods, use of authority and novel research, qualifications of the team, respect for participants and appropriate resourcing. Indigenous leadership can be demonstrated in each of these domains.
Research	In the Australian context, research has generally been defined as 'investigation undertaken to gain knowledge and understanding' and casts a wide net in terms of what constitutes research [in text]
Sustainability	Refers to ensuring that Aboriginal and Torres Strait Islander research is environmentally, culturally, socially and economically sustainable.

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# AIATSIS

AUSTRALIAN INSTITUTE OF ABORIGINAL  
AND TORRES STRAIT ISLANDER STUDIES

**Australian Institute of Aboriginal  
and Torres Strait Islander Studies**

51 Lawson Crescent, ACTON ACT 2601  
GPO Box 553, CANBERRA ACT 2601

**P** 61 2 6246 1111

**E** [ethics@aiatsis.gov.au](mailto:ethics@aiatsis.gov.au)

**<http://aiatsis.gov.au/ethics>**

