



AIATSIS

AUSTRALIAN INSTITUTE OF ABORIGINAL
AND TORRES STRAIT ISLANDER STUDIES

2019 REVISION OF THE AIATSIS GUIDELINES FOR ETHICAL RESEARCH IN AUSTRALIAN INDIGENOUS STUDIES

Consultation draft

Please note: AIATSIS is considering renaming the Guidelines for two reasons: first to denote that the application of the principles is required and is not optional; and second, to align with our legislative responsibility and to avoid confusion as to the scope of research to which the Guidelines apply. We welcome your thoughts on the title.

Proposed titles:

- Australian Code for Ethical and Responsible Conduct in Aboriginal and Torres Strait Islander Research
- Australian Code of Ethics for Aboriginal and Torres Strait Islander Research

PART A

AIATSIS Code of Ethics for Aboriginal and Torres Strait Islander Research

DRAFT

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INTRODUCTION

PURPOSE AND STRUCTURE

The purpose of the *AIATSIS Code of Ethics for Aboriginal and Torres Strait Islander Research* (the AIATSIS Code of Ethics 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 improve the quality and standards of research in this area.

The *Australian Institute of Aboriginal and Torres Strait Islander Studies Act 1989* (Cth) requires AIATSIS to provide leadership in ethics and protocols for research as well as activities relating to collections about Aboriginal and Torres Strait Islander peoples.¹ AIATSIS is the sole Commonwealth body with this responsibility and this Code is issued pursuant to that legislated function.

This consultation draft is structured in two parts and is supported by online case studies, guides, tools and templates that will be available on the [AIATSIS ethics website](#). Part A of the consultation draft constitutes the AIATSIS Code and outlines the four principles that underpin ethical Australian Indigenous research which are: Indigenous self-determination; Indigenous leadership; Impact and value; and Sustainability and accountability. Each principle includes a set of responsibilities when conducting Aboriginal and Torres Strait Islander research.

Part B of the consultation draft is a practice guide to implementing the Code and provides advice for applying the principles discussed in Part A and is structured by research practice stages.

WHY A NEW CODE?

AIATSIS first published the 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. To mark the twentieth anniversary of the guidelines, we have undertaken a comprehensive review to ensure that AIATSIS continues to set the highest standards of ethical research and 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

¹ 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.

developments.² The table below demonstrates the relationship between the principles in the GERAIS and the new AIATSIS Code.

Table 1: The principles in GERAIS and the new AIATSIS Code

GERAIS 2012	AIATSIS Code 2019	
Principle 1	Principle 1	Responsibility 1.2
Principle 2	Principle 1	Responsibility 1.1
Principle 3, 4 &5	Principle 1	Responsibility 1.3
Principle 6	Principle 1	Responsibility 1.4
Principle 7	Principle 2	Responsibility 2.8
Principle 8	Principle 2	Responsibility 2.6
Principle 9	Principle 2	Responsibility 2.7
Principle 10	Principle 2	Responsibility 2.5
Principle 11	Principle 3	Responsibility 3.1
Principle 12	Principle 2	Responsibility 2.2
Principle 13	Principle 2	Responsibility 2.9
Principle 14	Principle 4	Responsibility 4.4

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

This Code forms part of the Australian framework for ethical and responsible conduct of research which includes the *Australian Code for Responsible Conduct of Research* and the *National Statement on Ethical Conduct in Human Research* (referred to throughout as the Code of Conduct and the National Statement respectively).

All Aboriginal and Torres Strait Islander research must comply with these three framework documents. In addition:

- Researchers in health may also be required to apply the National Health and Medical Research Council (NHMRC)'s [Ethical conduct in research with Aboriginal and Torres Strait Islander Peoples and communities: Guidelines for researchers and stakeholders 2018](#).
- Researchers undertaking evaluation and quality assurance should consider the [Ethical considerations in quality assurance and evaluation activities](#) (NHMRC 2014).

² This consultation draft cross-references to the fourteen principles in the previous AIATSIS *Guidelines for Ethical Research in Australian Indigenous Studies* 2012 (GERAIS) which are referenced by their number, for example GERAIS P1.

- Other specific codes and guidelines apply to research involving animals, and certain biomedical and clinical research (see www.nhmrc.gov.au/research-policy/ethics-and-integrity).

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 of Conduct and the National Statement.

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.

THE ETHICAL FOUNDATION

The AIATSIS Code of Ethics reflects Aboriginal and Torres Strait Islander values and worldviews. When announcing the review of the AIATSIS guidelines, then AIATSIS Council Chairperson, 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.

There are many similar examples within Indigenous knowledge traditions that articulate how to act in the right spirit, with integrity and with respect for all living things and for Country. The Pitjantjatjara concept of *Kanyini* talks of our interconnectedness with, and responsibility to care for, all things.³ In the Torres Strait, *gud passin* is a term that connotes doing things the right way.

It is also useful to reflect on the consistent ethical foundation of Australia's 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.⁴

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 experience of colonisation, theft of lands and resources, disruption to

³ As told by Mr Bob Randall, <http://www.kanyini.com/>.

⁴ The National Statement, Preamble, p. 3.

societies and families and suppression of culture and identity, is a denial of human dignity and respect. Research has not been immune to practices that are imbued with racism, exploitation and disrespect.

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.

While conventional ethics frameworks emerge from the obligation to respect individual human dignity and protect the vulnerable, the AIATSIS ethical principles 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 likely to be so due to the impact of colonisation, racism and intergenerational trauma.

The principles in this Code are informed by the recognition and respect for the rights of Indigenous peoples as articulated in the *United Nations Declaration on the Rights of Indigenous Peoples*.⁵ 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 on us. The Code recognises that Indigenous peoples' have the right to control and maintain culture and heritage, and that means benefiting from research and data collected by, with and about us.

WHO SHOULD USE THE 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, 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

⁵ Ethical guidelines and professional standards for the conduct of research have been informed by international human rights instruments, dating back to the *Helsinki Declaration* of 1964 (see National Statement, Preamble, p. 3).

- 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.⁶

WHEN DOES THE CODE APPLY?

These guidelines apply 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.⁷

Research includes not only academic research carried out in and by universities and publicly funded research agencies, but also archival research, evaluation, quality assurance, social marketing, government policy and program design, and re-use of data for public policy and clinical trials, among others.

WHAT IS ABORIGINAL AND TORRES STRAIT ISLANDER RESEARCH?

The AIATSIS Code of Ethics applies to all Aboriginal and Torres Strait Islander research, regardless of whether the research intends to involve humans, and specifically extends to the use of collections such as archives and datasets.⁸ The AIATSIS Code of Ethics recognises 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, cultures and histories.

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 or communities.

⁶ Aboriginal and Torres Strait Islander communities may also find useful information in the NHMRC [Keeping Research on track II](#), which is specifically designed to assist communities that are engaging with research.

⁷ National Statement, p. 6, citing the Higher Education Funding Council for England, Scottish Higher Education Funding Council, Higher Education Funding Council for Wales, & Department for Employment and Learning Northern Ireland (2005) RAE 2008: Guidance to Panels, p.28.

⁸ The National Statement, Preamble, p. 3 is expressly limited to ‘human research’. This definition, too, is framed broadly to include ‘... research conducted with or about people, or their data or tissue.’

- The target population is not explicitly Aboriginal and Torres Strait Islander individuals or communities but due to the nature of the research, the research population includes a high number of Aboriginal and Torres Strait Islander people.
- There are Aboriginal and Torres Strait Islander individuals or communities participating in 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.

Many Indigenous 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.

WHEN IS ETHICAL REVIEW REQUIRED?

While all research must be ethical, not all research requires formal ethical review. Currently under the National Statement all research with Aboriginal and Torres Strait Islander people must be subject to ethical review by a qualified Human Research Ethics Committee.

The National Statement specifically exempts from review research involving the use of existing collections of data or records that contain only non-identifiable data.⁹ It is also often considered that desktop or archival research does not require ethical review. However, in applying the AIATSIS Code of Ethics care should be taken as relevant ethical issues can arise in this kind of research. A precautionary approach should be applied and guidance from an ethics review committee with experience in Aboriginal and Torres Strait Islander research may be of significant benefit and should be sought.

It is the responsibility of the researcher and the responsible institution to ensure that any research not submitted to ethical review meets the requirements of the National Statement and this Code, and is 'ethically acceptable'.¹⁰

⁹ The National Statement, Chapter 5.1.22(b), p. 85.

¹⁰ The National Statement, Chapter 5.1.23, p. 85. See also The 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 integrity¹¹ and acting in the right spirit, as outlined above.¹²

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

- Recognition and respect
- Informed consent
- Cultural capability and learning
- Indigenous led research
- Indigenous perspectives and participation
- Engagement and collaboration
- Indigenous knowledge and data
- Benefit and reciprocity
- Impact and risk
- Indigenous land and waters
- Ongoing Indigenous governance
- Reporting and compliance

¹¹ The National Statement, Chapter 1.3 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.

¹² 'Spirit and integrity' is also identified as the core value that underpins the NHMRC's guidelines for *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.

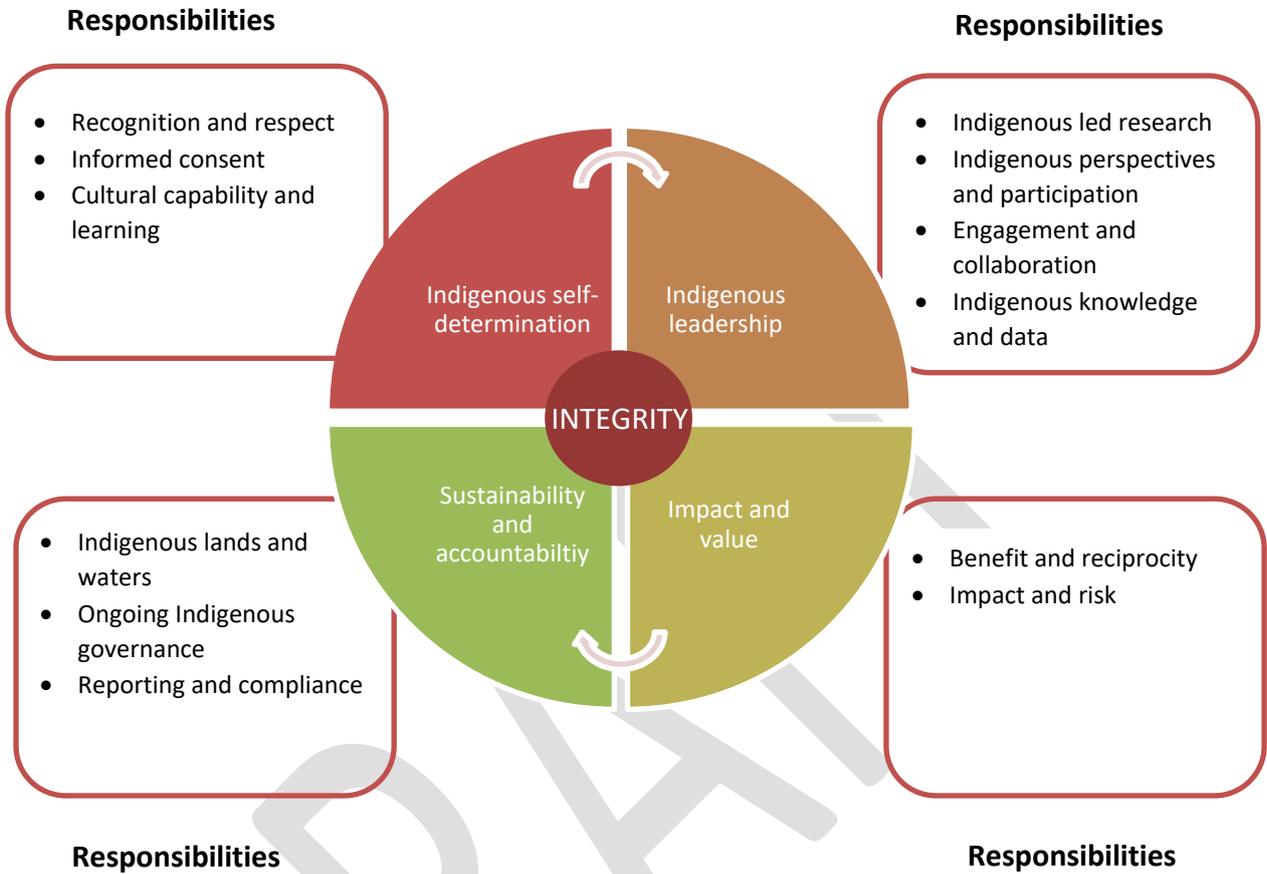


Figure 1: The AIATSIS Research Ethics Framework

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 Australian Indigenous research. The AIATSIS Code recognises Aboriginal and Torres Strait Islander peoples' unique connection to the land and waters of this continent from time immemorial and acknowledges that Aboriginal and Torres Strait Islander peoples have existed continuously as distinct polities, with unique laws, cultures, knowledge and worldviews that can inform research in almost any area.

The *United Nations Declaration on the Rights of Indigenous Peoples* 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. Importantly among these is the right of self-determination, which affirms the distinct political status of Indigenous peoples and their rights to set priorities, make decisions, and freely pursue their economic, social and cultural development.¹³ In exercising self-determination, Indigenous peoples also have rights, among others, to strengthen their distinct institutions,¹⁴ practice teach and protect cultural traditions and knowledge systems¹⁵ and to develop and use their lands and waters.¹⁶

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 must underpin all Australian research and is a responsibility of all researchers.¹⁷ Engagement is different from consultation. The appropriate form of engagement will depend on the type of research, and the objectives and desired impact of the research ([see Part B: 1.3. Indigenous engagement and project governance](#)).

Consent is a fundamental tenet of ethical research.¹⁸ For Aboriginal and Torres Strait Islander research, free, prior and informed consent of a people or group (in addition to any individual participants) may be necessary to enable the exercising of self-determination and effective engagement.

¹³ The Declaration, Article 3.

¹⁴ The Declaration, Articles 4, 5, 9 and 18.

¹⁵ The Declaration, Articles 11-13.

¹⁶ The Declaration, Articles 20, 23 and 32.

¹⁷ The Code of Conduct, P6, p. 2; see also R19.

¹⁸ The National Statement, Chapter 2.2.1, 2.2.4 and 2.2.8, pp. 16-17: Decisions to participate in research must be voluntary, based on the provision of sufficient information and understanding of the proposed research and implications of participation in it, with a view to achieving 'mutual understanding between researchers and participant'.

RESPONSIBILITIES

Recognition, and respect

- 1.1. Research must be conducted in accordance with the *United Nations Declaration on the Rights of Indigenous Peoples*, including Indigenous peoples' right to self-determination.¹⁹ 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 research²⁰
 - 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. Research must recognise and reflect the diversity of Indigenous peoples.²¹
 - a. Indigenous peoples have unique laws, languages, cultures, practices, histories and perspectives which should inform the research.
 - b. Diversity exists between Indigenous peoples as individuals, families, communities, groups and nations.
 - c. Generalisation or extrapolation of findings that masks diversity can do harm.
- 1.3. Knowledge, practices, science, innovations and cultural expressions of Indigenous peoples must be respected, protected and maintained.²² Researchers have a responsibility to:
 - a. understand the nature of Indigenous knowledge systems, cultural expressions and intellectual property ([see Part B: 1.2. Understanding Indigenous intellectual and cultural 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

¹⁹ GERAIS P2. The Declaration, Article 3.

²⁰ 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'.

²¹ GERAIS P1. The Declaration, Article 13.

²² GERAIS P3,4 and 5. The Declaration, Article 31.

products and outcomes, including through legally binding arrangements for ownership of data and intellectual property.

Informed consent

- 1.4. Aboriginal and Torres Strait Islander peoples have a right to determine what research is and is not carried out in their communities. Research must be based on free, prior and informed consent of Indigenous peoples.²³
 - a. 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 Part B: 2.2. Obtaining informed consent.](#))
 - i. Agreement to participate in or support research must be obtained prior to research being undertaken.²⁴
 - ii. Agreement must be voluntarily given, free from coercion, duress or pressure.²⁵
 - iii. Indigenous people must be fully cognisant of the details and risks of the proposed research.²⁶
 - b. Informed consent of a group or people (in addition to individual participants within that group), is also required where the collective rights, interests or knowledge of Indigenous peoples is involved.²⁷
 - c. An agreement to consent to the research can be given orally, in writing or in a form that is consistent with the method (for example online surveys) and is culturally appropriate.²⁸
 - d. Collective consent does not remove the requirement to respect individual rights to participate in research and individual consent requirements.

Cultural capability and learning

- 1.5. 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

²³ GERAIS P6.

²⁴ The National Statement, Chapter 3.1.18(g), p. 29.

²⁵ The National Statement, Chapter 2.2.9, p. 17.

²⁶ The National Statement, Chapter 1.7(b), p. 11.

²⁷ The National Statement, Chapter 2.2.13, p. 18.

²⁸ The National Statement, Chapter 2.2.5, p. 16.

and understanding of relevant Indigenous culture, laws and protocols, and an ability to engage and communicate respectfully and effectively.²⁹

- a. Indigenous communities engaged with research have a right to request information and ask questions about the qualifications and experience of the researchers.³⁰

PRINCIPLE 2 INDIGENOUS LEADERSHIP

To have merit and integrity, Aboriginal and Torres Strait Islander research should be Indigenous led. Indigenous priorities, values, perspectives and voices inform the ‘why’ as well as the ‘how’ of research, from conceptualisation to communication of research. The National Statement reflects this principle and states that:

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.³¹

Researchers should conduct research that is a priority for, or meets the needs of, Aboriginal and Torres Strait peoples or a particular community.³² This may draw on national priority setting, locally derived priorities or project specific design ([see Part B: 1.3. Indigenous engagement and project governance](#)). Researchers must be mindful to ensure they work through appropriate bodies, including collective representative organisations such as native title prescribed bodies corporate who exercise cultural authority on behalf of a nation or people.³³

A project is not necessarily Indigenous led simply because it is undertaken by an Indigenous person. However, the growing Indigenous research workforce and senior academic leadership provides opportunities to engage in a range of multi-disciplinary and multi-institutional teams to ensure Indigenous perspectives are brought to bear on projects involving or affecting Aboriginal and Torres Strait Islander peoples.³⁴ 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.

²⁹ The National Statement, 1.1(e).

³⁰ See *Keeping research on track II*, p13

³¹ The National Statement, Chapter 4.7.11, p. 79.

³² The National Statement, Chapter 4.7.7, p. 78, The Declaration, Articles 23

³³ The Declaration, Articles 18

³⁴ The National Statement, Chapter 4.7.12, p. 79.

The Code of Conduct requires researchers to ‘engage with Aboriginal and Torres Strait Islander peoples and respect their legal rights and local laws, customs and protocols’.³⁵ The National Statement requires evidence of such engagement.³⁶

Letters of support from community organisations may not be sufficient to demonstrate appropriate engagement and leadership. It may be necessary to involve Indigenous people as senior members of the research team or build a reference group into the project governance to guide the research.

Commonly, Aboriginal and Torres Strait Islander research projects should be subject to a negotiated agreement or governance protocol that clearly articulates roles and responsibilities of the parties. It is important to note that Australian law does not always adequately reflect or protect the rights of Indigenous peoples and does not recognise Aboriginal and Torres Strait Islander laws. To engage ethically, researchers must often enter into in agreements that modify the operation of the law, for example in relation to intellectual property ([see Part B: 1.2. Understanding Indigenous cultural and intellectual property](#)).

RESPONSIBILITIES

Indigenous led research

- 2.1 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.³⁷
- 2.2 Research should respond to priorities determined by Aboriginal and Torres Strait Islander peoples and have key objectives that demonstrate beneficial impacts and outcomes, either at a local level or more broadly.³⁸
- 2.3 Research projects must be able to demonstrate Indigenous leadership through the 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.

³⁵ The Code of Conduct, R19, p. 4.

³⁶ The National Statement, Chapter 4.7.10, p. 79.

³⁷ The Declaration, Article 31(1).

³⁸ GERAIS P12.

Indigenous perspectives and participation

- 2.4 Aboriginal and Torres Strait Islander research must incorporate Indigenous perspectives.³⁹
- a. This is most effectively achieved by facilitating direct involvement in the research from the conceptualisation and design of a project.
 - b. Researchers should consider Indigenous methodologies, worldviews and ways of operating that could be adopted in the project.
 - c. Indigenous voices should be identifiable in analysis, reporting and communication of research results.
- 2.5 Indigenous 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.⁴⁰
- a. Indigenous researchers and individuals should be meaningfully engaged in the research.
 - b. Indigenous contributions to research should be appropriately attributed, acknowledged and resourced, including through authorship and communication of findings.

Engagement and Collaboration

- 2.6 At every stage 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. Universities and research sponsors should be open to changing and developing their practices to respond to and accommodate local protocols.
 - c. Engagement should involve an honest exchange of ideas about aims, methods and potential outcomes (for all parties), with a view to empowering Indigenous peoples through participation and collaboration in research.⁴¹
 - d. Being properly and fully informed about the aims and methods of a research project, and its implications and potential outcomes, allows Indigenous people

³⁹ Code of Conduct P2.

⁴⁰ GERAIS P10.

⁴¹ GERAIS P8.

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.⁴²

- e. 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, the aims and goals of the research and the benefits that may accrue.⁴³

2.7 When engaging 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. Such agreements protect the community and the researcher and will normally have legal implications.⁴⁴

- 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 reviewed at various stages throughout the project.

2.8 Responsibility for engagement is ongoing.⁴⁵

- a. Ongoing consultation is necessary to maintain consent.⁴⁶
- b. If a partner or participant withdraws, then agreement should be reached about what should be done with the contributions made to the research project up to the date of the withdrawal.

Indigenous knowledge and data

2.9 Indigenous peoples have the right to manage the access, collection, interpretation and use of their information.⁴⁷

⁴² The National Statement, Chapter 4.7.9, p. 79.

⁴³ The National Statement, Chapter 4.7.3, p. 78.

⁴⁴ GERAIS P9.

⁴⁵ GERAIS P7.

⁴⁶ The National Statement, Chapter 2.2.8, p. 17.

⁴⁷ GERAIS P13.

- 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.
 - b. Processes should be agreed to 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.
- 2.10 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.⁴⁸
- 2.11 Policies or requirements for open access or data accessibility should accommodate Indigenous data governance principles. Where a conflict arises between accessibility and Indigenous peoples rights, Indigenous peoples' rights should prevail.⁴⁹

PRINCIPLE 3 IMPACT AND VALUE

Ensuring that there is shared agreement about the benefit, impact and value of research is of particular significance in Aboriginal and Torres Strait Islander research.⁵⁰ 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 benefit Indigenous peoples. Furthermore, the ethics of informed consent requires mutual understanding of the benefits and risks.

Defining benefit and setting priorities for research should be informed by Indigenous perspectives, whether derived in relation to a specific project or more generally.⁵¹ It is dangerous for non-Indigenous researchers or institutions to presume to determine what is best, 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, and including through research, Indigenous peoples may perceive risks of engaging in research through a different historical as well as cultural lens. The benefit of the research project or partnership may need to be specific, tangible and agreed.

⁴⁸ The Code of Conduct, R25, p. 4.

⁴⁹ Refer to the Code of Conduct R8 and R22 regarding appropriate access.

⁵⁰ The Declaration, Article 20(1), 21(1) and 23

⁵¹ The National Statement, Chapter 1.1(a), p. 10.

Research can have both immediate impacts on communities and individuals involved and longer-term impacts. Whilst 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 Indigenous people involved in research, or who may be impacted by research, should benefit from, and not be disadvantaged by, the research.⁵²
- a. Research with Indigenous peoples should benefit Indigenous peoples at a local level, and more generally.
 - b. Indigenous people who contribute knowledge, practices and innovations, cultural expressions and intellectual property, skills, know how, cultural products and expressions, and biological and genetic resources should receive fair and equal benefits.⁵³
 - c. Research activities and outcomes should include specific benefits that respond to the needs and interests of Indigenous people, including those who participate in the project and others in the community who may be affected by the research.
 - i. Benefits can be tangible or intangible and could include employment, training and access to research results in a form that is useful and accessible, assistance to access cultural records, to help at language, culture or music workshops, or develop community educational resources, among other things.⁵⁴ Payments or financial benefits accruing to individual participants must be considered by an ethical review panel.

Impact and risk

- 3.2 Aboriginal and Torres Strait Islander research must aim to have a positive impact on for Aboriginal and Torres Strait Islander peoples.
or

⁵² GERAIS P11. The National Statement, Chapter 1.6, p. 10.

⁵³ The National Statement, Chapter 1.4(d), p. 10.

⁵⁴ The National Statement, Chapter 2.2.11, p. 17.

- 3.3 There should be shared understanding by all research partners and participants about the potential impacts and risks of the research project prior to the beginning of the research.
- 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 and realistic and clearly aligned to the objectives and outputs of the project ([see Part B: 1.10 Project design and planning for impact](#))
 - c. Researchers should consider monitoring impact over time, including after the project has closed.⁵⁵

PRINCIPLE 4 SUSTAINABILITY AND ACCOUNTABILITY

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

At the macro level, sustainability means ensuring that research is environmentally, culturally and socially sustainable. Indigenous peoples' connection to Country is essential to identity and to 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. There is no difference between scientific and social research ethics in this regard.

At a micro-level, sustainability includes ensuring the knowledge and data collected are available for use by current and future generations, for example through the return of materials to communities and/or through archiving.

Accountability of researchers for the quality and impact of their research and engagement closes the circle on the ethical foundation of spirit and integrity by re-emphasising the responsibility of researchers.⁵⁶ In addition, it requires that projects are well planned and appropriately resourced and delivers on promises made to Indigenous partners and contributors. Relationships 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 Part B: 4. Post project.](#))

⁵⁵ For examples, see the Australian Research Council (2019) *Engagement and Impact Assessment 2018-19 National Report*.

⁵⁶ Code of Conduct P7.

RESPONSIBILITIES

Indigenous lands and waters

- 4.1 Research projects should be designed and conducted in a manner that enables Indigenous peoples' to maintain their connection to Country and to control, protect and develop their lands and resources.⁵⁷
 - a. Research, including scientific and environmental research conducted on Indigenous lands and waters should be undertaken with permission of traditional owners.
 - b. Researchers should 'walk lightly on country' and minimise the environmental impact of research.⁵⁸
- 4.2 Research should support Indigenous peoples to maintain, control, protect, and develop heritage and knowledge, including sciences, technologies, genetic and biological resources and customs.⁵⁹
 - a. Researchers should seek to incorporate and 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 or 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 to, re-use, disposal of and access to their data.
 - a. 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.
 - b. 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.

⁵⁷ The Declaration, Article 26.

⁵⁸ Code of Conduct P5.

⁵⁹ The Declaration, Articles 11-13 and 31.

Reporting and compliance

- 4.4 Research projects should include appropriate mechanisms and procedures for honest and transparent reporting on the research project.⁶⁰ This should include reporting to all parties on the progress of the research, including changes.
- 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.
 - c. All parties should be made aware of any risks, including penalties that may result from breaches of this Code.

⁶⁰ GERAIS P14. Code of Conduct P1, P3.

PART B

**A GUIDE TO APPLYING
THE AIATSIS CODE OF ETHICS FOR
ABORIGINAL AND TORRES STRAIT
ISLANDER RESEARCH**

DRAFT

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HOW TO APPLY THE AIATSIIS ETHICS PRINCIPLES

This guide provides advice for applying the principles in the AIATSIIS Code of Ethics and is structured by research stages. The best ethical research practice occurs in the partnership, design and planning stages of a project. However, this option is not always available to researchers who are, for example, working on a project partially completed or one with strict funding conditions. In acknowledging this, Part B provides practical information on how researchers may apply the principles in four main stages of their research. They include:

1. Getting started
2. Project Implementation
3. Communicating research results
4. Post-project

This guide is designed to encompass a range of different project methodologies, including:

- quantitative methods (surveys, big data, statistics)
- qualitative methods (ethnographic, case studies, interview based)
- mixed methods (participatory action methods, focus groups, workshops and meetings)
- working with documents (historical, archival, discourse analysis).

While this section offers a range of best practices and ideas for any person engaging in ethical research, for more detailed information specific to particular types of research, for example large surveys, please refer to the supporting case studies on the [AIATSIIS Ethics webpage](#) which will be developed over time.

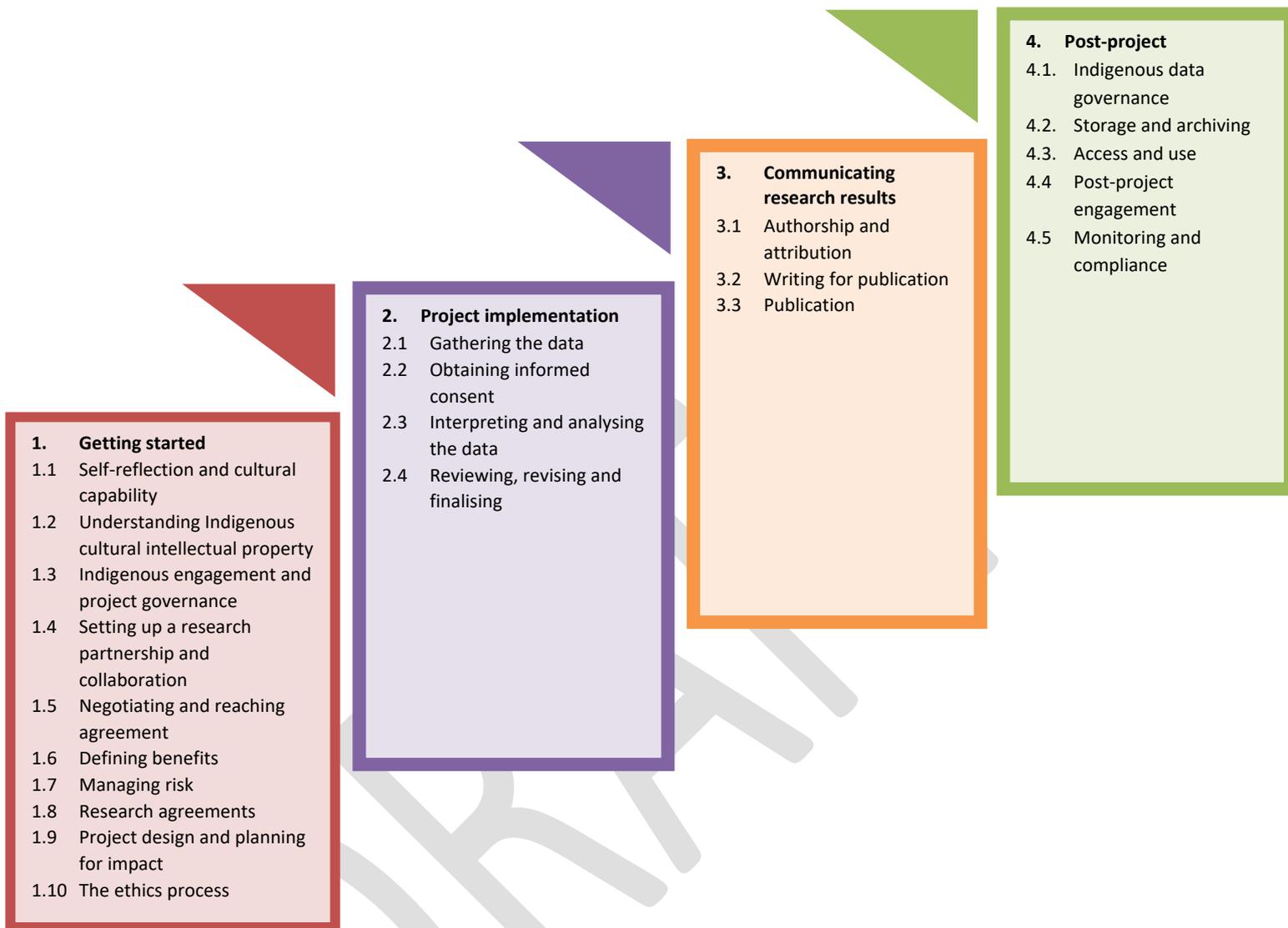


Figure 2: Research stages

1. GETTING STARTED

1.1. Self-reflection and cultural capability

The capability and competency of the research team is a key consideration in ethical review.⁶¹ Researchers or teams undertaking Aboriginal and Torres Strait Islander research must demonstrate that they have experience, knowledge and understanding of the cultural context in which they are working. No research is purely objective and no researcher is without bias. Before undertaking Australian Indigenous research it is important to reflect on your own worldview and how that might affect the research. For example:

- Are you the right person to be doing the work? Are you working with Aboriginal and Torres Strait Islander researchers?
- What cultural or disciplinary strengths or biases do you bring to the research?
- Are you working within your own community? How will this impact your research?
- Why are you doing this research and what will you bring to the research?
- What is the Aboriginal and Torres Strait Islander involvement in the research, for example through governance and/or partnerships?
- How culturally competent is the research team?
- Are you able to accept criticism and adapt your approach in response?

Cultural competency is about having the awareness, skills, knowledge and know-how to account for all backgrounds, experiences and knowledge in your interactions with others. Consider whether the cultural competency of your project team might be improved by a course or some further learning. There are a number of cultural competency training courses available that are specifically directed toward Aboriginal and Torres Strait Islander contexts, some of which can be done online.

1.2. Understanding Indigenous Cultural Intellectual Property

Researchers have a responsibility to understand the interaction of knowledge systems and legal systems in research practice. All Aboriginal and Torres Strait Islander research involves the use of Indigenous Cultural and Intellectual Property (ICIP) in one form or another. ICIP refers to all aspects of Indigenous peoples' cultural heritage including the tangible and intangible.⁶²

⁶¹ National Statement 1.1(e).

⁶² Kearney, J and Janke, T 2018 *Rights to Culture: Indigenous Cultural and Intellectual Property (ICIP), Copyright and Protocols*, Terri Janke and Company, viewed 6 April 2019, < <http://www.terrijanke.com.au/single-post/2018/01/29/Rights-to-Culture-Indigenous-Cultural-and-Intellectual-Property-ICIP-Copyright-and-Protocols>>.

Cultural heritage includes:

- laws, philosophical traditions and spiritual beliefs
- knowledge and knowledge systems (scientific, agricultural, technical and ecological knowledge and ritual knowledge)
- cultural expression (stories, designs and symbols, literature and language)
- performances (ceremonies, dance and song)
- cultural objects (including, but not limited to arts, crafts, ceramics, jewellery, weapons, tools, visual arts, photographs, textiles and contemporary art practices)
- human remains and tissues and genetic information related to indigeneity
- knowledge associated with genetic resources
- secret and sacred material and information (including sacred and/or historically significant sites and burial grounds)
- the documentation of Indigenous peoples' heritage in all forms of media such as films, photographs, artistic works, books, reports and records taken by others, sound recordings and digital databases
- connections to land, waters, natural resources and ecologies.⁶³

1.2.1 *Indigenous Cultural and Intellectual Property Rights*

Indigenous Cultural and Intellectual Property Rights refers to the rights of Indigenous peoples to:

- own, control and maintain their ICIP
- ensure that any means of protecting ICIP is based on the principle of self-determination
- be recognised as the primary guardians and interpreters of their cultures
- authorise or refuse the use of ICIP according to their own law
- maintain the secrecy of Indigenous knowledge and other cultural practices
- guard the cultural integrity of their ICIP
- be given full and proper attribution for sharing their cultural heritage
- control the recording of cultural customs, expressions and language that may be intrinsic to cultural identity, knowledge, skill and teaching of culture.^{64,65}

⁶³ Advice to the review of GERAIS, Terri Janke, Elizabeth Mason, with assistance of Kevin Anderson, 7 September 2018.

⁶⁴ Kearney, J and Janke, T 2018 *Rights to Culture: Indigenous Cultural and Intellectual Property (ICIP), Copyright and Protocols*, Terri Janke and Company, viewed 6 April 2019, < <http://www.terrijanke.com.au/single-post/2018/01/29/Rights-to-Culture-Indigenous-Cultural-and-Intellectual-Property-ICIP-Copyright-and-Protocols>>.

⁶⁵ Advice to the review of GERAIS, Terri Janke, Elizabeth Mason, with assistance of Kevin Anderson, 7 September 2018.

When undertaking Australian Indigenous research it is important to:

- Understand the relevant laws and policies for the protection and maintenance of Indigenous intangible heritage, and international standards such as *The Protection of Traditional Cultural Expressions/Expressions of Folklore: Revised objectives and principles* (WIPO 2006a) and *The Protection of Traditional Knowledge: Revised objectives and principles* (WIPO 2006b), as well as the UNESCO (2003) *Convention for the Safeguarding of the Intangible Cultural Heritage*.
- Be aware of current laws and standards, both internationally and in Australia, that relate to specific areas of research, for example biology, genetics and ethnobotany (see also use of genetic resources below).
- Consider how a proposed use of intangible heritage might affect the future use of that cultural heritage by others who are entitled to inherit it.

When using genetic resources and associated knowledge it is important to:

- Understand and implement the *Convention on Biological Diversity 1992* and the *Nagoya on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity*.
- Enter into access and benefit sharing agreements if collection of genetic resources is sought, even if the uses are non-commercial.
- Disclose the use of Indigenous genetic resources and/or knowledges associated with genetic resources in research outcomes (e.g. patent applications).
- Promote the equal recognition of Indigenous knowledge holders who collaborate with scientists as ‘inventors’ and promote joint ownership of intellectual property such as patents and plant breeders’ rights, as outcomes as best practice.⁶⁶

It is also important to note that ICIP rights are not well reflected in Australian copyright law. While copyright laws cover things in material form, ICIP rights extend to all forms of tangible and intangible heritage and culture. Some of the ways that copyright legislation does not adequately address ICIP rights include:

- Australian copyright law covers ideas in a material form, for example the written form. In contrast, Aboriginal and Torres Strait Islander knowledge and stories derive from an oral culture, meaning they weren’t written down but were shared in a spoken form.

⁶⁶ Ibid.

- The period of copyright in Australian law is the life of the author plus seventy years, whereas Aboriginal and Torres Strait Islander stories have existed for hundreds and thousands of years.
- Copyright law is focused on managing commercial advantage and not cultural integrity of knowledge and works. For example, it does not protect ‘sacred’ stories that might, in Indigenous culture and law be restricted to initiated people, or to people of different genders or ages.
- Copyright focuses on individuals’ rights rather than communal rights such as those that apply to traditional stories, the rights in which are held jointly and for future generations.⁶⁷

For these reasons, ICIP in Australia is primarily regulated through agreements and protocols.

1.3 Indigenous engagement and project governance

This Code, supported by the Code of Conduct and the National Statement have moved from a model of consultation and participation to an engagement model. This is a different standard and may require a rethinking of previous practice. Different types of research require different, or sometimes multiple forms of engagement with Aboriginal and Torres Strait Islander peoples. It is useful to think about types of engagement on a spectrum that takes into consideration the number of people engaged and the depth of that engagement (see Figure 3 below).

⁶⁷ Janke, T 2007, Protocols for producing Australian Indigenous writing, Australia Council for the Arts, Sydney, viewed 6 April, <<https://www.australiacouncil.gov.au/workspace/uploads/files/writing-protocols-for-indigeno-5b4bfc67dd037.pdf>>.

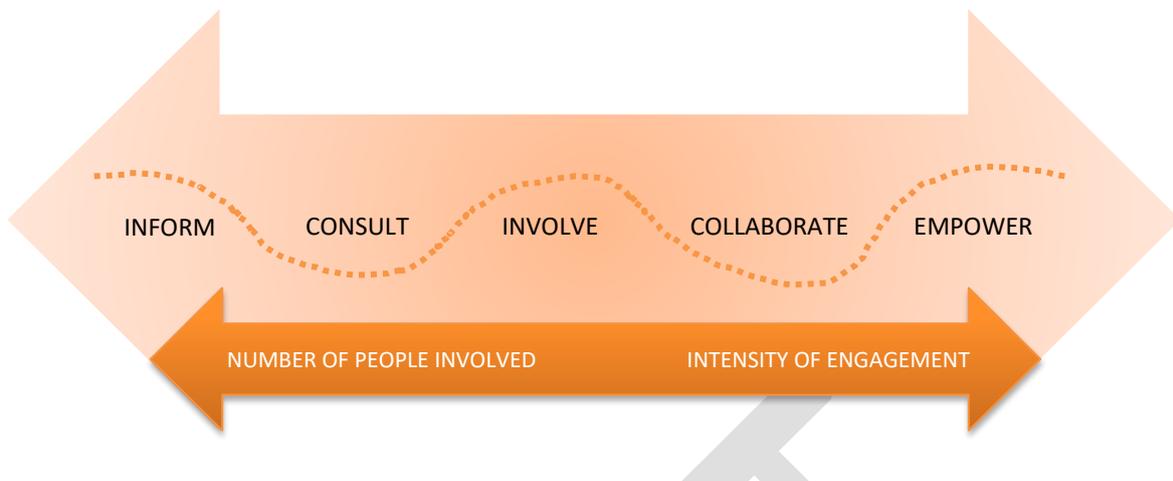


Figure 3: Engagement spectrum adapted from IAP2: International Association for Public Participation. Source: AIATSIS Core Cultural Learning: Aboriginal and Torres Strait Islander Australia (Foundation Course) 2016.

- **Informing:** provide factual information and data to help people understand a problem or project and to look for opportunities and/or solutions, or to explain outcomes of a project and/or decisions taken, the reasons they were taken, and the intended benefits.
- **Consulting:** obtain feedback from communities, hear concerns and aspirations, and gather information to help guide the development of projects, analysis, alternatives and/or decisions.
- **Involving:** provide a two-way exchange of information throughout the process that encourages meaningful discussion and provides an opportunity for people to influence outcomes.
- **Collaborating:** work in partnership with Aboriginal and Torres Strait Islander people to ensure all parties are able to provide input and formulate options and preferred solutions.
- **Empowering:** place decision making in the hands of the research partners, participating group or community.

For some projects, researchers will be working with a place-based community(ies), but for other researchers the ‘community’ may not be residential – it may be regional, national or online, such as for a national survey. Or it may be determined by another factor, such as age, gender or occupation, such as conducting research with Aboriginal and Torres Strait Islander mothers working in the Australian Public Service. For research that extends beyond the bounds of a residential community or Indigenous polity, it can be difficult to incorporate Indigenous research aims and goals into the research and the best way to do this through Indigenous leadership of the project.

For research that involves particular community/ies or organisations —a negotiated partnership based on strong decision making and governance is the best option (this takes place at the Collaborating and Empowering end of the scale). Partnership options may include:

- co-designing the project together including joint development of aims, outcomes and methods
- negotiating a research agreement together that best meets the needs of the community and the project
- joint project leadership
- employment of staff from the community
- ownership of data
- joint authorship
- joint project representation and communication – for example, co-presenting at conferences.

For other projects, such as large scale surveys or policy analysis, collaboration through Indigenous leadership, project staff and advice to support appropriate consultation and participation may be more suitable, and may include:

- partnering with a national or regional Indigenous organisation
- working with an Indigenous advisory project committee that has a genuine say in project design and planning and monitoring
- having Indigenous members of the project team as lead investigators or senior staff
- approaching Indigenous scholars and specialists for project advice and review
- project/user testing with an Indigenous reference group.⁶⁸

In a few cases, such as a researcher inheriting a partially completed project, the only option may be participation by Aboriginal and Torres Strait Islander peoples which can be done in the following ways:

- employing Aboriginal and Torres Strait Islander project staff
- forming an Aboriginal and Torres Strait Islander committee to provide advice for remaining parts of the project
- seeking involvement from Aboriginal and Torres Strait Islander organisations or corporations that may have a shared interest in the topic.

⁶⁸ The National Statement, Chapter 4.7.12, p. 79.

1.4 Setting up a research partnership and collaboration

For many types of Aboriginal and Torres Strait Islander research there is benefit in grounding the research in particular local contexts and case studies. A strong research partnership and collaboration negotiated at the beginning of the project will provide the foundation for an ethical project that has benefits for all stakeholders.

1.4.1 Initial consultation and relationship building

To ensure that Aboriginal and Torres Strait Islander peoples are full partners in the research and can determine their involvement, it is important to engage with Aboriginal and Torres Strait Islander peoples and communities prior to formally starting the project. Where possible work with communities and/or committees to determine the aims, goals and design of the project.

When undertaking initial consultations:

- Identify the organisations or individuals that have cultural authority to represent and make decisions about collective rights and interests and cultural heritage.
- Identify Indigenous regional, local and community and/or other organisations that have relevant skills, knowledge or interests.
- Understand the legal framework under which you are working in terms of local Indigenous, state, national and international laws and policies.
- Identify the appropriate Aboriginal and Torres Strait Islander communities and individuals to involve in discussing research aims, methods and outcomes.
- Work with local people to understand and best fit the project with the research needs and priorities of the community.
- Engage or enlist local researchers or cultural liaison and engagement experts from within the community to better understand the local language(s) (where applicable), decision making and customary laws.

1.4.2 Identifying the right people to work with

When beginning initial discussions with a community it is important to work out the right people to speak with to ensure fair representation across the community where appropriate. Some steps that may help to identify the right people include:

- Approach a representative organisation, such as a native title corporation, land council or cooperative.

- Ask if there are groups or families whose interests are not represented by those organisations and seek advice about how to engage with them.
- Be respectful of local differences, for example between family groups or differences in gender or age and how you can be inclusive of all. This may involve holding multiple meetings with separate groups.
- Acknowledge that consultation is an ongoing process and that this is just the beginning – it may take time to find the necessary people to work with.
- Identify any written research protocols or other community protocols that need to be followed. Many communities have developed their own protocols for conducting research.

1.4.3 *Letters of support*

If a community or organisation decides to go ahead with a project, a letter of support from them may be required for ethics review to evidence the partnership and negotiations in good faith.⁶⁹ This is particularly important for projects involving local case studies and qualitative research. If the project does not involve a clear ‘community’, the letter of support may instead come from an Indigenous organisation, advisory committee or leadership body that you are working with.

1.5 **Negotiating and reaching agreement**

A genuine partnership or collaboration spans the entire research process including post-project completion. It is important that, as far as possible a mutual agreement is reached about all of the aspects of the research process before research begins.

Negotiation should always be conducted in good faith. Good faith negotiations involve a full and frank disclosure of all available information and are entered into with an honest view to reaching an agreement.

When undertaking the initial stages of negotiating a partnership agreement:

- Allow appropriate individuals for the area/topic to be identified from within the community.
- Identify and observe any written research protocols or other community protocols that need to be followed.

⁶⁹ The National Statement, Chapter 4.7.10, p. 79.

- Discuss and respect cultural practices and how they may impact use of research data in the future, for example mourning protocols may restrict use of the names and images of deceased persons.
- Communicate with relevant individuals and organisations by appropriate means (face-to-face meetings are always desirable), and consider the budgetary and funding implications of such visits for the individuals and organisations.
- Consult widely enough to ensure that the research project gains the perspectives of the whole community it affects.
- Provide people with clear information ahead of time before meetings. Regardless of whether a project has a tight deadline or not, providing people enough time with project information to discuss with their own families and networks before having to make a formal decision is an important part of free, prior and informed consent.
- Clearly define and explore the purpose and nature of the study; who is carrying it out and funding it; how it will be governed; the objectives of the research and the likely risks, impacts and consequences of the study; the methods that will be used and the types of information that may be collected or produced; and the kinds of research outputs, publication and commercialisation that might be anticipated.

These early discussions ensure that when people are deciding to consent to the project they are well informed and have had time to consider whether the project meets the needs of the community. This early process is also beneficial to the researcher who is less likely to find consent for their project refused after conditional funding has been provided.

Consider whether these initial discussions require early-stage ethics review. ([See 1.10.2 Staged ethics review.](#))

1.6 Defining benefits

The benefits from research should be defined through discussion with Aboriginal and Torres Strait Islander research partners, participants, or project governing bodies. This includes providing all the relevant information to allow stakeholders to weigh potential benefits against possible risks or disadvantages.

When negotiating benefits:

- Aim to make the benefits to the community, or individual participants, proportionate to the demands of their participation.
- Ensure that, where the benefits are not general (for example, employment opportunity or financial compensation), they are allocated in cooperation with the group. Be prepared to pay those contributing to the research in recognition of the

value of their contributions, particularly where significant time is given outside normal personal or community commitments.

- Ensure that payments or financial benefits accruing to the participants are considered by an ethical review panel.
- Consider indirect benefits to Indigenous communities such as support for the archiving of materials relating to intangible cultural heritage, including (but not limited to) field notes and recordings that document language, cultural practices and ethnobotanical knowledge. Ensure that, if such benefits are provided, appropriate measures are in place to protect secrecy and confidentiality of materials and access managed.
- Do not overstate the benefits of the research to the participants, organisations or communities.
- Discuss the potential for unexpected outcomes and how they will be addressed and communicated.

1.7 Managing risks

Research can involve risks and these should be clearly articulated and communicated to participants and communities. In determining risk, researchers will need to identify who the risk will impact and assess the likelihood for each risk — risk may be to participants, researchers and organisations. Participants must be made aware of any potential risks and that information must be included in the participant information sheet and informed consent form.

Areas that may involve risk include:

- research that involves participants under the age of 18
- confidential information and likelihood of re-identification, particularly with remote communities or experiences
- research focussed on suicide, mental illness, loss, trauma or grief
- illegal and criminal behaviour or activities
- where there is potential for conflicts of interest
- culturally restricted information and knowledge
- physical risks
- harassment or bullying
- burdensome nature and general inconvenience of the research.

When assessing risk consider:

- the risks for both the life of a project and ongoing⁷⁰
- developing a mitigation strategy for each risk⁷¹
- how risks can be minimised, transferred or shared
- institutional requirements for identifying and managing risk
- providing an honest assessment of risk
- developing a distress protocol if the project is likely to cause harm or trauma
- obtaining additional support and services for participants in the likelihood that they will become distressed
- the monitoring processes that need to be put in place to ensure that risks are adequately managed.⁷²

1.8 Research agreements

Research should begin with the negotiation of a research agreement based on free, prior and informed consent bearing in mind that negotiation will continue throughout the project and that reformulating the research project is always a possibility. Agreements may be a protocol, memorandum of understanding or a contract. Note that research agreements may have legal implications.

When negotiating research agreements:

- Identify who should enter into the agreement, and on whose behalf the agreement is made.
- Base the agreement on good faith negotiations and free, prior and informed consent.
- Consider whether independent legal advice is required by either party and who will bear the costs of that advice.
- Determine the information to be included in the agreement, based on initial discussions and negotiations, while other details may be better placed in a project proposal.

⁷⁰ The National Statement, Chapter 2.1.3(a), p. 14.

⁷¹ The National Statement, Chapter 2.1.3(d), p. 14.

⁷² The National Statement, Chapter 5.5.5, p. 96.

Agreements should include the mutual understanding of:

- Processes and timing for informing representatives of the community of the progress of the research and reporting any results.
- What happens if a party withdraws, and what should be done with the contributions made to the research project up to the date of the withdrawal.
- How disputes will be handled should they arise, for example through mediation.
- The involvement of individuals in the interpretation of the results and the preparation of any publications ([see also Part B: 3. Communicating research results](#)).
- The identification or otherwise of individuals involved in the research, and whether those who take part in the research are to be acknowledged in any publication.
 - Ensure that those who wish to be identified and acknowledged are identified and acknowledged in a culturally appropriate way.
- How intellectual property rights and moral rights will be shared between the researcher and individual contributors, and community representative organisations.
 - It is the researcher's responsibility to negotiate with any institution (for example, a university) to which they have contractually transferred their intellectual property rights.
- The ownership of research results, their forms and presentation, including institutional ownership of data, individual rights of researchers and participants, and collective rights of Aboriginal and Torres Strait Islander community groups.
- Plans for succession and who should speak in the future about how the data or other outcomes of the project might be used.
- How costs are to be attributed and how financial or in-kind contributions are to be acknowledged and/or accounted for.

Your project may require additional considerations, for example:

- Agreement in relation to the rights and responsibilities in ownership of, and access to, recordings of Aboriginal and Torres Strait Islander performances and activities, especially where those recordings are likely to be distributed and shared in ways such as digital and social media.
- Future community control over access to, and use of, any research results, including print, pictorial, audio and video, and digital materials. Consider developing a separate data management plan ([see 4.1. Indigenous data governance](#)).
- Separate access and benefit sharing agreements if the research includes the collection of genetic resources from Indigenous lands even if the uses are non-commercial.

- Negotiating separate publishing agreements if the work is going to be commercialised.

1.9 Project design and planning for impact

Project planning begins once the right people have been identified and the aims and goals have been established with all project partners. When designing projects be aware of relevant Indigenous methodologies and theoretical frameworks and build those into the project design where appropriate.

When planning the project, consider starting from the point of outcome and benefit, rather than activities and resources. The Publicly Funded Research Agencies impact working group advises to a focus on the societal benefits of research.⁷³ That is, the desired impact and objectives should determine the activities and budget. To do this consider using the planning process shown at Figure 4 below.

⁷³ Australian Research Council (2019), *Research Impact Principles and Framework*, available at <<https://www.arc.gov.au/policies-strategies/strategy/research-impact-principles-framework>>, viewed 15 May 2019.

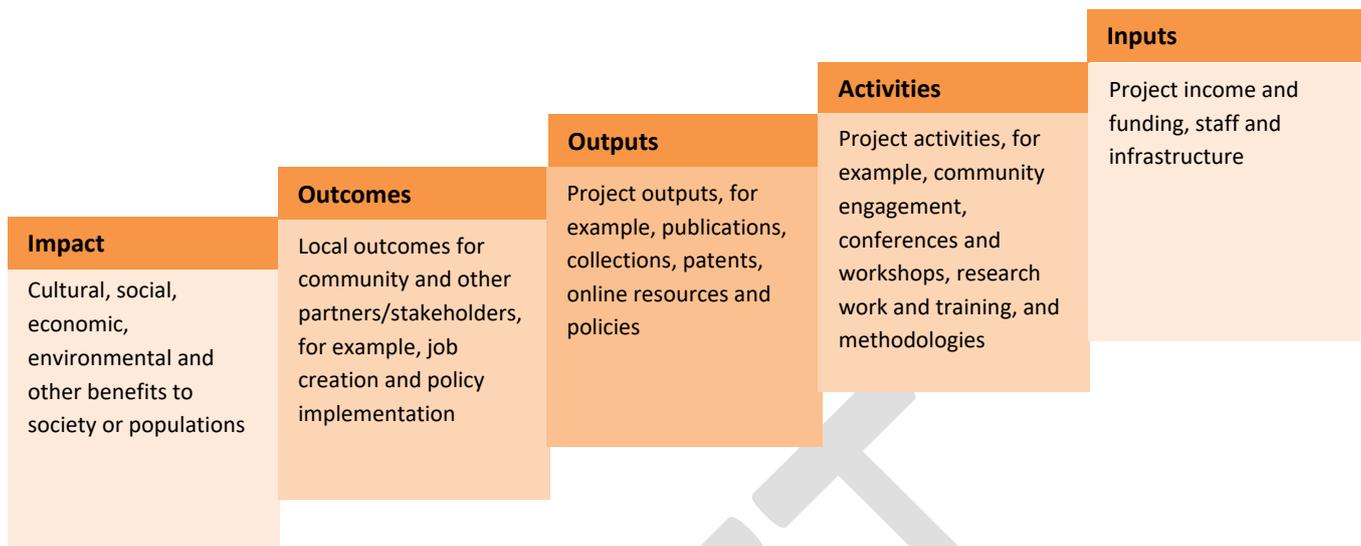


Figure 4: Impact pathway

The Australian Research Council defines research impact as the contribution that research makes to the economy, society, environment or culture, beyond the contribution to academic research.⁷⁴

Good impact evaluation needs to be planned and designed at the beginning of a research project and assessed throughout the delivery stages. There should be an agreed methodology to create, collect, analyse and share the data collected as part of impact evaluation. Community decision making must be at the forefront of evaluations of impact and the design of the research impact focus. Qualitative measures of impacts are recognised as more difficult to assess. Aboriginal and Torres Strait Islander approaches and methodologies are well suited to qualitative evaluation, such as storytelling and yarning circles.

1.9.1 Budgets and activity plans

Ensure your activity plans and budgets reflect the ethical engagement you have planned. For example, your budget may need to include appropriate community engagement expenses; sufficient time and funds for multiple visits; paid participation of individuals, organisations and community based researchers; involvement of partners in

⁷⁴ Australian Research Council, 'Research impact, principles and framework', <<https://www.arc.gov.au/policies-strategies/strategy/research-impact-principles-framework>>, viewed 20 May 2019.

research communication through seminars or conferences; and return of materials and research results.

1.10 The ethics process

Ethical clearance is not just a compliance exercise or risk mitigation strategy. Research can have both immediate impacts on communities and individuals involved, and longer term impacts as part of the evidence base on which critical policy and practice is based. For these reasons, it is critical that the ethics component of each project is comprehensively considered. The ethical clearance process should be given adequate time and resources and this should be built in to project timeframes and budgets.

In addition to the AIATSIS Code, researchers must make themselves familiar with ethical guidelines under Australia's national framework for ethical and responsible conduct of research and should be aware of ethical standards and practices in their own fields or disciplines.⁷⁵

1.10.1 Where do researchers go for ethics assessment?

Most research institutions have an institutional ethics committee that is registered as a Human Research Ethics Committee (HREC) with the National Health and Medical Research Council.

Researchers who are not affiliated with an Australian organisation that has a HREC can refer to the register of HRECs.⁷⁶ Organisations that establish HRECs are required to set out and publicise their terms of reference, including their relationship to non-affiliated or independent researchers.⁷⁷

For Aboriginal and Torres Strait Islander research, it is a requirement to seek review from a HREC that has Aboriginal and Torres Strait Islander membership and experience in reviewing Aboriginal and Torres Strait Islander research.⁷⁸ This includes:

- people who have networks with Aboriginal and Torres Strait Islander peoples and/or knowledge of research with Aboriginal and Torres Strait Islander peoples

⁷⁵ Specific guidance for research involving animals and specific areas of biomedical research (e.g. reproductive technology, organ and tissue donation, among others) have also been published.

⁷⁶ NHMRC 'List of Human Research Ethics Committees registered with NHMRC', <[http: https://www.nhmrc.gov.au/sites/default/files/documents/attachments/registered-hreccs.pdf](https://www.nhmrc.gov.au/sites/default/files/documents/attachments/registered-hreccs.pdf)>, accessed 15 May 2019.

⁷⁷ The National Statement, Chapter 5.1.27(c), p. 86.

⁷⁸ The National Statement, Chapter 4.7, p. 77-9.

- people familiar with the culture and practices of Aboriginal and Torres Strait Islander peoples with whom participation in the research will be discussed.

AIATSIS maintains an independent HREC that, for a fee, considers external applications. The committee is a specialist committee in Aboriginal and Torres Strait Islander research and is majority Indigenous membership. AIATSIS also provides training to other HRECs in the application of this Code. ([See AIATSIS ethical research](#))

1.10.2 Staged ethics review

The types of methods used in a research project will influence the type of ethics process required. For example, consider a staged approach to ethics if planning to disseminate or publish the methodology or work with a community during the project design. For instance, co-design methodologies which involve working with Aboriginal and Torres Strait Islander community partners or organisations on project partnership, collaboration and design, may require ethics approval prior to those discussions taking place. This helps to ensure that the initial engagement with the community has been completed in an ethical and culturally appropriate way.

An ethics committee will require the following information for the first stage of the ethics process:

- an outline of any project funding, aims and design so far
- biographies of project staff
- the process for partnership and collaboration
- draft research agreement (to be negotiated after ethics approval) and
- any project documentation that will be provided to potential partners.

A quick way to gauge whether you should get an early-stage ethics review is to ask yourself whether you want to record the conversations regarding project design and collaboration; whether you will want or need to use the information in published form; and/or whether you want to write about the co-design process down the track. If the answer to any of these questions is yes, then you will need an early-stage ethics review.

1.10.3 Ethics application planning

Researchers should work with the ethics committee secretariat to seek advice through the development of a proposal. The secretariat will provide support in terms of meeting the committee's expectations and requirements which could save considerable time during the ethics assessment process. Note that ethics approval must be received prior to the

commencement of the research. Human Research Ethics Committees (HREC) cannot provide retrospective approval.

Ensure the research plan allows enough time for submission and return of questions. While the National Statement directs HRECs to avoid duplication in assessment of ethical clearances, researchers may still be required to traverse multiple ethics committees across multiple jurisdictions.⁷⁹ Be aware of submission dates of the HREC, they are often a couple of weeks in advance of the meeting date.

Refer to the AIATSIS ethics [website](#) for more information on the ethics application process.

Key questions for researchers to consider include:

- Which HREC will you be required to submit to? Consider that you may have to apply to multiple committees.
- What are the costs?
- Are there any local legislation or other guidance such as guardianship boards and privacy legislation that need to be considered?
- Are there other researchers who have submitted ethics applications with whom you could speak so that you can learn from their experiences.

Most research institutions and universities will have established procedures based on the level of risk involved in the project that outlines when formal ethics clearance is required. The National Statement requires that research involving Aboriginal and Torres Strait Islander peoples and their data must undergo ethical review.⁸⁰

1.10.4 Role and purpose of ethics review

The core purpose of ethical review in Aboriginal and Torres Strait Islander research is to provide Australian Indigenous communities who are involved in the research with assurance that their rights, culture and heritage are respected, that they understand the aims and methods of the research, and that they will share in the results of the work. Research practice must actively acknowledge, protect and help to maintain Indigenous knowledge, as well as ensure that Indigenous knowledge is used in a manner accepted and informed by Indigenous owners of that knowledge.

Ethics review ensures that research is designed and carried out in ways that respect and value Aboriginal and Torres Strait Islander peoples. Unethical behaviour can not only have a

⁷⁹ The National Statement, Chapter 5.3, p. 93.

⁸⁰ The National Statement, Chapter 5.1.6(b), p. 84.

significant impact on those involved in the research but may also extend to others indirectly affected by the project.

A HREC will provide advice and ultimately approval, or not, of a research proposal based on the ethical aspects. During the ethics review process a committee will look to increase the quality of the project by minimising the risk of harm and ensuring the research is not a burden to anyone involved. Researchers must be able to demonstrate that best practice has been applied and the project adheres to the highest ethical standards. All committees are different, and this is important to remember. The role of the ethics committee is to help facilitate research and it is important to utilise this resource.

2. PROJECT IMPLEMENTATION

Implementing the research methods and collecting the data begins once the project has been designed, partnerships formed, research agreements negotiated (where relevant) and the ethics application has been approved.

During the implementation stage it is important to:

- Be flexible and remember that unforeseen factors may affect or delay the research.
- Respect cultural protocols at all times, including kin obligations, mourning practices (sorry business) and ceremonial practices (men's and women's business).
- Continue consultation about matters as they arise and be willing to renegotiate objectives and modify the project.
- Continue to seek consent and be prepared if consent is withdrawn.⁸¹
- Report back to the community as the research is being carried out – this may be done in meetings or by using a range of online communication methods.⁸²
- Recognise that Indigenous individuals or communities may have more pressing priorities that may impinge on the research time frames.

2.1 Gathering the data

Best practice ethical research recognises and respects the principles of Indigenous self-determination which includes the right of Indigenous peoples to manage the access, collection and use of their information ([see 4.1. Indigenous data governance](#)).

⁸¹ The National Statement, Chapter 2.2.8, p. 17.

⁸² The National Statement, Chapter 4.7.3(c), p. 78.

When gathering data:

- Ensure that research agreements include agreement about how data will be gathered.
- Recognise that Aboriginal and Torres Strait Islander peoples may have English as a second, third or fourth language. If the research is based on interviews with people who prefer to speak an Indigenous language then engage appropriate interpreters and transcribers. Recognise that this expertise will generally need to be paid for.⁸³
- Ensure that methods are compliant with local laws and customs and are explained clearly to all people involved in a culturally suitable way.⁸⁴
- Before any data is collected, discuss the possibility that the participants may disagree with the research team's interpretation.
- Follow and clearly explain all consent protocols as outlined in the informed consent form and research agreements.
- Follow all intellectual property and copyright legislation and ICIP protocols.
- Consider how culturally restricted material will be identified and managed if collected and recorded in the data and set up a protocol that is acceptable to Aboriginal and Torres Strait Islander partners and participants.

2.2 Obtaining informed consent

The informed consent form is an agreement between the researcher and the participant on the conditions, rights and obligations of both parties. It ensures that the participants are aware of all the potential risks and benefits of the project. It is a process of communication between the participant and researcher that results in the participant's authorisation or agreement to participate in the project.⁸⁵

In conjunction with a plain English research statement, an informed consent form will aid in informing the contributors about the research, and more importantly ensure their consent to conduct the research according to the project plan.

A plain English statement and a record of informed consent are both required for ethical consent.

[See here for example of an Informed Consent Form](#)

[See here for guidance to the Informed Consent Form](#)

⁸³ The National Statement, Chapter 5.2.17(b), p. 90.

⁸⁴ The National Statement, Chapter 5.2.17(c), p. 90.

⁸⁵ The National Statement, Chapter 2.2.4, p. 16.

Informed consent does not exist unless all relevant information is provided and in an accessible form, which may require it to be translated into the preferred language of Aboriginal and Torres Strait Islander participants. This could be an Indigenous language or a variety of English.

When negotiating individual consent and agreement:

- Take time to discuss with participants and allow enough time for people to consider all of the information.
- Use an interpreter where necessary to ensure mutual understanding.
- Understand that individuals are free to say no and ensure that they are aware that they can say no.⁸⁶
- Recognise that individuals can withdraw their consent and ensure they are aware that they can withdraw and the process for doing so.⁸⁷
- Ensure that informed consent forms and procedures include a plain English statement signed by the participants or oral consent is given and recorded.⁸⁸
- Ensure that both the informed consent form and the plain English statement are translated into preferred languages where required or in visual formats and user friendly formats.⁸⁹
- Consider using a consent model that requires consent at each stage of the project.
- Note that community consent before individual consent is required in some communities.⁹⁰

2.3 Interpreting and analysing the data

Always refer to the research agreement and any ICIP protocol when interpreting and analysing the data and consider the role of Aboriginal and Torres Strait Islander peoples during this stage. Where practical, Aboriginal and Torres Strait Islander peoples may be best placed to lead or guide the interpretation and analyses of the data as part of, or alongside, the project team.⁹¹

Data interpretation and analysis may also be with secondary data — existing data and data collected for a different purpose. When re-interpreting this data, it is important to

⁸⁶ The National Statement, Chapter 2.2.19, p. 18.

⁸⁷ The National Statement, Chapter 2.2.20, p. 18.

⁸⁸ The National Statement, Chapter 2.3.6(d), p. 21.

⁸⁹ The National Statement, Chapter 5.2.17(b), p. 90.

⁹⁰ The National Statement, Chapter 2.2.13, p. 18.

⁹¹ The National Statement, Chapter 4.7.11, p.79.

collaborate and work together with the people or the descendants of the people who own or are represented in the data, such as older historical and ethnographic sources. When interpreting national data, such as census data, collaborate with an Indigenous institution, scholars or a working group relevant to the kind of interpretation and analysis that is being undertaken.

When interpreting and analysing data that concerns Aboriginal and Torres Strait Islander peoples' experiences, ensure that:

- the subject matter reflects those perspectives and understandings
- any points of confusion are discussed with the people involved in the data collection
- information with cultural, gender, age or other restrictions has been dealt with according to the research agreement and local Indigenous laws.

2.4 Reviewing, revising and finalising

It is good practice to hold meetings with community/family members or other project participants to discuss research results and analysis, recognising that people have the right to disagree with the analysis and provide new perspectives.

Within the research agreement, there should be review protocols already negotiated that include:

- revision by Indigenous partners to ensure that the material is interpreted in a culturally appropriate way
- opportunity for people who have been involved in the data collection to review the results or analysis if they choose
- agreement that guidance will be sought from Indigenous partners if the research results are unanticipated or reveal negative outcomes
- mechanisms for reporting back to communities⁹²
- advice about public dissemination and discussions with media
- agreement to make results known to appropriate local, state or territory, and national authorities if requested.

When reporting back to Aboriginal and Torres Strait Islander partners and communities it is important that:

- there is shared understanding and agreement about how the results of research will be shared, including the forms that it will take and how it will be accessed

⁹² The National Statement, Chapter 4.7.3(d), p. 78.

- any outputs or outcomes disseminated to participants are provided in languages that are clear and understandable⁹³
- information contained in reports is written in plain English and is relevant, honest and transparent
- in addition to providing a standard report, other forms of communication are considered, including face-to-face meetings, semi-structured discussions, presentations, Skype, and infographic style reports; in some situations reporting via telephone, email and letters may also be acceptable (in preference to no reporting).
- Translators are engaged during the process when required.

3. COMMUNICATING RESEARCH RESULTS

Communicating the results of research can take many forms. It's important that discussion and agreement about how research results will be written up, published and disseminated should take place at the beginning of a research project. Publication forms may include reports or papers in peer-reviewed journals, conference presentations and books that are made available in print or online, or disseminated via other forms of media such as creative works and performances. Decisions about the forms of publication, authorship and copyright, should form part of the research agreement or consent form and should be formally documented. Note that once knowledge is recorded and made into material form it becomes 'property' as defined under Western laws and concepts and is protected by Australian copyright legislation.

3.1 Authorship and attribution

When discussing authorship and attribution there should be agreement about how authorship will be assigned and how contributors will be acknowledged. All contributors and IP rights holders should be consulted.

When discussing authorship and attribution it is important to:

- consult with all contributors and IP rights holders about how they wish to be attributed
- agree on the order of authorship and how it will appear in publications
- ensure that those people who wish to be attributed are, and that attribution appears in a prominent place in all publications, and in a culturally appropriate way⁹⁴

⁹³ The National Statement, Chapter 3.1, p, 40.

⁹⁴ The Code of Conduct, R26, p.4.

- where a research project will result in joint authorship of a publication agree on how copyright will be owned or shared.

3.2 Writing for publication

Works that draw on the knowledge and perspectives of Aboriginal and Torres Strait Islander peoples should reflect those viewpoints and be written in a way that is accessible to Aboriginal and Torres Strait Islander stakeholders.

When writing for publication:

- Consider the specific viewpoints of all research partners and incorporate narratives that reflect those viewpoints.
- Recognise that the view of one individual or group does not necessarily represent the collective view of all.
- Respect individual's rights to remain anonymous. Note that removing or changing someone's personal information (name, gender, age, etc.) doesn't mean that they cannot be identified. For example their prominence in the community and way of speaking makes their comments easily identifiable.
- Ensure that the final work to be published is checked and cleared by those who have provided input or have provided knowledge that informs the work. Allow enough time for content to be checked.
- If including oral stories or testimonies retain the original voice of those who have provided those, including their choice of storytelling style and language which may include their Australian Indigenous language, Creole or a variety of Aboriginal English.
- If it is agreed that the work will be written in English ensure that it is written in plain English. For information about how to write in plain English see [Reworking your thesis for book publication](#).

3.3 Publication

Once work is published it is in the public domain. It is therefore important to ensure that all stakeholders have a clear understanding of the implications of publication and shared agreement about how the work will be published.

When negotiating the publication of research:

- Discuss the forms of potential publication which may include print and ebooks or inclusion on websites where it can be read by anyone.
- Discuss who will be publishing the work.

- Discuss the arrangements for republishing the work in another form at a later stage.
- Ensure clearances are in place from the appropriate rights holders to reproduce images and content in published form. Note that in addition to seeking clearances from copyright holders – for example the photographers – clearance will also need to be sought from the people who are shown in the image.
- Be aware of copyright laws and Indigenous peoples’ rights to maintain, control, protect and develop their intangible heritage, including their cultural heritage, traditional knowledge, traditional cultural expressions and intellectual property.
- Discuss what, if any restrictions should be placed on the publication of content in the event of someone’s passing.
- Discuss any income that may result from the non-commercial publication of the work for example, [Electronic Lending Rights \(ELR\) and Public Lending Rights \(PLR\)](#) and how that will be shared.

4. POST PROJECT

The closure of a project is rarely the end of the matter. There are ongoing relationships formed through effective engagement as well as responsibilities for the use of data and the further development of knowledge arising from a project. Impacts of research can also often only be measured over the long term.

4.1 Indigenous data governance

Indigenous data refers to any information or knowledge (regardless of its format) that is about and may affect Aboriginal and Torres Strait Islander peoples both collectively and individually.

Indigenous data sovereignty refers to Indigenous data that is, or should be, governed and owned by Indigenous peoples from the very creation of data to its collection, access, analysis, interpretation, management, dissemination, potential future use and storage. The right of Aboriginal and Torres Strait Islander peoples to decide how Indigenous data may reflect Indigenous people’s priorities, values, cultures, worldviews and diversity is central to Indigenous data governance.⁹⁵

⁹⁵ Maïam nayri Wingara Indigenous Data Sovereignty Collective and the Australian Indigenous Governance Institute 2018, *Indigenous Data Sovereignty Communique*, <<http://www.aigi.com.au/wp-content/uploads/2018/07/Communique-Indigenous-Data-Sovereignty-Summit.pdf>>, accessed 16 Feb 2019.

When establishing data governance arrangements:

- Recognise that contributions to research by Aboriginal and Torres Strait Islander peoples should be acknowledged by ensuring ongoing Indigenous governance of the data.⁹⁶
- Keep in mind that data should reflect Indigenous peoples' diversity, values and priorities.
- Ensure that, during the early stages of consultation, Indigenous researchers, relevant community members and organisations collaborate and reach agreement on the creation, collection, analysis, interpretation, management, storage, dissemination, re-use, disposal of and access to data. It is preferable to formally document what is agreed.
- Look at developing a separate [data management plan](#) which may also assist with managing data post-project. Plans should address the allocation of rights and management into the future of raw data as well as outputs.
- For large-scale or long-term data gathering, a data governance committee may – in addition to the governance framework – be necessary or desirable.
- Be aware of the legal requirements on the retention and destruction of data. Specific legislation can include:
 - *Privacy Act 1988*⁹⁷
 - *Australian Human Rights Commission Act 1986*⁹⁸
 - *Freedom of Information Act 1982*⁹⁹

4.1.1 Data management plans

Research data management plans should include as a minimum:

- how and by whom the data will be stored or archived
- who can access the data
- who can use the data and for what purpose
- from whom permission is to be sought to access or use the data in the future – an individual, group or organisation
- the benefit that Indigenous partners or participants will receive

⁹⁶ The Code of Conduct, R26, p. 4.

⁹⁷ Commonwealth Government of Australia 1988, *Privacy Act 1988*, <<https://www.legislation.gov.au/Details/C2016C00979>>, accessed 16 May 2019.

⁹⁸ Commonwealth Government of Australia 1986, *Australian Human Rights Commission Act*, <http://www7.austlii.edu.au/cgi-bin/viewdb/au/legis/cth/consol_act/ahrca1986373/>, accessed 16 May 2019.

⁹⁹ Commonwealth Government of Australia, *Freedom of Information Act*, <http://www7.austlii.edu.au/cgi-bin/viewdb/au/legis/cth/consol_act/foia1982222/>, accessed 16 May 2019.

- practical steps that will be taken to ensure that the data is of a suitable qualitative standard and preservable and manageable in accordance with the views of communities and individuals.

4.2 Storage and archiving

Establishing how materials will be deposited and the condition under which people can access those materials are important parts of data management and Indigenous governance. To ensure the longevity and appropriate accessibility of the information, it is essential that data is archived and managed well, and is done in accordance with the requirements of Indigenous stakeholders.

When storing and archiving data:

- Ensure any hard copy documents are locked in cabinets in a secure space and are disposed in a secure storage bin at the conclusion of their use.
- Ensure access to project folders is restricted to authorised people only and is password protected.
- Ensure research products are preserved in an agreed location and format with access and control as negotiated with Indigenous control built-in. Individuals and/or organisations that can be consulted in the future about the materials should be identified and with their permission their contact details should be stored with the materials.
- Provide an opportunity for participants to consider depositing the data in to the AIATSIS archives or other secure repository. The participant will then be able to determine the access conditions (confidential, publicly available or partially restricted).
- The recognition and protection of Indigenous knowledge must continue, in accordance with Indigenous peoples' perspectives, protocols and cultural values.
- Anticipate changes in technology and how that might affect the use and storage of the data in the future.
- Be aware of appropriate technical standards in relation to the use and storage of data and include metadata protocols that incorporate the perspectives of Aboriginal and Torres Strait Islander peoples in the management of their intellectual property and data.

4.3 Access and use

Initial and ongoing consultation and agreement about how the data will be accessed, including any restrictions and possible future use of the data, are necessary to ensure ongoing Indigenous governance.

When considering access and use:

- Identify who should speak about the potential future use of any data. The participant information sheet and informed consent form should address any possibility of future access and use. Any new proposed use must be taken back to the community for further consultation.
- De-identify data where required.
- Be aware of any potential for third party access to the data. This should be addressed in the consent form.
- Show or distribute restricted material only with express permission from those who provided or are responsible for it. Consider the impact of disclosure on the wider cultural source group, and whether wider consultation is required prior to disclosure. This is particularly relevant where first disclosures and publications are likely.

4.4 Post-project engagement

Post-project consultation and engagement is important for the ongoing governance of research outputs and outcomes. Maintaining relationships with research partners and Indigenous stakeholders may also assist with future consultations which is particularly important for any new proposed use of the research. It is essential that the research continues to comply with agreements made with Indigenous partners and stakeholders regardless of changes in personnel, staff or university base.

Ongoing engagement also provides an opportunity for future research or related actions including professional and community development. Throughout a researchers career they may continue to use and benefit from knowledge shared by Aboriginal and Torres Strait Islander research partners. Consider acknowledging this contribution by ongoing attribution and acknowledgement and reporting back to communities over time.

4.5 Monitoring and compliance

Researchers are accountable to report on research results and ethical aspects of their project to funding bodies, HRECs, partnering organisations and to Aboriginal and Torres Strait Islander people and communities for which the research is being conducted. There are different levels of accountability and researchers should ensure that there are appropriate,

ongoing processes in place for reporting research progress, especially with regard to any actual or potential changes in the ethical conditions/contexts.

Researchers should take appropriate measures in the design, implementation and monitoring of a research project to ensure that, at all stages of a project, it complies with this Code and the principles they contain. Researchers should be aware of the risks (including any penalties) that may result from breaches of this Code (for instance, where they are part of a funding contract).

4.5.1 Reporting to funding bodies and partnering organisations

- Reporting is typically done via a standard report which will then be kept as an official record.
- Reports to funding bodies and partnering organisations should identify key achievements, delays in the timeline, emerging issues and mitigation strategies and any actual or potential changes in the ethical conditions/context.
- Cadence of the reporting should be agreed during the design stage. Consider reporting weekly, monthly, quarterly, or at the time of completion of project deliverables.

4.5.2 Reporting to Human Research Ethics Committees

- Annual reports are required to provide updates on progress, maintenance and security of records, compliance with the approval proposal and compliance with any condition of approval.¹⁰⁰
- Anything that might warrant review of ethical approval of the project needs to be reported immediately, such as changes to project documents, timeframes, locations, data collection tools or the project team.¹⁰¹

¹⁰⁰ The National Statement, Chapter 5.5.5, p. 96.

¹⁰¹ The National Statement, Chapter 5.5.6(c), p. 96.

FAQs

I am a HREC member or I manage a HREC with no Indigenous representation. What can we do to ensure projects involving Aboriginal and Torres Strait Islander research are reviewed satisfactorily? It is recommended that each committee has, at a minimum, one specific member to represent Aboriginal and Torres Strait Islander research. Ideally they would identify as an Indigenous Australian or have a background and suitable expertise in Aboriginal and Torres Strait Islander research. If not, consider referring applications to a specialist or qualified HREC.

What is consent in an Indigenous context? In an Indigenous context, it will often be necessary to obtain consent and engage on a collective or community basis, through the institutions and representatives chosen by the Aboriginal and Torres Strait Islander peoples involved. For guidance on how to obtain and maintain consent refer to [Part A: Principle 1.4. Informed consent](#).

What is meaningful Indigenous participation? Institutions and review committees should be vigilant to ensure that Indigenous researchers, especially emerging researchers are not exploited or used simply to meet a requirement for Indigenous participation, in particular for access to Indigenous specific funding.¹⁰²

Is it compulsory to pay participants? No, it is not compulsory; however it is recommended participants are compensated for their time and contribution. Payments will vary and may be required not only for participants, but for Aboriginal Torres Strait Islander experts and collaborative or community researchers employed on the project. In some cases this may be akin to the cost of using a consultant. Payment of participants for their time and contribution is ethical. It is not, of itself, considered a benefit of the project when assessing benefits against risks.

Can payment to participants be seen as coercion? Generally, it is of more concern when there is no payment for participants rather than undue inducement from payment. Expecting partners or participants to volunteer their time and/or expertise may be seen as an undue burden that may not be outweighed by the benefit.

What are appropriate rates of payment? The appropriate payment model depends upon the exact focus and manner of the research. Payment amounts should reflect the level of expertise and contribution provided. Payment may not always be in the form of money, the use of gift vouchers and other non-monetary compensation may also be acceptable.

¹⁰² The Code of Conduct, R25 and R26, p. 4.

I am an early career researcher can I conduct research with Aboriginal and Torres Strait Islander people? It is recommended that early career researchers seek an Indigenous supervisor or cultural advice and guidance from an appropriately qualified Aboriginal or Torres Strait Islander person for their project.

Where can I find help to increase my cultural capability? Researchers are encouraged to work with and learn from their targeted community. In addition, there is an abundance of online resources for cultural capability development; be sure that the provider is well-known and trusted.

Who do you consult with when there is no known community? Researchers should seek advice from peak bodies, Aboriginal controlled organisations, community organisations, Prescribed Bodies Corporate, land councils and other relevant organisations in order to identify the local community. It may be that multiple communities will need to be consulted for one particular area.

What can you do when not all of the relevant Indigenous people or communities can be located to consult with? In some cases it may be acceptable to proceed on a research project without the relevant Indigenous communities engaged; however, this must be assessed by a HREC and will be considered case by case. Researchers should provide evidence that all effort has been made to identify and engage with the appropriate communities.

What is the level of consultation that is required, e.g. early career or post-graduate researcher working with archival or published material? If it is published material, the research should be consistent with the original purpose of its creation and collection, recognising that the material may not have been collected ethically in the first place and could cause harm to the community if the re-use of that material does not align with their priorities and needs. It is considered respectful to engage the original contributors or the owners of the material, and researchers are encouraged to do so.

What jurisdiction does the AIATSIS ethics clearance cover? Ethics approval granted by AIATSIS applies nationally and to cross-jurisdictional research. In most cases, approval from the AIATSIS ethics committee is acceptable for Indigenous communities.

Do I need approval from other HRECs? Depending on the nature of the project, Aboriginal and Torres Strait Islander communities may request additional approval from their local or preferred Human Research Ethics Committee. In projects relating to education or health, ethics approval may be required from relevant education departments, health departments or hospitals for each jurisdiction. In considering an application, the AIATSIS ethics committee can provide further advice about this.

Do I need letters of support? Letters of support must be provided with all projects involving Aboriginal and Torres Strait people. Letters of support are evidence that the project has been discussed with relevant stakeholders, the stakeholders understand the implications of the project and the stakeholders agree the project is worthwhile. A statement outlining why letters of support have not been obtained and evidence of the effort made may be accepted by an HREC.

What is a phased application, and when is it required? A phased application is when an application is approved in stages. Phased applications are required when the researcher expects the initial findings to inform the final result of the project. The researcher may need to carry out one phase prior to designing the next phase, and so on.

I am an Indigenous researcher, should I follow the ethical guidelines? Yes, all research involving Aboriginal and Torres Strait Islander people must follow the guidelines, regardless of who the researcher is or their cultural background.

Can I be exempt from the ethics process? Currently, under the National Statement all research 'with' Aboriginal and Torres Strait Islander peoples must be subject to ethical review by a qualified Human Research Ethics Committee. The only exception to this rule is research involving the use of existing collections of data or records that contain only non-identifiable data. In this case the researcher is encouraged to consult with the original participants to ensure the project aligns with the purposes of the original data collection.

I am an overseas researcher conducting research on Indigenous Australians, do I have to go through the ethics process? Yes, any research involving Aboriginal and Torres Strait Islander people or communities must undergo ethical review. International researchers should make an effort to understand the rationale behind ethics in Aboriginal and Torres Strait Islander research and have a sound understanding of the history of colonisation in Australia.

Do you need a research agreement for all research projects? What about a Masters student conducting desktop research? A research agreement may not always be necessary for desktop research. When a researcher is working with a specific community it is highly recommended that a research agreement is negotiated and agreed. A research agreement is a legally binding document and protects all parties involved. Desktop research will require demonstration of Indigenous leadership in other ways.

What is the correct way to deal with the secondary use of data? Researchers will need to identify whether consent was given by the original participants. In instances where consent was not provided, they will need to go back to the original participants to ensure that

consent is obtained for the secondary use of the data and that there is agreement about the use, storage, access and future use of the new data resulting from the research.

What constitutes a variation to the original ethics approval? Changes to the following can warrant a project variation: location, methodology, interview questions, risk environment, project timelines, or aims, as can reduced benefits, increased risk etc. Consult with the HREC secretariat if you are unsure.

DRAFT