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ARC CENTRE OF EXCELLENCE FOR
THE DYNAMICS OF LANGUAGE

**Indigenous Linguistic & Cultural
Heritage Ethics Document**
(updated 2021)

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“Eschewing legalese, we seek (a) to do no harm, (b) to do right by those with whom we work, and (c) to help our successors as much as is consonant with those two principles.” (Zeitlyn 2012: 475)

1. Introduction: Statement of Intent

A significant part of the Centre’s research is reliant on the participation of indigenous communities in Australia and the Asia-Pacific, and actively contributes to the transmission and safeguarding of important cultural, linguistic and historical information. The Centre recognises the right of indigenous communities and individuals to maintain, control, protect and develop their traditional knowledge and cultural expressions, and the inherent ownership they have over this intellectual property. The Centre also recognises that communities and individuals within the region hold different views as to what these rights entail.

Research conducted by Centre staff and students at the collaborating institutions is subject to approval by the respective institutional human research ethics committees. These statutory committees review and approve research involving Indigenous people with specific reference to *Values and Ethics: Guidelines for Ethical Conduct in Aboriginal and Torres Strait Islander Health Research* (NHMRC 2003), and *AIATSIS Code of Ethics for Aboriginal and Torres Strait Islander Research* (AIATSIS 2021), plus the *National Statement on Ethical Conduct in Human Research* (NHMRC, ARC, AVCC 2007) and ask researchers to consider expectations in *Keeping Research on Track* (NHMRC 2006). However, the CoE acknowledges that simply adhering to institutional requirements does not entail an ethical outcome, and we endorse the NHMRC’s statement that it “is possible for researchers to ‘meet’ rule-based requirements without engaging fully with the implications of difference and values relevant to their research. The approach advanced in these guidelines is more demanding of researchers as it seeks to move from compliance to trust.” (NHMRC 2003: 4)

In addition, the Centre recognises the important contribution of the guidelines developed by The Australia Council for the Arts on *Indigenous Protocols for Producing Indigenous Australian Music, Writing, Visual Arts, Media Arts and Performing Arts* (2007). These are especially relevant with regard to such materials as indigenous stories and song performances recorded in the course of CoEDL research. We will always assert the moral rights of performers in collections of material produced by the Centre. We suggest using the Traditional Knowledge (TK) Commons licence¹ system (International Development Law Organization 2009) as an addition to Creative Commons for licensing the use of records created by researchers and speakers.

An important part of the Centre’s work will involve creating records of performances (narratives, songs, and other expressions of traditional languages)

¹ <http://www.localcontexts.org/#licenses>
Indigenous Linguistic and Cultural Heritage

for the people we work with. Through the activities of the Archiving and New Technologies Threads, the Centre will dedicate significant resources to ensuring that cultural data, recordings and other media are properly looked after and curated in long-term archives, and that copies are returned to the communities from which they originate in a timely and sensitive manner. This will take many forms, ranging from appropriate repatriation of the originally recorded materials, assistance in making them available in web-accessible form where the community wishes, ongoing access over time via the archive, production of dictionaries, readers, orthographies, books of traditional stories, plant uses etc, and versions of dictionaries that can be loaded onto mobile phones.

Ethical research on indigenous languages and associated cultural phenomena needs to balance and reconcile a number of principles and parties: the original person making the recording, family and community sensitivities, input into transcription and translation by the linguist and/or other investigators or language workers, potential changes through time regarding people's wishes about access, and different expectations in different localities (e.g. Australia, Vanuatu, PNG) about how best to handle these. Three fundamental principles are: (a) our commitment to ensuring a record for future generations and for all interested in indigenous languages, (b) respect and celebration of the knowledge of language and story by the teller and their wish to be remembered, (c) an acceptance that sometimes there will be a wish to restrict access to some material. We will be building in graded degrees of access, keyed to community wishes, through the digital archive PARADISEC, which has experience in formulating access conditions.

This document is a summary of the current approaches to ethical conduct in the types of research within CoEDL in working with indigenous peoples, their languages and cultures. We cross-reference below key guideline documents which govern research ethics by researchers based in Australia (National Statement; Values & Ethics; Keeping Research on Track, AIATSIS). As some of our research takes place in other countries in the Indo-Pacific more generally, our document has a wider perspective on issues of working with indigenous individuals and communities in Australia but also in the other countries of our region. As an educational document, the suggestions are intended to support the development of research integrity, respectful attitudes and spirit as shown in consistent behaviour by our junior and senior researchers alike. It is hoped that this document will support all CoEDL researchers to continually check on the ways they do research and take their responsibility seriously in the complex and changing domain of ethical research practices. In this way it is our hope that the results and processes of our research should not do harm but should strengthen and promote survival and protection for indigenous cultures of our region in the long term.

Research projects should be conducted in accordance with the principle of Indigenous peoples' rights to maintain, control, protect and develop their intangible heritage, including their cultural heritage, traditional knowledge, traditional cultural expressions and intellectual property.

Article 31 of the Declaration on the Rights of Indigenous Peoples states:
Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts (UN 2007) (AIATSIS 2021)

Indigenous cultural and intellectual property rights

1. The right to own and control Indigenous cultural and intellectual property— (self-determination).
2. The right of prior informed consent for access and use of ICIP.
3. The right to be recognised as the primary guardians and interpreters of culture.
4. The right of full and proper attribution—to be named and acknowledged as the owners of culture, and the contributors of knowledge.
5. The right to prevent derogatory, offensive and fallacious uses of ICIP—the right of integrity.
6. The right to protect secret/sacred material.
7. The right to share the benefits from the authorised use of culture.
8. The right to control recording of Indigenous knowledge.

(summarised from Janke and Iacovino 2012: 153)

2. Ethical considerations of different research activities and research types

Ethical considerations relating to research in indigenous languages and cultures are continuously changing due to a range of factors: first, social, linguistic and technological changes in the communities themselves, second, an increased range of research methodologies and technologies available, and third, the requirements on ARC-funded research to store datasets.

For important timepoints in the research process, across different types of research with indigenous peoples, it is possible however to identify some key principles. These pick up on many elements of the “8 Steps of the Research Journey” (reproduced below from *Keeping Research On Track*) but supplement those with points specific to research in the area of indigenous languages and cultures, with commitment to longterm archiving and access.

From Keeping Research On Track (a guide to community members in health research):

The 8 steps of the research journey

- 1 Building relationships
- 2 Conceptualisation – thinking
- 3 Development and approval
- 4 Data collection and management
- 5 Analysis – looking at the meaning
- 6 Report writing
- 7 Dissemination – sharing the results
- 8 Learning from our experience

AIATSIS Code of Ethics for Aboriginal and Torres Strait Islander Research

AIATSIS has developed a set of principles that the CoE recommends to its members.

- Principle 1 Indigenous self-determination – The recognition of, and respect for, Aboriginal and Torres Strait Islander peoples’ right to self-determination is fundamental to all research conducted in Australia.
- Principle 2 Indigenous leadership – To demonstrate merit, Aboriginal and Torres Strait Islander research should be led by Indigenous people.
- Principle 3 Impact and value – A shared agreement about the benefit, impact and value of research is of particular significance in Aboriginal and Torres Strait Islander research.
- Principle 4 Sustainability and accountability – Respect for Aboriginal and Torres Strait Islander peoples and their worldviews in the conduct of Aboriginal and Torres Strait Islander research requires researchers and institutions to have accountability, over the long term, for their actions.

Source: *The Australian Institute of Aboriginal and Torres Strait Islander Studies Guidelines, for Ethical Research in Australian Indigenous Studies*, AIATSIS 2021)

2.1. Developing aims and research question(s)

- goals can be initiated by individual speakers, speech communities and/or external researchers
- requirement of flexibility and negotiation
- early planning of useful outputs and products with speakers, their families and their communities (cf. Reciprocity, below)
- realistic timelines, time for consultation

Reciprocity, as defined by NHMRC (*Values & Ethics*, p.11) for the Australian context comprises:

- *Inclusion*
Inclusion, the basis for mutual obligation, describes the degree of equitable and respectful engagement with Aboriginal and Torres Strait Islander Peoples, their values and cultures in the proposed research.
- *Benefit*
Benefit in this context describes the establishment or enhancement of capacities, opportunities or outcomes that advance the interests of Aboriginal and Torres Strait Islander Peoples and that are valued by them.

2.2. Considering a research agreement

- not all communities or individuals want a written document
- some are suspicious of universities, bureaucracy and official legal written documents
- where a local organisation is involved, an agreement is an option that may safeguard local control and ownership over any useful outputs
- in many communities it is inappropriate to initiate a formal signing-off of an agreement before there has been a get-to-know-each-other period and speech community members know the researcher as a person and have had a chance to see the sort of work they do

2.3. Building a collaborative research team

- recognising the experience and skills of locals of which external researchers are initially unaware (cf. Respect, below)
- working through a local organisation can be a good option to ensure some community oversight or control
- involving local people identified by the community
- involving young people – to promote maintenance of language and culture, increase young people’s skills and confidence, benefit the project from their traditional knowledge which can be considerable and underrated, promote community pride in co-created products of research
- having a steering committee and/or cultural mentor who can help foresee consequences of research decisions, processes and outcomes
- considering an advocate for participants
- recognising the rights of individual speakers (who may not feel a local organisation speaks for them)
- recognising dependent or unequal relationships, which can be present structurally if researchers are working through or perceived to be associated with a service provider, school or government agency (cf. NHMRC, 2007, Chapter 4)
- working to ensure respect for those in dependent or unequal relationships, and not raising unrealistic expectation of the benefits of research (NHMRC, 2007, 4.3.6, 4.3.8)

Respect (NHMRC, Values & Ethics, p. 12):

Researchers should demonstrate the value of respect through:

- Respect of people and their individual and collective contribution, interests and aspirations
- Acknowledging and affirming rights to different values, norms & aspirations
- Understanding that there are consequences of research, and their importance may not be immediately apparent

2.4. Recompensing language consultants

Researchers need to plan and follow appropriate local practice in recompensing their language consultants, taking the following considerations into account:

- language work can be intellectually demanding and draw on knowledge that is highly respected in the community
- language workers may sometimes be sacrificing time they would be spending elsewhere (e.g. working in their gardens) in order to carry out language work
- much language learning takes place in informal contexts (e.g. bush trips, travelling, social interaction) so that it can sometimes be difficult to draw the boundaries between work and other interaction
- sometimes many local community members will attend, or drift in and out of, language sessions, potentially blurring the categories of who is working and who is audience
- there can be cultural variation in expectations regarding payment, from full expectation of payment to seeing it as totally inappropriate to expecting gifts in kind
- payment or recompense to some individuals may cause jealousy among others, so that in some circumstances it is more appropriate to make all or part of the recompense to the community as a whole (e.g. the local school in some Pacific contexts) rather than to individuals

There is no single recipe for how researchers should proceed, but they should ensure that appropriate cultural norms (and appropriate local pay rates) are followed and consult with the local community and regional and national organisations (e.g. language centres, land councils, national cultural centres) to determine the most appropriate practices. Researchers and team leaders need to ensure there is adequate budget for appropriate recompense of language consultants.

2.4. Employing interpreters

- some areas have professional interpreters available
- interpreters – professional and/or younger family members – can be a good way to initially ensure (and subsequently review) that participants give informed consent to participate and agree to their chosen range of storage and access options for their material

- interpreters are also valuable project team members when the external researchers are less familiar with the local language(s) e.g. beginning research students

2.5. Ensuring informed consent

- all research involves some level of risk to someone; these risks need to be carefully thought through and balanced against likely benefits, and that balance needs to be understood and explicitly approved by participants (cf. Beneficence, NHMRC, 2007 Guidelines 1.6: “The likely benefit of the research must justify any risks of harm or discomfort to participants. The likely benefit may be to the participants, to the wider community, or to both.”)
- some Australian HRECs (e.g. ANU, UWS) allow – in place of a multi-page signed consent form – an audio recording of a discussion of the relevant information and the participant’s agreement to participate (or to give approval for their child) with a 1-page pictorial handout to support the discussion where appropriate
- such a discussion should be in the participant’s strongest language(s) or else the researcher should involve a professional interpreter or family member as interpreter
- current best practice for participants with cognitive impairment or intellectual disability is that the individual as much as possible provides their own consent at a time and context when they are in the best position to do so, in the company of someone (e.g. a family member not on the research team) who knows them well and understands the research risks and merits (NHMRC, 2007, 4.5.6, 4.5.8)
- such recordings are much more workable than even ‘plain language’ Participant Information Statements and Consent Forms, particularly for older individuals and/or anyone who does not want to read a long document (sometimes but not always due to lower literacy levels)
- potential participants who decide not to participate, or participants who withdraw, need not give any reason and should not experience specific disadvantages as a result (NHMRC, 2007 Guidelines 2.2.19, 2.2.20)
- consent needs to be periodically revisited (cf. Responsibility below; NHMRC, 2007 Guidelines 2.2.8 on Renegotiating consent)
- depending on infrastructure, external researchers need to identify ways to support participants to get in touch with external researchers if they have questions or want to withdraw their consent or change their access provisions: eg. via a project mobile phone number to send a text to; issuing each participant with a stamped addressed envelope, postcard, and pen; using email or social media

- we recognise that for junior researchers, their careers may depend on being able to publish materials, and therefore it is crucial they are properly advised on the issues outlined in this document and can therefore freely use the fieldwork material they have created in their research

Responsibility (NHMRC, Values & Ethics, p. 16) means:

- *Doing no harm* – to individuals, communities, things they value
- *Accountability* – to individuals, families and communities, e.g. in issues such as transparency, advice, feedback, speakers’ wishes to be remembered, demand on partners

Responsibility is closely allied to the requirement (*National Statement*, 1.4) that “respect for the dignity and well being of participants takes precedence over the expected benefits to knowledge”.

2.6 Specific issues with children and families

- The rights and best interests of children need to be respected
- Careful attention should be paid to children’s capacity to understand, possible coercion by parents, peers or researchers, and conflicting values and interests of parents and children (NHMRC, 2007, Chapter 4)
- Australian HRECs tend to define children as under 18, and to require parents to give informed consent for children but sometimes allow older children 16+ to give their own informed consent. Researchers should ask communities how to ask children for consent and/or assent to participate
- For research data relating to children, consultation with the children’s families is essential, and, where relevant, the community. Clear and well justified decisions reflecting this consultation need to be made regarding how long children’s data should be stored and/or accessed, and at what level of privacy
- Centre researchers should consider as one safer option making transcripts and audio of children anonymised, and stopping access to video for researchers or other non-family members once the child turns about 13 years of age. It is always possible that an individual can be identified by their voice
- Where a child’s participation or data and/or conversations with the family suggest that the child may have a developmental issue (e.g. hearing loss, vision problem, speech or language difficulty, autism spectrum disorder), the researchers need to consult with the family on their views and if appropriate determine if there is any mechanism through which the researchers can support the family to access relevant services and/or support. Similar issues may arise with elderly people or other adults
- Research that trials ‘treatments’ (e.g. experiments with learning technologies, intervention for speech or language impairments) cannot ethically incorporate a non-treatment control group when “other available treatment has already been clearly shown to be effective and there is a known risk of significant harm in the absence of treatment” (NHMRC, 2007 3.3.10a). If there is genuine uncertainty about the effectiveness of available treatments, having a non-treatment control

group can be considered (NHMRC, 2007 3.3.10b). In some (e.g. educational or health) research it is very possible and practical to waitlist all participants who start in a control group so that they receive the 'treatment' condition as soon as possible thereafter

2.7. Copyright and Traditional Knowledge (TK)

Copyright is an inherent right that attaches to products but not to knowledge. Fixation of knowledge in some form (e.g. where an oral tradition is recorded or a traditional manuscript is scanned) results in copyright in that form (further reading on copyright, see Newman 2012).

Much of the literature on TK and Traditional Cultural Expressions (TCEs) is focused on protection of biological knowledge and caution on the use of genetic material. Nevertheless, there are aspects of that discussion that are of relevance in the recording of oral tradition, in particular songs and local ecological knowledge that have, in the past, been used in ways that have not benefited the source community.

In some contexts, simply identifying and recording TK may be problematic, for instance, "the Venezuelan Indigenous Council has stated that the indigenous peoples of Venezuela felt that the cataloguing of their TK ran counter to their culture and also that it would fragment their vision of the universe where there could be no separation between knowledge of the earth and knowledge of religion. They feared that they would lose control over their TK by cataloguing it." (WIPO 2012: 9)

"IP-related questions that arise in TCE documentation projects point in two directions: first, the recording and digitization of TCEs, even for valuable cultural heritage safeguarding and promotion programs, can unwittingly make the TCEs more accessible to third parties and, therefore, more vulnerable to unauthorized use and exploitation. In this instance, a tension between "preservation" and "protection" may be detected because the very process of preservation may trigger concerns about the lack of protection and may run the risk of unintentionally making TCEs, which are in the 'public domain', vulnerable to unwanted exploitation." (ibid p.8)

"Second, even though the TCE itself may be in the "public domain", the process of documenting it may create rights in the recorded material: for example, recording a traditional song creates IP rights in the recording, even if the underlying song is in the 'public domain'. The problem here, from a community perspective, is that it is the person or entity responsible for the recording (such as an ethnomusicologist or museum) that owns the IP rights in the recording, not the community whose tradition the song forms part of and which might have performed the song. This means that if the documentation exercise is not carried out by the community itself, the community is neither the owner of the song nor of its recording!" (ibid pp 8-9) This suggests that rights should jointly be assigned to the recorder and the performers.

Once recordings are archived and made accessible it is possible they will be used in ways not originally envisaged by the speakers. Not all of these uses will necessarily be problematic, but researchers need to minimise the possibility for misuse. A useful discussion of the complexity of group versus individual ownership is Forsyth (2013), who concludes “it is very likely that most of the conflicts over traditional knowledge will focus on who has ownership rights, and that such questions may be very difficult to resolve in practice. Given the fact that ownership of traditional knowledge in the sense used in the legislation is not a customary concept, and given the fragility of many customary institutions around the region, it is neither fair nor feasible to simply delegate questions of ownership and distribution to customary mechanisms” (ibid 24).

Another critical issue that needs to be understood is the legal framework in which research is conducted and the need to understand national jurisdiction, to negotiate how to manage research outcomes (especially primary recordings) and what local protocols may apply.

“The protection of TK and TCEs may take the shape of “conservation”, “preservation” or “safeguarding” initiatives. Broadly speaking, these consist in the identification, documentation, transmission, revitalization and promotion of cultural heritage in order to ensure its maintenance or viability. In short, the objective of protection is not to prevent unauthorized use by third parties, but simply to make sure that the TK or TCEs do not disappear and are maintained and promoted and that they are preserved for the benefit of future generations. Safeguarding measures are defined in the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage, 2003, as those “aimed at ensuring the viability of the intangible cultural heritage, including the identification, documentation, research, preservation, protection, promotion, enhancement, transmission, particularly through formal and non formal education, as well as the revitalization of the various aspects of such heritage.” The notion of preservation consists of two main elements. The first is the preservation of the living cultural and social context of TCEs, so that the customary framework for developing, passing on and governing access to them is maintained. The second concerns the preservation of TCEs in a fixed form, such as when they are documented.” (ibid pp. 16-17)

In the context of CoEDL research, there is documentation and other research focused on traditional languages and cultures as well as more modern forms of language used by indigenous peoples such as creole languages, forms of the national language, and the ways of younger generations. It is suggested that TK and TCE processes extend to and encompass those languages and cultures as well.

Prior informed consent (PIC) “is both a process and a positive act. It may manifest itself during two stages:

- Initially, when documentation is being planned, there may be the need to contact and engage in discussions with indigenous peoples and local

communities to preliminarily inform them about the planned documentation process (how TK will be collected and managed, among others) – it implies providing information in advance, in a timely and accessible manner to them. At this stage, there may be the need for an express consent by appropriate community representatives in cases when visits or interviews are to be made in the field, in community lands and territories

- Subsequently, when in the field and on-site, there may be need for more in depth discussions and negotiations to determine and define the specific terms and conditions under which TK can be obtained and used. These discussions need to be based on a series of principles (including most importantly good faith) which should guide the overall process of providing pertinent information. PIC is the culmination of this process and implies a positive act of acceptance to the collecting of TK under certain conditions, such as:
 - Monetary or in kind benefits should be provided to the community or communities
 - Collection of TK should be undertaken in a particular area or addressing certain individuals
 - Kind of TK which can be collected (traditional medical knowledge, TK on irrigation systems, sacred TK, secret TK, etc.)
 - Disclosure of the TK may not have been accepted or only with certain restrictions / to a certain extent (Third-party access to the documented TK)
 - Access by community members to documented TK and to research conducted based upon it.” (ibid p. 25)

Checklist for documentation of TK

- Ensure appropriate prior informed consent documentation (or evidence) has been obtained (or is obtained during this phase of the process)
- Document TK in a precise and standardized manner (including through indigenous and local nomenclature or classifications or local management systems)
- Do not disclose non-disclosed or confidential TK, unless a conscious decision is taken to do so and it is part of a strategy
- Follow agreed guidelines or codes of conduct, obligations and legislation and regulations in place
- Regularly inform stakeholders, especially indigenous peoples and local communities, about advances and progress in the documentation process.
- Verify whether technological safeties for processing and managing data are operational (safety of the database or registration devices)
- Adapt technology to local needs (if documentation involves interaction directly with indigenous peoples and local communities)
- Ensure appropriate disclaimers are developed and made visible (WIPO 2012: 31)

2.8. Identifying participants' preferences for archiving, access and future uses

- participants should be given a choice about anonymity, across contexts and access; many speakers want to be remembered (at least by family and often with public recognition). This requires “individually identifiable data” (NHMRC, 2007, p.27)
- some participants may prefer a degree of privacy either in public presentation of their material (e.g. no names, or through use of initials) and/or in storage, archiving and access. This may involve “re-identifiable data” (NHMRC, 2007, p. 27)
- the same participants may have different preferences for different kinds of recordings and different topics (e.g. storytelling performances, everyday conversation, more formal interview recordings)
- participants should be given a wide range of options for the kinds of access and future use their records can be put to
- participants will need time to think about these options
- in some cases (e.g. in remote parts of PNG) it may not be immediately clear to participants what having online internet access to recorded materials would mean. Researchers may need to wait for an appropriate opportunity to demonstrate – e.g. with material from another language where prior approval has been given unproblematically – what it means for archived material to be openly accessible, then revisit the discussions with the individual and/or community as appropriate
- giving participants a copy of their recording as soon as practical is a courtesy and also facilitates discussions about archiving, access and future uses of their material
- after the participants have had time to review their recording is an appropriate time to discuss preferences for archiving, access and future uses as these depend on the nature of the material recorded (e.g. culturally sensitive, gender-specific material, everyday interaction, and/or story-telling) and who was present during the session (e.g. elderly people, young people, children) and what appears on the footage (e.g. intimate family interactions)
- some community members may prefer to complete and sign a form; in other cases the researcher may collaboratively complete the form during a conversation with the participant; or the discussion may be recorded instead

“This is a shift of the power relationship to one that is more collaborative as archivists and their institutions work in true partnerships with Indigenous communities, in observation of free, prior and informed consent and empowering Indigenous people to use their cultural assets for reclaiming culture, and economic benefits.” (Janke and Iacovino 2012: 168)

2.9. Working with legacy material

Legacy records are a potentially rich source of information for speakers today and for researchers. The CoE is actively seeking such records and making them

useable by digitising and accessioning into the CoE repository. Where researchers make reasonable but unsuccessful attempts to identify descendants of archival material (which may not identify individuals by name, sometimes reflecting poor past practices and/or very old material) researchers are still able to use such material for academic research purposes where harm to currently communities is not expected or foreseeable. We also use the ‘take-down’ principle as applied on the PARADISEC website: “PARADISEC believes that many of the items provided through this guide are no longer the subject of copyright restrictions, or have been cleared for display in this service by the Copyright owners. However, PARADISEC invites any individuals who believe they hold current rights over items provided through this service to make contact.”

2.10. Licensing the use of records

The CoE aims to curate records produced in the course of its research activities. It also aims to identify existing records of languages that are otherwise inaccessible and to make these records available as a service to the speakers of those languages as well as providing potential research material. In both cases we use the principle that such material should be as easy as possible for speakers to find. We do this by publishing our catalog in web-searchable standard formats and by providing files in small enough file sizes to allow delivery over low bandwidth, aiming at mobile phone reception in remote areas. Having found that an item exists via the catalog, it must then be made clear to the user if the item itself is available, and under what conditions. Depositors currently apply access conditions and we ask that they have negotiated their deposit with the speakers/performers so that everyone is clear how the recordings can be used. We are investigating the use of Traditional Knowledge Commons licences (see References) which can be applied to allow certain uses of the material specified. “The permission given by the license is only to use the knowledge in the ways prescribed in the license. Use which does not comply with the license is then use for which no permission has been given.” (ILDO 2009:20)

2.11. Training and skills sharing

In line with the need for research to be collaborative where possible, external researchers should ask the speakers they are working with, community members and organisations what their training needs and interests are, and respond where possible in the context of the research project agreed with the community. Ideally, training occurs two ways:

- Training for community members can be an item included in any research agreement. Training can be informal or formal. Many skills involved in research are transferrable e.g. office administration skills, interpreting skills, computer skills. External researchers can sometimes tap into existing community programs in employment and training, and should educate themselves on local economic considerations regarding any income payments which research employment income may affect

- Training of external researchers can be a requirement placed on research teams e.g. a community can deliver cross-cultural training to external team members

2.12. Consultation and respect in regards to presentations and publications

Ideally, prior to public delivery or publication, the content of presentations and publications should be shared in accessible forms with participants and their families wherever possible or appropriate. A report to a community meeting, a report in DVD or a short plain language document are good ways to share understandings about research approaches and results. Wherever possible, researchers should think about appropriate types of publication (e.g. dictionaries, school materials) that feed language material back into the speech community in ways they are likely to find more useful and interesting than academic publications. CoEDL undertakes to make some funds available, on an annual competitive basis, for researchers to prepare and produce materials of this type.

Working through a local community organisation (see 2.3 above) also provides another mechanism for participants and other community members to check on how the community or its issues and needs are portrayed in presentations and publications. This is helpful to avoid unintentionally negative portrayals of indigenous people which play into common negative public attitudes associated with language or cultural loss, economic conditions, or health status.

In research findings and dissemination (and in particular in primary data collection, and publications such as dictionaries or grammars), an explicit statement should be included that ownership of Indigenous knowledge and cultural heritage is retained by the participant and/or the community (or other relevant group) and that third-parties need to consult with the participants and/or community before using the material for non-research (e.g. for-profit) uses.

The use of any images or audio recordings needs to be carefully checked with families prior to any public use, and a mechanism needs to exist to ensure that the usage conditions are updated (e.g. as when elderly people pass away).

Specifically for Australian Indigenous peoples, the following accepted protocols need to be considered, and if they are not to be followed, careful thought given as to why not:

- Acknowledgment of country before public events such as seminars or lectures
- Welcome to country before public events
- Warning that there are images or recordings of deceased Aboriginal people in presentations

2.13. Co-authorship of outputs across institutions and with Indigenous researchers

CoEDL emphasises the importance of recognising the input of all participants in research outputs. Accordingly, we encourage co-authoring of publications, especially with Indigenous people whose input has been critical in the development of the content of the publication. We also support and nurture sole-authored publications by Indigenous researchers within this general framework. The following publications by Centre researchers offer good examples of these practices:

- Ellis, Lizzie Marrkilyi. 2006. *Pictures from my memory: My story as a Ngaatjatjara woman.* (Introduced and edited by Laurence Dousset.) Canberra: Aboriginal Studies Press
- Trevor Stockley, Banbapuy Ganambarr, Dhungala Munungurr, Multhara Munungurr, Greg Wearne, W.W. Wunungmurra, Leon White and Yalmay Yunupingu. 2016. 'The Quest for Community Control at Yirrkala School', in Brian Devlin, Samantha Disbray and Nancy Devlin (eds.) *History of Bilingual Education in the Northern Territory. People, programs, and policies.* Singapore: Springer
- Felicity Meakins, Caroline Jones and Cassandra Algy. 2016. 'Bilingualism, language shift and the corresponding expansion of spatial cognitive systems'. *Language Sciences*, 54:1-13
- Jack Djandjomerr and Josie Maralngurra. 2017. 'Jack Djandjomerr and Josie Maralngurra talk about emus at Kabulwarnamyo Outstation', in Murray Garde (ed.) *Something about Emus: Bininj Stories from Western Arnhem Land.* Canberra: Aboriginal Studies Press. Pp. 59-70

Resources

AIATSIS. 2012. *The Australian Institute of Aboriginal and Torres Strait Islander Studies Guidelines for Ethical Research in Australian Indigenous Studies.* Canberra: AIATSIS. Available from:

<http://aiatsis.gov.au/sites/default/files/docs/research-and-guides/ethics/gerais.pdf>

AIATSIS. 2021. *AIATSIS Code of Ethics for Aboriginal and Torres Strait Islander Research.* Canberra: AIATSIS. Available from:

<https://aiatsis.gov.au/sites/default/files/2020-10/aiatsis-code-ethics.pdf>

Australia Council for the Arts. 2007. *Indigenous Cultural Protocols for Producing Indigenous Australian Music, Writing, Visual Arts, Media Arts and Performing Arts.* Available from: <http://www.australiacouncil.gov.au/about/protocols-for-working-with-indigenous-artists/>

Forsyth, Miranda. 2013. How Can Traditional Knowledge Best Be Regulated? Comparing a Proprietary Rights Approach with a Regulatory Toolbox Approach. *The Contemporary Pacific* 25 (1): 1-31.
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International Development Law Organization. 2009. *Imagining a traditional knowledge commons* Rome: International Development Law Organization (IDLO)

- Jamieson, Lisa M., et al. 2012. Ten principles relevant to health research among Indigenous Australian populations. *Medical Journal of Australia* 197(1): 16-18. DOI 10.5694/mja11.11642
- Janke, Terri & Livia Iacovino. 2012. Keeping cultures alive: archives and Indigenous cultural and intellectual property rights *Arch Sci* (2012) 12:151–171. DOI 10.1007/s10502-011-9163-0
- Newman, Paul. 2012. "Copyright and other legal concerns," in Nicholas Thieberger (Ed) *The Handbook of Linguistic Fieldwork* Oxford: OUP. 430-456
- NHMRC. 2003. *Values and Ethics - Guidelines for Ethical Conduct in Aboriginal and Torres Strait Islander Health Research*. Canberra: NHMRC. Available from <https://www.nhmrc.gov.au/guidelines-publications/e52>
- NHMRC. 2006. *Keeping Research on Track* <https://www.nhmrc.gov.au/guidelines-publications/e65>
- NHMRC. 2007. *National Statement on Ethical Conduct in Human Research*. Canberra: NHMRC. Available from: <https://www.nhmrc.gov.au/guidelines-publications/e72>
- NHMRC. 2007 (updated May 2015). *National Statement on Ethical Conduct in Human Research*. Canberra: NHMRC. See especially Ch. 4.7 Aboriginal and Torres Strait Islander Peoples: <https://www.nhmrc.gov.au/book/chapter-4-7-aboriginal-and-torres-strait-islander-peoples>
- WIPO. 2012. *The World Intellectual Property Organization Traditional Knowledge Documentation Toolkit*. Geneva: WIPO
- Zeitlyn, David . 2012. Contingent Pasts. Archives as Anthropological Surrogates. *Annu. Rev. Anthropol.* 41:461–80
- Zuckermann, Ghil'ad, et al. 2015. *ENGAGING – A Guide to Interacting Respectfully and Reciprocally with Aboriginal and Torres Strait Islander People, and their Arts Practices and Intellectual Property*. Australian Government: Indigenous Culture Support.

Glossary

(many terms adapted from Keeping Research on Track)

ARC: Australian Research Council, peak funding body for research in areas other than health and medicine

Community: may include a group or organisation; a term used to describe a shared view amongst indigenous peoples of groups based on culture, language, geography or common interests.

Corpus: a collection of audiovisual recordings, manuscripts, annotations, analyses of social, linguistic interaction and/or dramatic, musical performance.

Copyright: ownership of anything that people have created. The legal right granted to an author, composer, playwright, publisher, or distributor to exclusive publication, production, sale, or distribution of a literary, musical,

dramatic or artistic work. Copyright protects the original expression of ideas but not the ideas themselves. Copyright protection is free and automatic in Australia but a copyright notice can be included.

Cultural Intellectual Property: the protection of cultural knowledge, cultural expressions, cultural ideas and cultural materials.

Cultural mentor: a community or organisation member, either voluntary or funded by the research project, to make sure that the researchers stay on the right path, and that the project remains within cultural bounds and remains safe for everyone involved.

Data: information (words, numbers, specimens, papers, audiovisual recordings, art work) collected during research processes to help answer the research questions.

Experiment: a specific approach to research where one or more variables (factors that can vary) are systematically manipulated to assess their effect on an individual's behaviour (e.g. their language use, or their language understanding via a response like choosing a picture).

Intellectual property: original creative works in literary, artistic, industrial and scientific fields. Currently these can be protected legally either by copyright or trademarks.

NHMRC: National Health and Medical Research Council, peak funding body for health and medical research.

Participant: This term is used currently in Australian based research (the older term "subject" is now dispreferred). A participant is standardly a person who is recorded or otherwise supplies information which is processed into research data by the researcher. In indigenous contexts the boundaries between who is a participant and who is a research collaborator are not always clear, particularly in very collaborative working arrangements.

PIC: Prior Informed Consent.

Privacy: protecting someone's personal information. Control over the extent, timing, and circumstances of sharing oneself (physically, behaviourally, or intellectually) with others.

TCE: Traditional Cultural Expression.

TK: Traditional Knowledge.

Appendices

Sample consent forms (will be available on the CoE website)

Example research policies

The Vanuatu Research policy provides that “a product of immediate benefit and use to the local community will be provided by the Researcher no later than 6 months after termination of the research period” and that, “In undertaking research the Researcher will:

- a) Recognize the rights of people being studied, including the right not to be studied, to privacy, to anonymity, and to confidentiality;
 - b) Recognize the primary right of informants and suppliers of data and materials to the knowledge and use of that information and material, and respect traditional copyrights, which always remain with the local community;
 - c) Assume a responsibility to make the subjects in research fully aware of their rights and the nature of the research and their involvement in it;
 - d) Respect local customs and values and carry out research in a manner consistent with these;
 - e) Contribute to the interests of the local community in whatever ways possible so as to maximize the return to the community for their cooperation in their research work;
 - f) Recognize their continuing obligations to the local community after the completion of field work, including returning materials as desired and providing support and continuing concern.”
- <http://vanuatuculturalcentre.vu/research/vanuatu-research-policy/>