

Ethical Practice Guidance Note

Practicing Ethically with Respect to the Rights and Interests of Indigenous Peoples

1. INTRODUCTION

The EIANZ Code of Ethics and Professional Conduct (the Code) is the framework that allows environmental practitioners to evaluate the conformity of their practice with the ethical and professional standards that are the foundation of the environment profession.

This Guidance Note supports environmental practitioners in their implementation of the provisions of the Code regarding Indigenous Peoples' rights and interests.

2. RESPECT

The provisions of the Code are founded in the concept of respect for others.

Respect is established at the global level, through the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) to which Australia and Aotearoa - New Zealand are signatories. UNDRIP acknowledges and frames these rights in this way:

Article 31.11

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, literature, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

Within nation states, Indigenous Peoples' rights are enshrined in treaties, laws, settlements and agreements; and interests are the cultural values, associations, traditional obligations, and knowledge Indigenous Peoples possess with respect to their culture, places, natural resources and all that the cosmos has provided.

Ethical environmental practice values the knowledge, rights and interests of Indigenous Peoples in whatever country environmental practitioners may be living, working, or providing advice.

All things are valued when considered and shown to be important and worthwhile in the context of what is being decided or done.

Showing Respect through Protocols

In Aotearoa / New Zealand, a simple way of showing respect is by adopting the tikanga / kawa (customs / protocols) of Māori in their relevant rohe (region) and by using Te reo

¹ Sourced from United Nations General Assembly, A/RES/61/295, *United Nations Declaration on the Rights of Indigenous Peoples*, 13 September 2007 - https://undocs.org/A/RES/61/295 (Accessed 15/08/21)



Māori (Māori language) in mihimihi (greetings), pepeha (introductions), karakia timatanga ā whakamutunga (openings and closings of meetings), or by way of acknowledgements in publications and on websites. A similar practice is emerging in Australia, though the task is more challenging because of the diversity of Indigenous Australians and their languages.

In Australia, respect can be shown by the use of an 'Acknowledgement of Country' or having a person whose country it is perform a 'Welcome to Country' at the beginning of formal meetings, events, or by way of acknowledgements in publications and websites.

For larger events and gatherings in both Aotearoa / New Zealand and Australia, a formal welcoming ceremony should be arranged with and presented by Indigenous Peoples as a respectful acknowledgement of their rights and interests. Care should be taken to ensure that invitations to conduct welcoming ceremonies are issued to persons with the cultural authority to conduct such business.

The use of Māori place names in conjunction with English language place names, with the former placed first, as in Aotearoa / New Zealand, is a respectful form of acknowledgement of Māori association with place. The use of Aboriginal or Torres Strait Islander place names is a form of respectful acknowledgement of their traditional association with place.² A similar convention of placing Aboriginal or Torres Strait Islander place names before English place names can be followed.³ Accurate usage of Indigenous Peoples' words shows respect for culture and language.

The essence of these practices is that they demonstrate respect by acknowledging and valuing the presence and cultural continuity of Indigenous Peoples.

Environmental practitioners ought to integrate respectful approaches to acknowledging and valuing the rights and interests of Indigenous Peoples into their practice. (See Appendix A for further guidance on practice).

Showing Respect through Involvement in Decisions and Processes

Respect for the rights and interests of Indigenous Peoples is demonstrated through their involvement and partnering in environmental management decisions and processes as determined by Indigenous People themselves. (See – 4. Practice Competently)

Where Indigenous Peoples are engaged to contribute traditional knowledge about places and natural resources to studies and subsequent outputs; environmental practitioners should ensure that they are remunerated on a fee-for-service basis as any other experts contracted for a project. Contributions in this way should be properly acknowledged with authorship attribution and referencing of outputs.

Where Indigenous Peoples are being asked to partner or participate in consultative processes, environmental practitioners should support the resourcing of travel, accommodation and catering provisions as per normal business practices to facilitate meaningful and timely engagement.

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² Further information on the naming conventions for places is published by the ANZLIC Committee on Survey and Mapping in 'Principles for the Consistent Use of Place Names'

https://www.icsm.gov.au/sites/default/files/consistent_place_names_principles.pdf (Accessed 15/08/21)

³ Ibid.



Where possible, environmental practitioners should encourage and support the embedding of Indigenous Peoples in organisational and project governance arrangements. For project governance the embedding of Indigenous People should be for the full life cycle of the project and not just at the project design and / or implementation phase. Such arrangements assist in building respect and trust but are not a substitute for engagement or co-governance with Indigenous Peoples who are the custodians and owners of traditional knowledge.

3. PROMOTE ENVIRONMENTAL PRINCIPLES

Integrity of the cultural and natural environments

Environmental practitioners, through their work, are identifying, recording, and analysing the environmental values of places. The environmental values of places are composites of cultural and natural attributes.

The Code makes it explicit that advocacy⁴ for the integrity of the environment includes both cultural and natural places and resources. It is a call to environmental practitioners to give priority to the holistic value of places. It is a recognition that the values of human communities are central to environmental practice.

For Indigenous Peoples places and natural resources are valued for both physical and spiritual reasons. The integrity of places and natural resources can be best understood by environmental practitioners collaborating with and taking account of the knowledge and connections that Indigenous Peoples have with those places and natural resources.

The Code provides a framework that encourages environmental practitioners to take an inclusive approach that considers the integrity of places and natural resources from both cultural and natural perspectives. An approach that takes into account the values of human communities in all of their diversity, and the interests of future generations.

Using a multiple evidence base

Effective environmental practice involves the use of evidence and expertise from many sources, and an ethical obligation to seek input from other knowledge holders when addressing matters that are outside the expertise of the practitioner. The requirement to use a multiple evidence base that draws on science, and Indigenous Peoples' knowledge means that environmental practitioners are encouraged to engage with cultural impact assessors, Indigenous Peoples representative entities, and with Indigenous communities and the persons with the cultural authority to speak for community, land, waters, or natural resources.

Environmental practitioners must recognise that the knowledge and expertise of Indigenous Peoples has value, and that time and effort in sharing traditional knowledge and expertise should be recompensed. Practitioners are encouraged to be mindful that some forms of traditional knowledge may have cultural sensitivity, and engagement with Indigenous Peoples has to respect the basis on which any information is shared and used.

⁴ The word 'advocate' leads each element of the 'Promote Environmental Principles' section of the Code. As used here it means to plead in favour of, to argue for based on evidence. It does not have the same meaning as to 'campaign' for a particular issue or project.



4. PRACTICE COMPETENTLY

The Code recognises that Indigenous Peoples are the traditional custodians of the land, waters, seas, and natural resources which contemporary societies now occupy, use, and explore. For that reason, Indigenous Peoples have a status that is different to being just a 'stakeholder' in a particular decision or process.

The Code refers to promoting the involvement of Indigenous Peoples in decisions and processes as an element of competent practice. By this, environmental practitioners are encouraged in their practice, to provide opportunities for Indigenous Peoples to be partnered with and involved in decision making and processes that may impact on environmental and cultural values, where possible. This may include participatory and consent processes which go beyond consultation.

It is desirable to employ Indigenous Peoples in environment-related activities, allowing them to integrate traditional knowledge and skills directly into the protection of environmental values and the mitigation of harms.

It may involve environmental practitioners meeting with Indigenous experts to learn of the cultural values and knowledge associated with a particular place or resource.

As a minimum it requires environmental practitioners to ensure that where rights and interests are established in treaties, laws, settlements and agreements, they are identified and given effect in environmental management practices. Acting contrary to, disregarding, or interfering with such rights and interests would be contrary to the expectations of ethical behaviour established by the Code.

A more inclusive approach is to recognise that acknowledgement of Indigenous Peoples' interests brings with it an obligation to facilitate and build capacity for that knowledge and expertise to be brought to environmental management decisions and processes. The Code provides a framework that encourages environmental practitioners to demonstrate respect by reaching out to Indigenous Peoples and, within the terms of mutually agreed contractual and employment obligations, engaging them in the researching, reporting, evaluating, decision making processes that affect their ancestral places and natural resources.

Just as with privately and publicly held land there are protocols that should be followed when accessing land that is of cultural significance to Indigenous Peoples. Environmental practitioners should know whose lands, waters, and natural resources they are accessing. It is respectful to seek advice, and where appropriate permission, from Indigenous Peoples, before accessing these places or natural resources.

Environmental practitioners should guard against using the Code's obligations of confidentiality and privacy to minimise or prevent Indigenous Peoples participating in activities that will affect their wellbeing or interests.

Where the rights and interests of Indigenous Peoples are unclear, or the avenues for consultation require clarification, environmental practitioners are expected to consult with appropriately qualified experts.



5. SUMMARY

The Code provides a framework that encourages environmental practitioners to acknowledge, embrace and value the rights and interests of Indigenous Peoples.

Environmental practitioners are encouraged to seek out opportunities to participate with Indigenous Peoples by listening to their knowledge and understanding of the environment, its cycles and values and taking account of their interests in environmental practice. The knowledge, skills, and experience of Indigenous Peoples captured in this way forms part of the multiple evidence base that informs the protection of environmental values and the mitigation of environmental harms.

The Code encourages environmental practitioners to facilitate the participation of Indigenous Peoples in decisions and processes relating to environmental management. Practitioners ought to be able to explain how and to what extent they have promoted the participation of Indigenous Peoples, or why they consider such involvement is not relevant in particular circumstances.

The EIANZ seeks to normalise an inclusive environment profession by setting the expectation that environmental practitioners will acknowledge and value the rights and interests of Indigenous Peoples, engage and partner in culturally competent ways in personal and professional multicultural settings, and facilitate the integration of Indigenous Peoples' knowledge and values in all relevant aspects of environmental practice.



Appendix A

Respectful Engagement with Indigenous Peoples

INTRODUCTION

Why is it important?

Indigenous Peoples have often experienced a history of exclusion and dispossession from their traditional communities and lands through forced occupation and colonisation. This history lies at the heart of the disparity that exists between Indigenous Peoples and non-indigenous peoples.

Connection with place is crucial to the wellbeing of Indigenous Peoples. They have obligations in relation to land, waters, seas and natural resources. Rituals, cultural protocols and practices passed from generation to generation underpin such obligations.

In contemporary Australian society respect for the rituals, protocols and practices of Aboriginal and Torres Strait Island Peoples is demonstrated through observances of 'Welcome to Country' and 'Acknowledgement of Country' procedures.

In Aotearoa / New Zealand the use of Te Reo Māori in greetings, introductions, openings and closings of meetings, and in acknowledgements in publications and on websites is a way of showing respect for Te Ao Māori ā Māoritanga (Māori culture and way of life).

In both countries the use of names for places and natural resources in the language of Indigenous Peoples is a respectful acknowledgement of their rights and interests.

Principles of Good Practice

- 1. Make a connection with the people being engaged with.
 - a. Personalise and localise what is said rather than following a standard prepared script.
 - b. Understand and respect the status of the Indigenous Peoples' present.
- 2. Understand and reflect the significance of acknowledging and valuing Indigenous Peoples rights and interests.
- 3. Respect and recognise the Indigenous Peoples of a particular place rather than use generic nomenclatures.
- 4. If appropriate, and with guidance from local Indigenous Peoples, use their language and place names.
 - a. Accurate usage of Indigenous Peoples' words shows respect for culture and language.

EXAMPLES OF GOOD PRACTICE - AUSTRALIA

'Welcome to Country'

A 'Welcome to Country' can take the form of a ceremony that may include singing, dancing, smoking ceremonies, or speech making in language, English, or both; and a combination of these things. It is for the Traditional Custodians to decide what form a 'Welcome to Country' will take.



A 'Welcome to Country' is generally performed by a Traditional Custodian of the ancestral lands, waters, and seas on which a meeting or event is being held, or Indigenous persons from that place who have been entrusted with this task by the Traditional Custodians. It is not appropriate for just any Indigenous person to conduct a 'Welcome to Country'. They should be from the Country they are speaking on and have the cultural authority from their Indigenous community to do the Welcome.

It is offensive for an Indigenous persons not from the country they are speaking on to give a Welcome, and it is highly offensive for a non-Indigenous person to give a Welcome.

A 'Welcome to Country' ought to occur before the safety briefing for an event as it serves to ensure the event is culturally safe.

'Acknowledgement of Country'

An 'Acknowledgement of Country' is a brief opening speech that may be given by any Indigenous or non-Indigenous person. It is a sign of marked respect for a non-Indigenous senior leader of a meeting or event to give the Acknowledgement. There is no set wording though it ought to be specific and delivered with sincerity.

An 'Acknowledgement of Country' ought to occur at the beginning of a small gathering or event, and at any formal gathering or event where it has not been possible to arrange for a 'Welcome to Country'. Examples of such gatherings and events include meetings, seminars, workshops and public consultations, particularly those that involve Indigenous Peoples.

An 'Acknowledgement of Country' ought to occur before the safety briefing as it serves to ensure the meeting or event is culturally safe.

Examples

Less Specific:

"I (we) acknowledge the Aboriginal (Torres Strait Islander) people of the land on which we meet today, and recognise their continuing connection to lands, waters, seas, and community. I (we) pay respect to their Elders past and present, and future leaders."

More Specific:

"I (we) gather today on the traditional country of the <Insert Name of People> whose Elders and forebears have been custodians of the lands, waters, and seas. I (we) pay respect to Elders past and present, and future leaders; and extend that respect to other Indigenous Peoples present."

Covering both Australia and Aotearoa / New Zealand

Less Specific (For teleconference or videoconference.):

"The EIANZ acknowledges the Aboriginal and Torres Strait Islander peoples of Australia, the Māori and Moriori peoples of Aotearoa / New Zealand and the Indigenous Peoples of countries where its members and stakeholders live and work. I am (we are) hosting this webinar today on the lands of the <Insert name of local Indigenous Peoples>, and I (we) pay my (our) respects to their Elders past and present, and future leaders."



More Specific:

"The EIANZ acknowledges the Aboriginal and Torres Strait Islander peoples of Australia and recognise their traditional custodianship of their ancestral lands, waters, and seas, and their rich contributions to society."

"The EIANZ acknowledges ngā iwi ō Māori as the tangata whenua of Aotearoa / New Zealand, and their rich contribution to society."

"The EIANZ pays respect to Elders past and present, and future leaders; and extends that respect to other Indigenous Peoples present."

"The EIANZ is committed to fostering good relationships with Indigenous Peoples, supporting Indigenous Peoples who are members of the organisation, and is striving to improve the participation of Indigenous Peoples in the protection and management of the environment of which we are all an integral part."

'Yarning Up'

'Yarning Up' is an important means of facilitating dialogue in Aboriginal and Torres Strait Islander cultures. Dialogue is an essential foundation for learning, understanding and decision making in multicultural settings.

An effective dialogue increases mutual understanding. People can change their views and discover shared values and concerns that can form the basis of action.

Participants in dialogues communicate their views, experiences and values without attacking those expressed by others. Participants ask questions of each other; they actively listen and consider what they hear and learn. Participants are patient with each other, avoiding interruptions or the domination of the dialogue.

It is important in any dialogue to respect the needs of participants to consult others, to understand that participants may not have the authority to represent the views of others, and that good outcomes take time to achieve.

In a polarised social and political climate, meaningful dialogue rarely happens without planning and effort.¹

'Yarning Up' Is what occurs in 'Yarning Circles' A 'yarning circle' operates as a safe, creative and collaborative way for small or large groups to be informed and reach collective decisions based on responsible, respectful and honest interactions that build trust among participants and foster accountability.

Ideal attributes of a 'yarning circle':3

- Participants gather and sit in a circle. A community may have a designated safe place where yarning takes place;
- A facilitator guides the process from a position in the circle;
- Participants either know or might share a little about each other and their purpose for participating;

¹ A useful reference to facilitating dialogue is **'Fostering Dialogue Across Divides – A Nuts and Bolts Guide from the Public Conversations Project'** - http://www.intergroupresources.com/rc/Fostering%20Dialogue%20Across%20Divides.pdf (Accessed 04/10/21)

² 'About Yarning Circles – A Guide for Participants' – J Dunleavy, GNIBI Southern Cross University, https://www.scu.edu.au/media/scueduau/academic-schools/-gnibi-college-of-indigenous-australian-peoples/About-Yarning-Circles-A-Guide-for-Participants.pdf (Accessed 04/10/21)

³ Ihid



- Participants respect each other's views;
- No voice is of greater importance than another;
- Talk proceeds around the circle in the one direction with participants talking in turn;
- Each participant speaks from their strengths;
- Participants actively listens to the person speaking;
- To ask a question of a speaker, participants should wait until their turn comes again;
- Questions are asked for clarification and understanding rather than statements of rebuttal; and
- Participants can elect to forego their turn to speak.

The ideal may not always be achieved:

- The attributes are not a script to be followed literally. Preparation by the facilitator will establish who is to participate and their authority, what the dialogue is to be about, how it will proceed, and where it will take place;
- A facilitator should work with the participants to guide the process so that the objective of dialogue and decisions about matters are achieved;
- Until trust and confidence in the process is built, participants with high status authority with respect to a place or matter, may choose simply to listen until they are ready to speak;
- A facilitator should recognise when participants with high status authority have spoken definitively on a matter the time for dialogue has finished, and a decision has been made. It is disrespectful to continue the dialogue in such circumstances:
- A facilitator should establish whether the matters to be canvassed in the dialogue are gender specific, and establish participation in a yarning circle accordingly; and
- Effective dialogue cannot be rushed. A yarn about a matter may take several sessions. The timing of a yarn may be delayed or interrupted by matters of higher priority.

Recognising Country

Environmental practitioners, as part of their ethical approach to practice, are encouraged to demonstrate respect for Aboriginal and Torres Strait Islander Peoples by promoting through their various forms of communication an appropriate reference to Country. This approach should be adopted for all forms of communication, including written reports and scientific publications.

Care is required to ensure that the correct Indigenous Peoples associated with place are identified with Country. To find the Indigenous Peoples' name for their Country, check with <u>AIATSIS</u>^{4,5,6} relevant Aboriginal and Torres Strait Islander Land Councils, or Cultural Centres in your local area.

⁴ AIATSIS - https://aiatsis.gov.au/ (Accessed 08/11/21)

⁵ 'Map of Indigenous Australia', AIATSIS - https://aiatsis.gov.au/explore/map-indigenous-australia (Accessed 27/11/21)

⁶ 'Whose Country am I on? AIATSIS - https://aiatsis.gov.au/whose-country-am-i (Accessed 27/11/21)



Examples

Addressing Correspondence to include the Name of Indigenous Peoples' Country:7

To acknowledge the Indigenous Peoples of the Country your item is being delivered on and /or sent from, you can include the name of their Country in the addressee and sender fields.

It is important to note that in some regional areas a single postcode can extend across a large area, and a postcode could include the lands of more than one group of traditional owners.

To ensure correct delivery, the Indigenous Peoples' name for their Country should be included below the addressee's or sender's name or the company name, but above the street or PO Box address.

In Reports and Scientific Papers

"The authors of this report / scientific paper acknowledge that the activities / research on which it is based has been carried out on (insert the Indigenous Peoples' name for their Country) Country."

When describing land, the description should include the Indigenous Peoples' name for their Country.

Other Codes

The EIANZ Code of Ethics and Professional Conduct does not stand alone.

Of particular note for Australian environmental practitioners is the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) Code of Ethics for Aboriginal and Torres Strait Islander Research.⁸

The AIATSIS Code seeks to increase the contribution of Indigenous knowledge to Australian research and investigations, ensure that such activities have a positive impact for Aboriginal and Torres Strait Islander peoples, and continuously improve the quality and standards of practice.

Environmental practitioners will find this document helpful when framing practice in conjunction with Indigenous Peoples.

EXAMPLES OF GOOD PRACTICE - AOTEAROA / NEW ZEALAND

Pōwhiri

A pōwhiri is a Māori welcoming ceremony used to invite manuhiri (visitors) on to a marae. The pōwhiri process is undertaken to remove the tapu (which in this context means restricted, to be set apart) from the manuhiri, thus making everyone noa (unrestricted, free from tapu).

Marae are not the only places where powhiri take place - they can happen anywhere that the hosts (tangata whenua) wish to formally greet manuhiri.

⁷ This material is sourced from Australia Post's 'Addressing Guidelines' - <a href="https://auspost.com.au/sending/check-sending-guidelines/addressing-g

⁸ 'AIATSIS Code of Ethics for Aboriginal and Torres Strait Islander Research', 2020 https://aiatsis.gov.au/sites/default/files/2020-10/aiatsis-code-ethics.pdf (Accessed 08/11/21)



A basic powhiri will generally include the following stages:

- A karanga, which is always undertaken by women, is the first calls of welcomefrom the tangata whenua followed by a response from the manuhiri. The karanga will usually involve greetings to each respective group, tributes to the deceased and reference to the reason the two groups are meeting.
- This is followed by whaikorero or formal speech making between both parties.
- Once whaikōrero are concluded these are usually followed by waiata tautoko (songs sung in support of the speaker or speakers)
- In most cases the manuhiri will present a koha (gift) to the tangata whenua as an acknowledgement of the hospitality of the hosts. Koha today are often given in the form of money, although sometime koha may come in the form of plantings, food, or other gifts.
- Hongi/hariru are one of the final traditions of the pōwhiri process. This involves the gentle pressing of noses, to share each other's breath, and handshakes between the manuhiri and the tangata whenua.
- The sharing of food is the final act of this process and signals the end of the pōwhiri and return of all people to a state of noa (unrestricted, free from tapu).

Mihi Whakatau

Mihi whakatau is a welcoming speech used on less formal occasions and often not on marae. Mihi whakatau generally involve welcoming introductions from those in attendance, acknowledgements to those gathered and acknowledgements to the purpose of the gathering. The purpose of the mihi whakatau is to welcome everyone and to make connections between those in attendance and the kaupapa (purpose, topic) of the meeting.

Karakia

Karakia are ritual chants/prayers/incantation spoken in Te reo Māori that can be used to open and close meetings. Karakia are recited to invoke the atua (original ancestors with continuing influence) in the pursuit of guidance and protection for the tasks to come.

Using karakia is an opportunity to set the scene and open the meeting in a manner that acknowledges that there is a united focus for the purpose of the meeting. Used at the end of meetings, karakia reinforce the common purpose and seek a blessing on the participants and the outcome. It is important to note that if a meeting is opened with a karakia it should always be closed with a karakia.



Appendix B

Working Successfully with Indigenous Peoples

Key principles for working successfully with Indigenous Peoples.

- Sufficient time and financial resources must be allocated to building genuine relationships with Indigenous Peoples in talking about, developing and implementing policies and activities.
- 2. Active and well-supported participation in decision-making by Indigenous Peoples about policy and activity design and implementation.
- 3. Grassroots, bottom-up approaches that knit together local and traditional knowledge with other knowledge frameworks.
- 4. Implementation of policies and activities that are tailored to the needs of particular communities rather than "one size fits all" approaches.
- 5. Investment in and support for leadership of policies and activities by Indigenous Peoples.
- 6. Investment in long-term strengthening of communities at a local level to decide and manage their own lives.
- 7. Implementation of policies and activities that are geared towards achieving long-term enduring outcomes.
- 8. Investment in facilities and services based on need and ongoing support for policies and activities that work.
- 9. Regular and independent evaluation by or involving Indigenous Peoples, of policies and activities to ensure that lessons are learned.
- 10. Co-operative, cross sector approaches which reduce the burden of duplication and red tape on individuals and communities.

Key principles for nurturing relationships with Indigenous Peoples.

- 1. Relationships with Indigenous Peoples require the investment of time and financial resources. Relationships need to be built based on consultative decision making within the frameworks of Indigenous Peoples' communities.
- 2. In any relationship with Indigenous Peoples trust is arguably the most important element. There is a long history of broken promises and dispossession from decision making processes.
- 3. Transparency of communications, plans for action, and the challenges of the problems that arise.
- 4. Demonstrating respect by learning about the culture, history, traditions, world views, governance arrangements, and economy of Indigenous Peoples and their communities.
- 5. Relationships with Indigenous peoples are built out of involvement with the activities of communities that show interest is deeper than mere business.
- 6. Patience is a virtue in any relationship with Indigenous Peoples. Their priorities are just as important as your business priorities.