

Indigenous Property Rights Network

Guiding Rights and Principles for Process and Outcomes

The following Principles were approved by the Indigenous Property Rights Network (Network).

- 1) Application of international human rights and principles
- 2) Indigenous led
- 3) Inclusive process
- 4) Experience, advice, research and evidence based
- 5) Self-determination
- 6) Secure and protect the Indigenous Estate
- 7) Right to make decisions
- 8) Respect for and protection of culture

Definition

The following definition of the Indigenous Estate was approved by the Network.

The Indigenous Estate includes the lands, seas, waters and resources of Aboriginal and Torres Strait Islander Peoples.

Guiding Principles – foundational rights, process and outcomes

Foundational Rights

1) Application of international human rights

The foundational rights which are applied by the Network in its deliberations and decision making are outlined in:

- The *United Nations Right to Development*
- The *United Nations Declaration on the Rights of Indigenous Peoples*, in particular:
 - a) self-determination¹
 - b) participation in decision-making, free, prior and informed consent, and good faith²
 - c) respect for and protection of culture³
 - d) equality and non-discrimination.⁴

Process

2) Indigenous led

The Indigenous Strategy Group has been established to guide the Network.

Decisions by the Indigenous Strategy Group and the Network are made by consensus.

3) Inclusive process

The Network is open to all Aboriginal and Torres Strait Islander Peoples.

The Network will engage and build relationships with government, stakeholders and each other in ways that are:

- based on good faith, equality and non-discrimination
- collaborative
- cooperative
- inclusive
- participatory.

4) Experience, advice, research and evidence

The work of the Network will be grounded in the experience and advice of Aboriginal and Torres Strait Islander Peoples as well as current research and information to ensure all decisions are made using the best available evidence.

Outcomes

5) Self-Determination

Self-determination is the fundamental right of Aboriginal and Torres Strait Islander Peoples to shape our own lives and be the key decision-makers in our lives.

An essential expression of self-determination is the application of free, prior and informed consent to questions of development on Indigenous lands.

This includes the right to engage in, oppose and negotiate development on Indigenous lands.

The Network will have regard to the interests of government and industry stakeholders, but the rights of Aboriginal and Torres Strait Islander Peoples to be self-determining in regard to their interests in land will be paramount for the Network.

6) Secure and Protect the Indigenous Estate

Fundamental to the work of the Network is the strengthening of the inherent rights of Aboriginal and Torres Strait Islander Peoples to their land and waters and to exercise self-determination.

The Network recognises native title as a property right.

In the course of its Indigenous Property Rights work, the Network will not diminish, jeopardise or limit in any way the rights and interests of Aboriginal and Torres Strait Islander landowners, holders of native title and Traditional Owners.

7) Right to make decisions

The Network respects the right for Aboriginal and Torres Strait Islander Peoples to make their own decisions on matters that affect them. As such, local decision-making about the Indigenous Estate, including questions of development, are a matter for each group with rights and interests in the relevant land or water.

The Network values the right of Aboriginal and Torres Strait Islander landowners, holders of native title and Traditional Owners to pursue, reject or negotiate development.

The Network supports and advocates for application of the principle of free, prior and informed consent when decisions are made with respect to development on the Indigenous Estate.

8) Respect for and protection of culture

The Network will:

- seek to strengthen state, territory and Commonwealth legislative and policy protections for the heritage of Aboriginal and Torres Strait Islander Peoples
- respect the cultural authority of each group of Aboriginal and Torres Strait Islander landowners, holders of native title and Traditional Owners
- recognise and respect the right of each group of Aboriginal and Torres Strait Islander landowners, holders of native title and Traditional Owners to be different
- work in ways that strengthens the inherent right of each group of Aboriginal and Torres Strait Islander landowners, holders of native title and Traditional Owners to exercise self-determination
- engage respectfully with each group of Aboriginal and Torres Strait Islander landowners, holders of native title, Traditional Owners and their representatives
- consider appropriate ways to provide education and transfer knowledge to future generations.

¹ *United Nations Declaration on the Rights of Indigenous Peoples*, GA Resolution 61/295, UN Doc A/RES/61/295 (2007), arts , 4, 5, Preamble 16, 17. At

<http://www.ohchr.org/EN/Issues/IPeoples/Pages/Declaration.aspx> (viewed 3 February 2016).

² *United Nations Declaration on the Rights of Indigenous Peoples*, GA Resolution 61/295, UN Doc A/RES/61/295 (2007), arts 18, 19, 5, 10, 11(2), 27, 28, 29, 32(2), 41, 46. At

<http://www.ohchr.org/EN/Issues/IPeoples/Pages/Declaration.aspx> (viewed 3 February 2016).

³ *United Nations Declaration on the Rights of Indigenous Peoples*, GA Resolution 61/295, UN Doc A/RES/61/295 (2007), arts (1), 31, 11(1), 11(2), 12(1), 13(1), 15(1), Preamble 3, 7, 10, 11. At

<http://www.ohchr.org/EN/Issues/IPeoples/Pages/Declaration.aspx> (viewed 3 February 2016).

⁴ *United Nations Declaration on the Rights of Indigenous Peoples*, GA Resolution 61/295, UN Doc A/RES/61/295 (2007), arts 8(1)(e), 9, 15(2), 21(1), 22(2), 44, 46(3), Preamble 5, 9, 18, 22. At

<http://www.ohchr.org/EN/Issues/IPeoples/Pages/Declaration.aspx> (viewed 3 February 2016).