

## RESPONSE TO THE CAIRNS DECLARATION: a code of ethics for AURA

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### 1. Background

Recommendations of the Indigenous delegates to the Second AURA Congress, held in Cairns, were presented to the General Meeting of AURA on 4 September 1992. The recommendations generated broad discussion; it was agreed that further consideration of the recommendations would be handled by the Executive Committee.

At the Annual General Meeting of AURA held at the AURA inter-congress in Canberra during February 1998, the Committee agreed to publish a response for the membership prior to the AURA 2000 Congress, and that the matter should be resolved at the General Meeting scheduled to be held at that Congress. The response appears below. Members are invited to provide feedback to the AURA Secretary prior to the Congress; the motion below will be put to the General Meeting. Research ethics and related matters will be discussed at a workshop to be held in conjunction with the Alice Springs Congress.

### 2. The Cairns recommendations

The recommendations (Anon. 1992) made by the Indigenous delegates to the Cairns AURA Congress comprised:

- i. The Cairns Declaration of the Rights of Aboriginal and Torres Strait Islander Australians in regard to Nature Conservation and Cultural Heritage Management (to present to AURA for discussion and adoption and to relevant government ministers);
- ii. Code of ethics (to be adopted by AURA);
- iii. Two clauses relating to Indigenous representation in AURA and IFRAO;
- iv. A clause relating to Aboriginal and Torres Strait Islander (henceforth ATSI) involvement in future AURA conferences;
- v. Several clauses (5, 6, 7, 8, 9) mainly comprising policy recommendations relating to protection of, and Indigenous management of, Indigenous cultural heritage at a national and international levels.

The following response focuses on the first and second recommendations since these are directly related to the ethical operations of AURA.

### 3. The Cairns Declaration

This outlined several strategic goals; in summary, they relate to the development of (a) a national system of Indigenous ownership of land; and rights to land and natural resources, access to natural resources, development of a system of protected areas, joint management arrangements, employment training and consultation; and (b) a national strategy for presentation of ATSI cultural beliefs, values and practices; national legislation for the protection of ATSI religious integrity; and protection and ownership of all sites of ATSI cultural significance.

### Comments

The *Constitution of AURA* states (at Article 2.2) that one of the objects and purposes of AURA is 'To promote Aboriginal custodianship of sites externalising traditional Australian culture'. AURA as an association, therefore, already supports, in a general way, the goals that are seen as fundamental to Indi-

genous cultural and intellectual property rights and supporting the protection of ATSI heritage. A question for debate might be whether AURA needs to strengthen the statement in its constitution, or move in any other way formally to recognise the goals advocated by the Indigenous delegates to the Cairns Congress.

Article 2.2 recognises the holistic nature of Indigenous cultures by stressing the cultural significance of places rather than rock art *per se*. However, it excludes Torres Strait Islander cultures. Moreover, the phrase 'externalising traditional culture' is inappropriate as it does not capture the ethos of what constitutes a cultural place, particularly through use of the word 'externalising', and the word 'traditional' fails to give appropriate recognition to the dynamic and developing nature of cultures (e.g. Janke 1999: Appendix 1 Principle 3, which refers to 'Indigenous people's ... evolving customs, rules and practices'<sup>1</sup>).

Article 2.2 of the AURA constitution could be amended to provide a statement more compatible with contemporary Indigenous Australian goals and aspirations as expressed in the *Cairns Declaration*. This could be achieved by referring to the strategic goals outlined in Part 1 of the *Cairns Declaration*, which appear to relate closely to several of the Draft Principles developed by the Indigenous Reference Group on Cultural and Intellectual Property (Janke 1999: Appendix 1). Alternatively, these matters could be covered by adopting an appropriate Code of Ethics and by altering Article 2.2 to read 'To promote the recognition of Indigenous peoples as the primary guardians and interpreters of their cultures, and to promote Indigenous Australian custodianship of Indigenous Australian cultural heritage including ownership of intellectual property rights'.

### 4. Code of ethics

That AURA adopts a 'code of ethics' is the second recommendation made by the indigenous delegates to the Cairns Congress. The AURA constitution also requires (Article 9) that 'Members of AURA shall observe a professional code of ethics', but does not elaborate.

A proposal for a code of ethics can be examined in the contexts of the (draft) *IFRAO Code of ethics* and other relevant guidelines such as the *AIATSIS Guidelines for ethical research in Indigenous studies* (2000)<sup>2</sup>. Table 1 summarises the relationships.

<sup>1</sup> Janke wrote:

2. Indigenous people must be recognised as the primary guardians and interpreters of their cultures, arts and sciences, whether created in the past, or developed by them in the future.
3. The discovery, use and teaching of Indigenous people's knowledge, arts and cultures is inextricably connected with the traditional lands and territories of such people. Control over Indigenous areas and resources is essential to the continued transmission of Indigenous people's heritage to future generations, and its full protection.

<sup>2</sup> The *AIATSIS Guidelines for Ethical Research in Indigenous Studies* have been developed over decades primarily for the guidance of Institute grantees; the current, major revision, while being built upon previous versions, has been informed by research conducted with researchers and Indigenous community representatives and knowledge-holders for the Australia Research Council (ARC 1999); they are yet to be endorsed by the Institute's Council

Cairns Declaration	IFRAO (draft) Code of Ethics	AIATSIS (Principles #)	Comments
a) Members of AURA carry out scientific technical and other research through the appropriate protocol with relevant ATSI communities and custodians.	Section 3(1) Issues of ownership Members recognise Indigenous ownership of the sites and all research, conservation or management of such sites are subject to the full approval of the traditional owners.	1, 2, 3, 4, 5	
b) that all information be recorded or documented with a holistic approach expressing background, invasion and adaptation information which recognises the living culture to give a true perspective of the changes of the rock art sites etc.		4, 5	Only partially covered by AIATSIS; to adopt its Principles, include: 'Research should express the background, invasion and adaptation information that recognises living cultures.'
c) members of AURA accept that the control of the research development, implementation and monitoring will be at the discretion of the appropriate ATSI community /custodian.		3, 6, 7, 8, 9, 10, 11	AIATSIS expresses the need for research to be conducted with full involvement of Indigenous peoples in the planning of research aims, processes and potential outcomes; also states that Indigenous researchers, individuals and communities should be involved as collaborators in research.
d) all materials and documentation are the property of the appropriate ATSI community or custodians and that copyright will be determined by agreement between the ATSI community/custodian and researcher etc.	Section 3(4) In regions where traditional Indigenous owners exist they possess copyright of the rock art designs. Members wishing to reproduce such designs shall make appropriate applications. Records made of the rock art remain the cultural property of the rock artists, or collectively of the societies these lived amongst.	5, 6	Adequately covered by AIATSIS. IFRAO would need to amend clause to state '... of the traditional owners of the rock art'.
	Section 3(2) issues of ownership, local antiquities and cultural heritage law as: members shall abide by all local, state or national laws protecting archaeological sites and monuments and comply with heritage protection law as generally.		

**Table 1.** Comparison of clauses of proposed Code of Ethics with relevant clauses of draft IFRAO Code and AIATSIS Guidelines for Ethical Research in Indigenous Studies

## 5. Recommendations

With the exception of the essence of Clause b of the Cairns Declaration, all clauses of the proposed 'Code of Ethics' are covered in the IFRAO (draft) *Code of ethics* and in the AIATSIS *Guidelines for ethical research in Indigenous studies*. In the interests of comprehensive approach and a uniformity of standards of research, AURA could:

1. Amend AURA Constitution Clause 2.2 as above to incorporate an expression of the goals of the Cairns Declaration.
2. Suggest to IFRAO that it amend its draft Clause 3.4 to include the phrase '... of the traditional owners of the rock art' (see Table).
3. Adopt, as the basis of the AURA Code of Ethics, the

IFRAO Code of Ethics<sup>3</sup>, and, as an integral part of the AURA Code, adopt the following further set of Principles and Guidelines (adapted from the AIATSIS *Guidelines* ...).

Note: It is desirable to adopt the AIATSIS Principles and Guidelines (slightly modified and incorporating an additional clause relating to the requirement that research should express the living cultures and their backgrounds), not only because the IFRAO and AIATSIS wordings each do not fully address the concerns raised in the Cairns Declaration, but also because the Australian situation requires that particular consideration be

<sup>3</sup> There is no need for any resolution of this matter to be delayed further because (a) IFRAO will meet at the AURA Congress and may discuss the suggestion then; (b) even if IFRAO does not accept the suggestion, the matter is covered in the Principles adapted from the AIATSIS *Guidelines*.

given to Indigenous interests. The two sets of principles are complementary and not incompatible.

We recommend that AURA debate this *motion* at the forthcoming Annual General Meeting of the Australian Rock Art Research Association (Araluan Centre, Alice Springs, July 2000):

**'That the recommendations of the Executive Committee concerning the Cairns Declaration, modification of the Constitution of AURA, and adoption of a Code of Ethics, be adopted'.**

## 6. Draft AURA Code of Ethics and Guidelines for Ethical Research in Australian Studies

The AURA Code of Ethics and Guidelines for Ethical Research in Australian Studies would then comprise three parts. The first two would consist of the principles comprising the IFRAO *Code of Ethics* and the principles adapted from the AIATSIS *Guidelines*; the third, ancillary, section would refer to the second part of the AIATSIS *Guidelines*, that is, the explication of the principles and guidelines for their activation in the field and in non-fieldwork studies. The first two parts are provided in the appendices below; the Institute *Guidelines* are available at the AIATSIS Web site: [www.aiatsis.gov.au](http://www.aiatsis.gov.au).

## REFERENCES

- AIATSIS. 1999. *Research of Interest to Aboriginal and Torres Strait Islander Peoples*. Australian Research Council. National Board of Employment, Education and Training, Canberra (Commissioned Report 59) (especially: 'Chapter 4. The Ethics of Research') [On line:]
- AIATSIS 2000. *Guidelines for ethical research in indigenous studies*. The Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.
- Anonymous 1992. The Cairns Declaration by the Aboriginal and Torres Strait Islander Australians. *Rock Art Research* 9: 155-6.
- AURA 1995. Constitution of AURA. *Rock Art Research* 12: 65-7.
- IFRAO 1999. (Second) Draft Code of Ethics of IFRAO. (To be published Nov. 2000.)
- JANKE, T. 1999. *Our culture: our future. Report on Australian Indigenous cultural and intellectual property rights*. Michael Frankel and Company, Sydney.
- the proposed research, and of maintaining that consent.*
- Research projects should be staged to allow continuing opportunities for consideration of the research by the community.*
3. **Consultation and negotiation should achieve mutual understanding about the proposed research.**
- Consultation involves an honest exchange of information about aims, methods, and potential outcomes (for all parties). Consultation should not be considered as merely an opportunity for researchers to tell the community what they, the researchers, may want.*
- Being properly and fully informed about the aims and methods of a research project, its implications and potential outcomes, allows groups to decide for themselves whether to oppose or to embrace the project.*
- B. **Respect, recognition and involvement**
4. **Indigenous knowledge systems and processes must be respected.**
- Acknowledging and respecting Indigenous knowledge systems and processes is not only a matter of courtesy but also recognition that such knowledge can make a significant contribution to the research process.*
- Researchers must respect the rights of Indigenous peoples to control the use of Indigenous knowledge, ideas, cultural expressions and cultural materials.*
- 5a. **There must be recognition of the diversity and uniqueness of Indigenous peoples as well as of individuals.**
- 5b. **research should express the background, invasion and adaptation information that recognises living cultures.**
- Research in Indigenous studies must show an appreciation of the diversity of Indigenous peoples who have different cultures, histories and perspectives.*
- It is also important to recognise the diversity of individuals and groups within those communities.*
- A research report should place results and discussions in the historical contexts of the peoples involved.*
6. **The intellectual and cultural property rights of Indigenous peoples must be respected and preserved.**
- Indigenous cultural and intellectual property rights are part of the heritage that exists in the cultural practices, resources and knowledge systems of Indigenous peoples, and that are passed on by them in expressing their cultural identity.*
- Indigenous intellectual property is not static and extends to things that may be created based on that heritage.<sup>5</sup>*
- It is a fundamental principle of research to acknowledge the sources of information and those who have contributed to the research.*
7. **Indigenous researchers, individuals and communities should be involved in research as collaborators.**
- Indigenous communities and individuals have a right to be involved in any research project focused upon them and their culture.*
- Participants have the right to withdraw from the project at any time.*
- Research on Indigenous issues should also incorporate Indigenous perspectives and this is often most effectively achieved by facilitating more direct involvement in the research.*
- C. **Benefits, outcomes and agreement**
8. **The use of, and access to, research results should be agreed between the Indigenous custodians of cultural heritage and the researchers.**
- Indigenous peoples make a significant contribution to research by providing knowledge, resources or access to data. That contribution should be acknowledged through providing access to research results and negotiating rights in the research at an early stage.*
- The community's expectations, the planned outcomes, and access to research results should be in agreement.*
9. **A researched community should benefit from, and not be disadvantaged by, the research project.**
- Research in Indigenous studies should benefit Indigenous peoples at a local level, and more generally.*
- A reciprocal benefit should accrue for their allowing researchers often intimate access to their personal and community knowledge.*
10. **The negotiation of outcomes should include results specific to the needs of the researched community.**

## APPENDIX

### Principles adapted from AIATSIS *Guidelines*<sup>4</sup>

#### A. *Consultation, negotiation and mutual understanding*

1. **Consultation and negotiation with, and the free and informed consent of Indigenous peoples, are the foundations for research with or about Indigenous peoples.**

*Researchers must accept a degree of Indigenous community input into and control of the research process. This also recognises the obligation on researchers to give something back to the community.*

*It is ethical practice in any research on Indigenous issues to include consultation with people who may be directly affected by the research or research outcomes whether or not the research involves fieldwork.*

2. **The responsibility for this consultation and negotiation is ongoing.**

*Consultation and negotiation is a continuous two-way process. Ongoing consultation is necessary to ensure free and informed consent for*

4 The AIATSIS Principles should be read in conjunction with the discussion, footnotes and references and particularly the advice about their implementation, the 'Guidelines for Implementation of Principles of Ethical Research' that form part of the AIATSIS *Guidelines*. (On line: [www.aiatsis.gov.au](http://www.aiatsis.gov.au))

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*Among the tangible benefits that a community should be able to expect from a research project is the provision of research results in a form that is useful and accessible.*

**11. Negotiation should result in a formal agreement for the conduct of a research project, based on good faith and free and informed consent.**

*The aim of the negotiation process is to come to a clear understanding, which results in a formal agreement (preferably written), about research intentions, methods and potential results.*

*The establishment of agreements and protocols between Indigenous peoples and researchers is an important development in Indigenous studies.<sup>6</sup>*

*Good faith negotiations are those that have involved a full and frank disclosure of all available information and that were entered into with an honest view to reaching an agreement.*

*Free and informed consent means that agreement must be obtained free of duress or pressure and fully cognisant of the details, and risks of the proposed research. Informed consent of the people as a group, as well as individuals within that group, is important.*

# IFRAO Report No. 25



## THE IFRAO CODE OF ETHICS

### 1. Preamble

1(1). This Code of Ethics describes general guidelines which IFRAO recommends to its members.

1(2). Rock art provides a window to our collective past, helps us make sense of the present and contributes to our future. Some of it has been handed down to us by many generations preceding us, to safeguard it for many generations to follow us. Unless we can trace our lineage directly to those who created the rock art and have retained aspects of its original cultural context, it does not belong to us in any way.

1(3). The cultural significance of a rock art site is embodied in the entire fabric of the site, in addition to the actual art present; in the traditional use of the place and the activities that occurred there; and in the meanings and intangible qualities of the place.

1(4). Understanding the cultural significance of a place is fundamental to its care, and where such understanding is inadequate, any interference may be regarded as inappropriate.

1(5). The 'patina of history' apparent in the fabric of a rock art site is important evidence and forms an integral part of that fabric. It includes natural or artificial changes or traces.

### 2. Definitions

*Fabric* - all physical aspects of a rock art site, including accretionary deposits, the art itself, traces of later human responses, modifications, even traces of vandalism in cases, lichen, and so forth.

*Geomorphic exposure* - any rock surface.

*Graffiti* - collective term describing recent anthropic graphic markings or inscriptions that are incompatible with the known or presumed uses of the rock art on the same panels.

*IFRAO* - the International Federation of Rock Art Organisations.

*Indigenous cultural custodians* - descendants of people who created rock art, who are obligated by their cultural traditions or beliefs to act as the custodians or curators of rock art.

*Management* - administrative control over the management of rock art sites, including preservation, access control, public presentation.

*Massive intervention* - significant changes to the environmental conditions under which the rock art survives. This includes housing in a building, or removal of the

supporting bedrock to another location.

*Members* - the members of IFRAO.

*Peer approval* - the approval of an action or proposed action by relevant specialists who have no pecuniary involvement in the project in question.

*Rock art* - the surviving graphic markings of cultural activities found on rock surfaces.

*Traditional owners* - see Indigenous cultural custodians.

### 3. Issues of ownership

3(1). *Traditional owners and indigenous cultural custodians*: In areas where indigenous peoples live whose lifestyles and beliefs continue traditions associated with rock art, members recognise their ownership of the sites, and all research, conservation or management of such sites are subject to the full approval of the traditional owners. In areas where such indigenous peoples and traditions are no longer present, members shall endeavour to understand and promote management practices consistent with such beliefs in so far as they are known from ethnographic or archaeological evidence. In the absence of such evidence to the contrary, provisional concepts of such beliefs (e.g. non-human sources of authority, nature of the sacred, non-linear time/space) should be projected from similar societies and traditions elsewhere.

3(2). *Local antiquities and cultural heritage laws*: Members shall abide by all local, state or national laws protecting archaeological sites and monuments, and comply with heritage protection laws generally.

3(3). *Non-traditional ownership of sites*: Members shall respect the rules, laws or requests of any individuals or organisations possessing legal ownership of the land rock art sites are located on, or the land that must be traversed in order to reach the sites.

3(4). *Copyright and ownership of records*: In regions where traditional indigenous owners exist, they possess copyright of the rock art designs. Members wishing to reproduce such designs shall make appropriate applications. Records made of rock art remain the cultural property of the rock artists, or collectively of the societies these lived amongst.

### 4. Recording of rock art

4(1). *Methods of recording*: Members shall not physically interfere with rock art except as provided in Clauses 5(2) and 6. No substances shall be applied to

rock art for recording purposes, except substances that are regularly applied to individual panels by natural processes (e.g. water at open air sites).

4(2). *Coverage of recording*: All recordings of rock art are incomplete. Therefore rock art recordings need to be as comprehensive as possible, and by multi-disciplinary means.

4(3). *Conduct at sites*: New uses of sites, including for purposes of research, shall not change the fabric of a site, and shall respect associations and meanings of the site and its contents.

4(4). *Conduct in foreign countries*: In addition to other requirements listed herein, researchers working in foreign countries shall do so in consultation with the region's rock art organisation, and shall provide copies of reports and publications to that organisation.

## 5. Removal of samples

5(1). *Archaeological research*: No excavation shall be undertaken at a rock art site unless it forms part of an appropriately authorised archaeological research project. This includes the removal of any sediment to uncover rock art images. Similarly, no archaeological surface remains shall be removed or relocated.

5(2). *Sampling of rock art and adjacent geomorphic exposures*: No samples shall be removed of paint residue, accretionary deposits of any kind, or of the support rock, except after the following requirements have been satisfied:

- (a) The sample removal is to form part of a larger and specific research design that has peer approval;
- (b) The sample removal has been approved in writing by two peer researchers (i.e. scientists specialising in the analytical study of rock art);
- (c) The funds necessary for the best possible analytical laboratory support have been secured;
- (d) The analyst has extensive first-hand experience in sampling geomorphic surfaces;
- (e) Traditional indigenous custodians, where they have jurisdiction, have approved the sample removal;
- (f) The relevant local or national authorities have approved the sample removal.

5(3). *Excavation*: No excavations shall be undertaken at a rock art site unless the expertise of identifying rock art-making tools is available to the researchers proposing such excavation.

## 6. Conservation

6(1). *Setting*: The area around a rock art site, its setting, may contain features associated with the rock art and other evidence of its history. The visual, historical and other relationships between a site and its setting which contribute to its significance shall be retained in all conservation or preservation work.

6(2). *Site fabric*: In all conservation, preservation or management work at and near rock art sites, the visual, historical and scientific significance of the site fabric shall be retained. The removal or palliation of 'graffiti' shall be undertaken only after approval of the relevant

authorities, and be effected only under the guidance of qualified rock art conservators. Massive intervention is to be reserved for situations of extreme threats to rock art, and shall be undertaken only after extensive peer review and approval.

6(3). *Protection*: Members will not disclose the locations of non-public and unprotected rock art sites to the general public. Ultimately, the best protection will depend on the awareness of the general public of the value of rock art. Part of any conservation effort should include the education of the public towards respect for rock art wherever it occurs.

## 7. Disputes

7(1). *Conduct*: Members shall endeavour to treat other members in a courteous manner. In regions where traditional indigenous owners exist, members shall ensure that they are kept informed about all aspects of research work, and that copies of completed reports are made available to them. Where such reports appear in technical jargon, ordinary-language versions are to be made available.

7(2). *Plagiarism*: Members shall acknowledge the use of other researcher's recordings, published comments and ideas.

7(3). *Dispute settlement*: Members shall make every endeavour to settle disputes among themselves, as IFRAO is reluctant to settle disputes among its members. Where a dispute cannot be settled and threatens the integrity of IFRAO, application for arbitration shall be made to the President of IFRAO, providing the relevant documentation. The dispute will then be arbitrated by the Council of IFRAO if its resolution is urgent, but preferably at the subsequent General Meeting of IFRAO.

[This Code of Ethics was designed by the IFRAO Ethics Committee appointed in Cochabamba in 1997, and was formally approved by the IFRAO Business Meeting in Alice Springs in 2000.]

## Commentary

The ethical guidelines for rock art research marking the beginning of a new millennium are the result of nearly three years of deliberations by a committee appointed by the President of IFRAO in 1997, Professor Roy Querejazu Lewis. As the original proposer of a Code of Ethics and a member of the committee that designed it I would like to comment on its underlying philosophy.

This Code brings to an end the research ethics that marked the 19th and 20th centuries in this field, which were essentially based on the Eurocentric notion that the world is according to European perception, cognition and scientism, and that alternative ontologies are inferior. This was an aspect of cognitive neo-colonialism, which in the course of the 20th century led to the depreciation of non-European worldview, the globalisation of Western perception and the global rise of academia as arbiter of science.

Palaeoart, which occurs mostly as rock art, is the cultural

property of the people who created it, but enculturated concepts of property are not necessarily relevant to it. Most rock art is thought to relate closely to metaphysical or belief systems other than those of the subjective researchers, who themselves exist within a metaphysical system they are barely aware of. Their 'interpretations' are always transgressions, they tend to trivialise and they tend to be false. This Code presents a deontology addressing the traditional imbalance. It is a blueprint for researchers of how to appreciate their own relativism better.

It also clarifies a few crucial issues. Most particularly, it curtails the assumption that the 'rights' of researchers are paramount. For instance the wish of a researcher to 'know the age' of some rock art is not by itself adequate reason for physical sampling. A precise procedure is defined that ensures that the sample removal forms part of a greater research design, and that it has peer approval. Many archaeometrists have expressed concerns about a recently emerging tendency to

sample rock art fairly indiscriminately and without the appropriate expertise being available to complete such projects successfully. Dating information, for instance, can be obtained without sampling. Similarly, excavations at petroglyph sites need to be limited to projects possessing the expertise of recognising petroglyph-making tools. It would be absurd to allow inexperienced archaeologists to destroy the most important type of stratified evidence from a petroglyph site, by discarding the petroglyph-making tools, the only link between the sediment and the art.

Significant changes in research attitudes are encoded in this document, and it is essential to appreciate that this is not a draft presented for discussion. It has been discussed for years, it has been ratified, and it is now in force, as the recommended minimum standard for the global discipline of rock art science.

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