

# Public First Nations Data: is it Data Nullius?

Examining the structural limits of ethical  
Indigenous Data Governance

3 December 2025

## Australian Water School Webinar

Presented by: Geoff Reid, Birri O'Dea & Prof. Troy Meston  
One Basin CRC First Nations Program



# Acknowledgement of Country



We acknowledge and pay respect to the Traditional Owners of the Murray–Darling Basin and their Nations.

We pay respect to the Traditional Owners of the lands and the waters upon and around which our organisations are situated.

We acknowledge their deep cultural, social, spiritual, environmental and economic connection to their lands and waters. We pay respect to their Elders – past and present.

# Introductions



Mr Geoff Reid, Gomeroi  
First Nations Engagement Lead  
One Basin CRC



Prof. Troy Meston,  
Yuwaalaraay & Gamilaroi  
First Nations Program Lead  
One Basin CRC



Ms Birri O'Dea,  
Gungalu & Birri-Gubba  
First Nations Program Manager  
One Basin CRC

# Our Partners



## End-user Organisations



## Commercialisation Partners



## Knowledge Agencies



# Our Regional Hubs



## REGIONAL HUBS

- 1 Loxton Hub
- 2 Mildura Hub
- 3 Griffith Hub
- 4 Goondiwindi Hub

## UNIVERSITY PARTNERS

Australian National University  
Charles Sturt University  
University of Adelaide  
Flinders University  
University of Sydney  
University of Melbourne

# Applied learning from a First Nations Program Indigenous Data Project



# Project Validation



CRC First Nations Applied Management Advisory Committee (FNAMAC) - an intergenerational continuum of expertise that ensures both knowledge transfer and cultural legitimacy are structured to reflect Aboriginal governance values of reciprocity, consensus decision-making, gender-balance, and Elder authority (Watson, 2025).

# FNAMAC Comments



*It's about time someone stood up and said, hey, we're sick of this happening, and everyone needs to be made accountable for the way they project data into the public and how they store it and use it.*

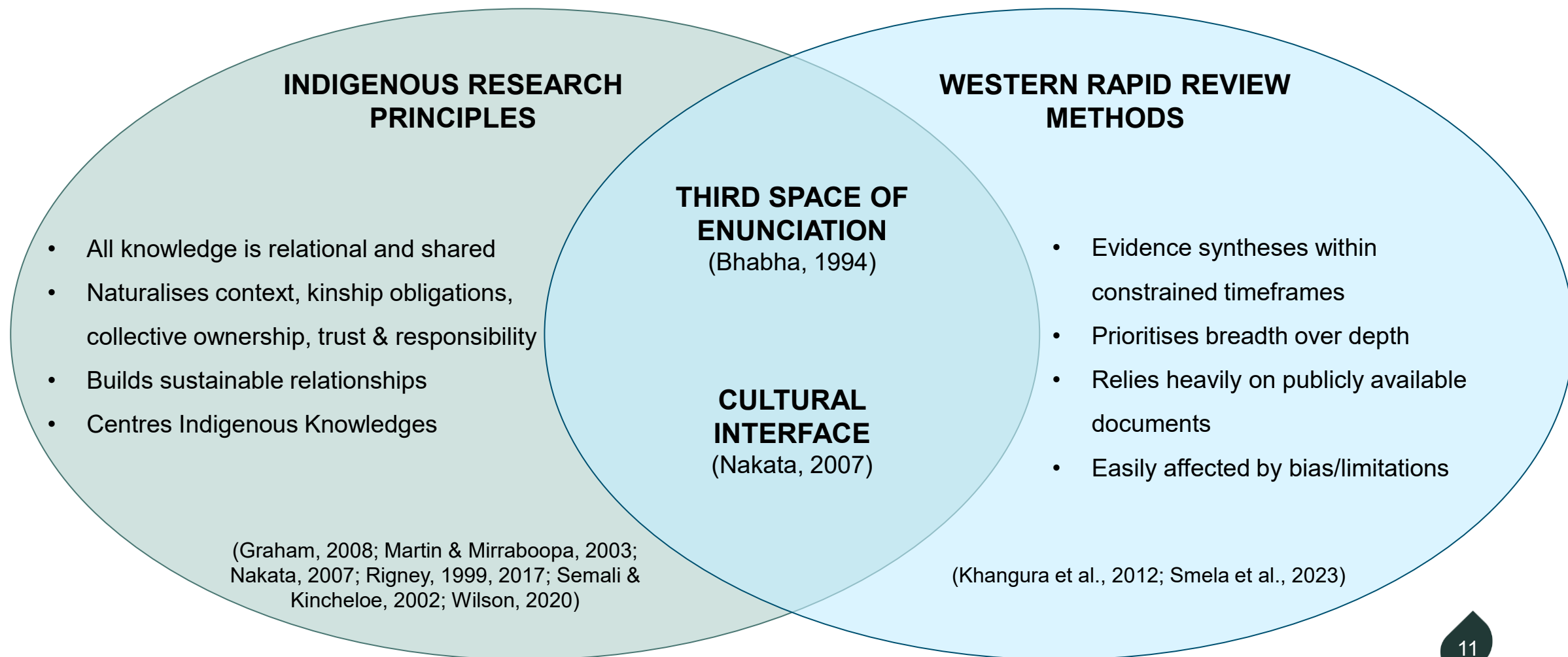
Members of FNAMAC noted that much of what is presented as objective measurement *“measures something that it doesn't actually measure”*, describing such data as *“misdirected”*, with agencies such as ABS frequently exemplifying these distortions.

Another panelist elaborated, the violence of public data extends beyond deficit discourse; it constitutes a long-standing *“misinformation campaign that's embedded within public data and has been for a long time”*.

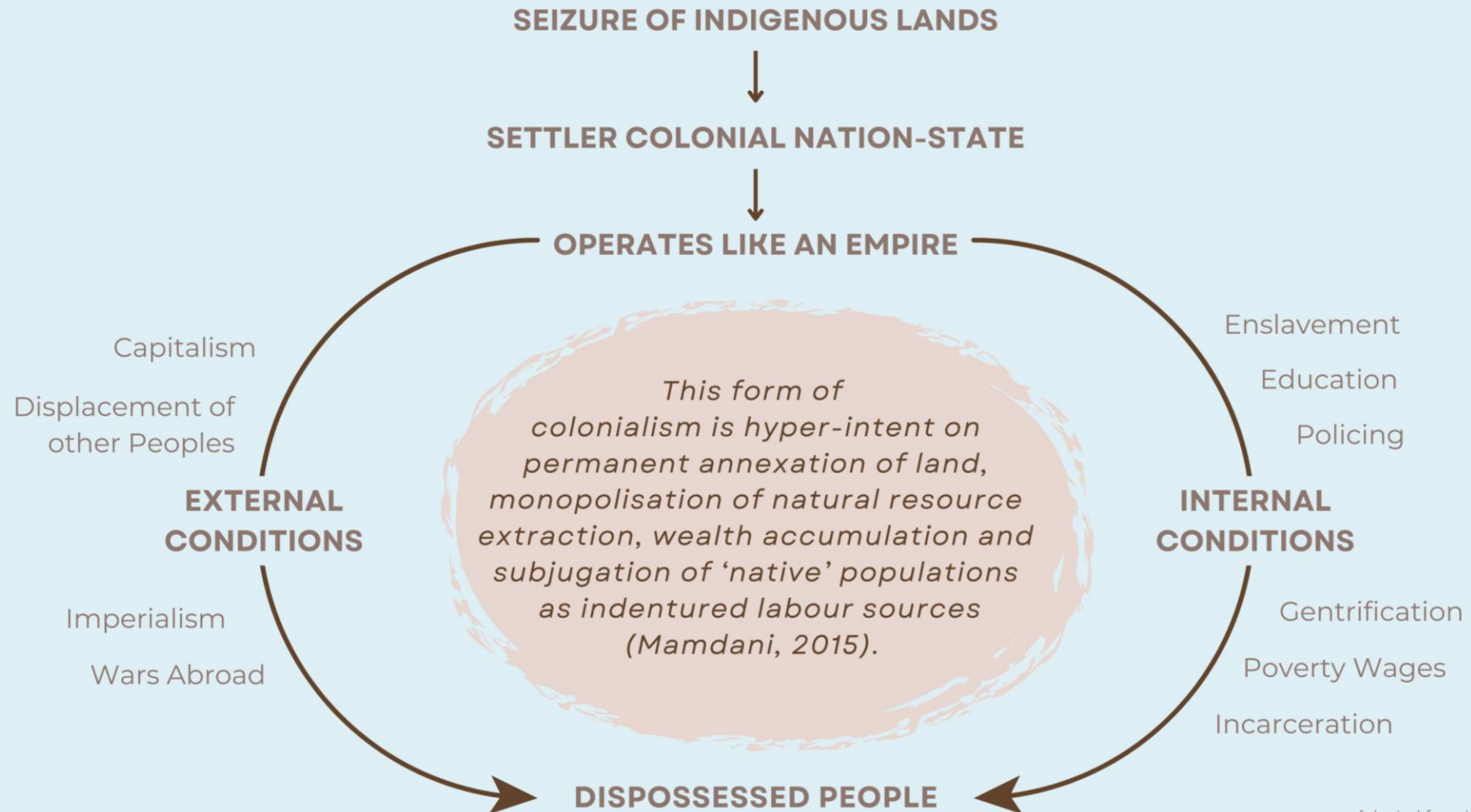
# Interrogating the Literature



# Hybrid Rapid Review



# Settler Colonialism is a Structure, Not an Event



# The Epistemic Violence of Data Management

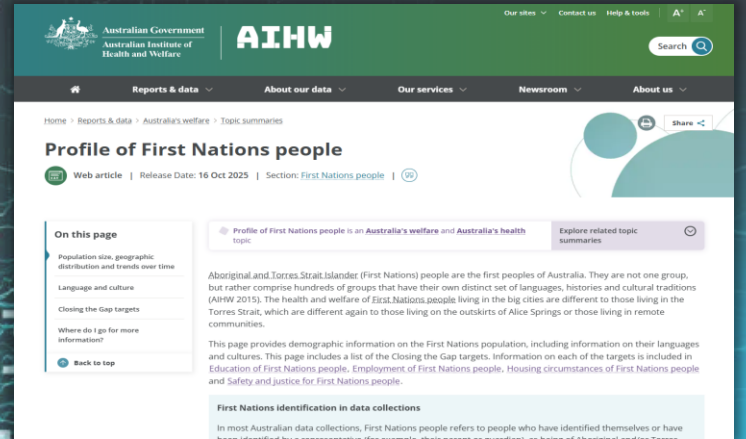
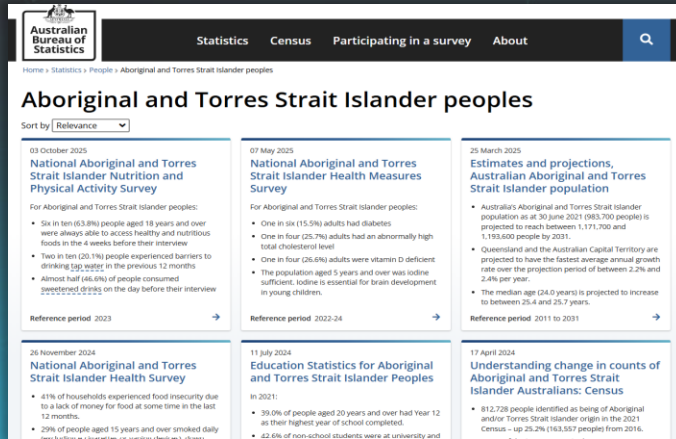


***Terra Nullius (legal fiction)  
invoked to justify Crown  
theft of First Nations land***

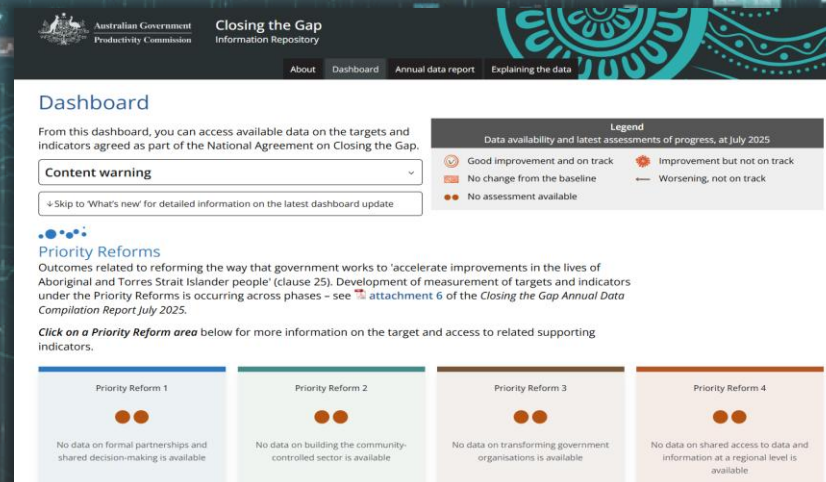
***‘Aqua Nullius’ (Marshall, 2017)  
emerges as an extension  
reflecting specific power  
asymmetries in water & the  
suppression of Indigenous  
water rights***

***We coin ‘Data Nullius’ to signify data,  
like ‘Terra & Aqua’, is now the latest  
First Nations resource free for exploitation***

# Enduring Colonial Face of Data

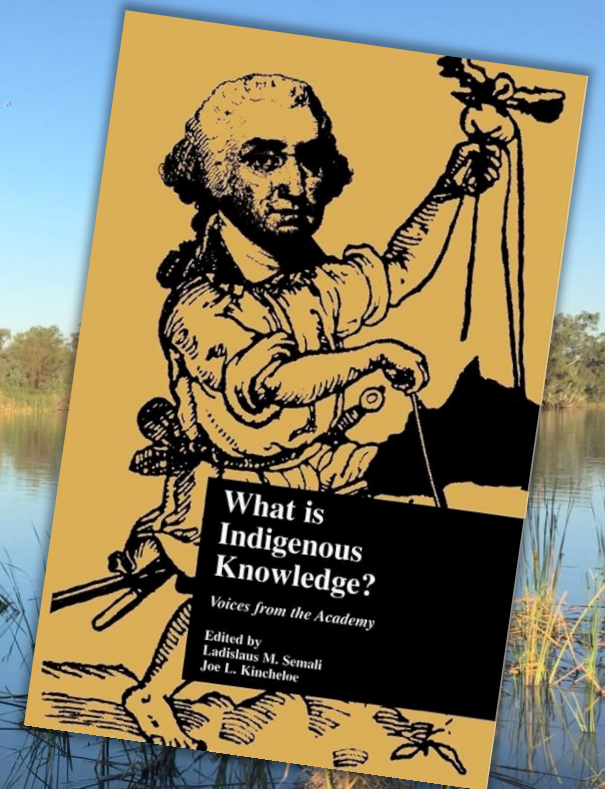
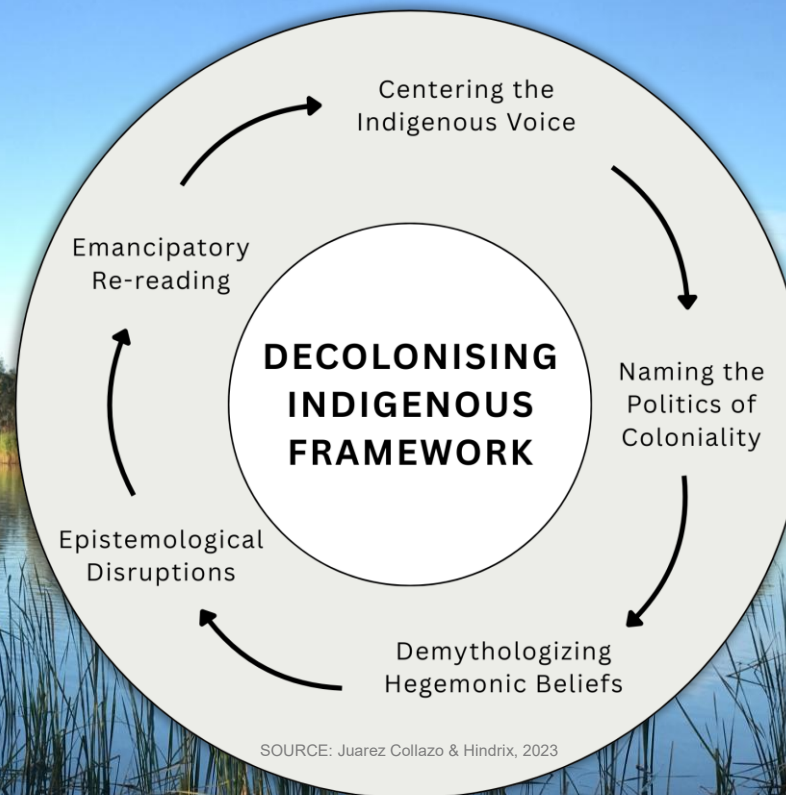
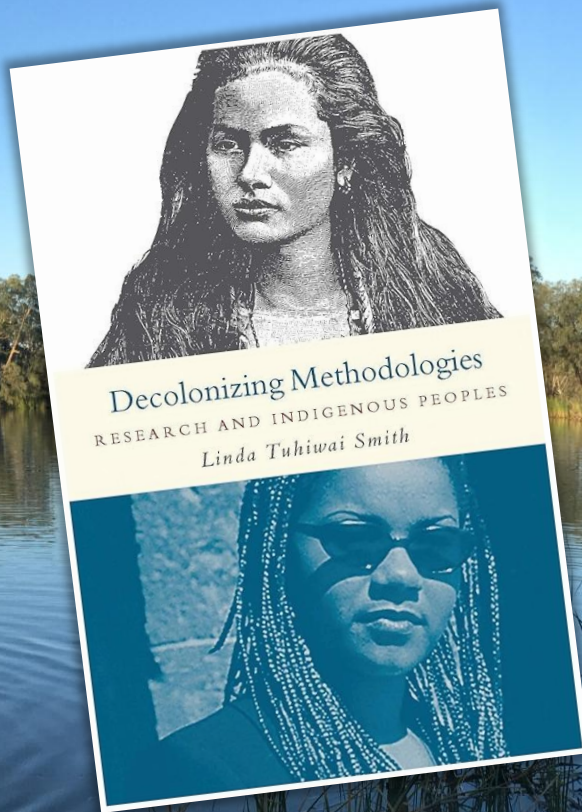


## Aggregated datasets promote deficit data about First Nations Peoples



# The Decolonial Turn & the Indigenous Renaissance

In recent years, there has been a critical reorientation of research practice toward First Nations authority



# Substantial Work Done



## AIATSIS Code of Ethics for Aboriginal and Torres Strait Islander Research

Warning: Aboriginal and Torres Strait Islander readers should be aware that this document may contain sensitive information, images or names of people who have since passed away.

TJC - Aug 14 - 4 min read

## Keeping Our Data Strong: Upholding Indigenous Data Sovereignty Through Data Sharing Agreements

14 August 25  
By Dr Terri Janke

### Introduction

In our recent article *AI Got No Dreaming*, we explored how AI has the potential to both challenge and uphold Indigenous data sovereignty. In this article, we explore how data sharing agreements can help to uphold Indigenous data sovereignty.

## UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENES



## INDIGENOUS DATA SOVEREIGNTY EVERYWHERE... ALL THE TIME.

© Maïam naye! Wingara



### RESEARCH PATHWAYS: INFORMATION SHEET SERIES

## Indigenous Data Governance and Sovereignty

This information sheet may be useful for Aboriginal and Torres Strait Islander peoples and organisations who are interested in research, thinking about being involved in research or have recently become involved in research.

### What is data?

Data is the information collected during research. It may be expressed in numbers and measurements, known as quantitative data, or in words through descriptions of experiences and stories, known as qualitative data.

"Indigenous data refers to information or knowledge, in any form or medium, which is about, or may affect, Aboriginal and Torres Strait Islander peoples, collectively or individually". Aboriginal and Torres Strait Islander information or data should be treated and managed in these ways:



## Framework for Governance of Indigenous Data

Practical guidance for the Australian Public Service



NHMRC



Ethical conduct in research with Aboriginal and Torres Strait Islander Peoples and communities: Guidelines for researchers and stakeholders

## Principles of Māori Data Sovereignty

Brief #1 | October 2018

This Te Mana Raraunga (TM) is a general overview of key Māori Sovereignty terms and principles. TMR advocates for the realisation of rights and interests in data, the ethical use of data to enhance the wellbeing of our people, language and culture.

"He rei ngā niho, he parau e hāngai ana ki ngā huarua e hāngai ana ki ngā huarua." "One must have the right to the important endeavours."



Māori Data Sovereignty Network



# Indigenous Data Governance & the Role of Government



Indigenous Data Sovereignty requires recognising that some forms of data - cultural heritage, traditional or sensitive knowledges - may demand **restricted access or community-centric licensing arrangements**.

Knowledge, in whatever form, **must serve the aspirations of First Nations communities**, rather than reinforcing the structural inequalities of continuing colonialism.

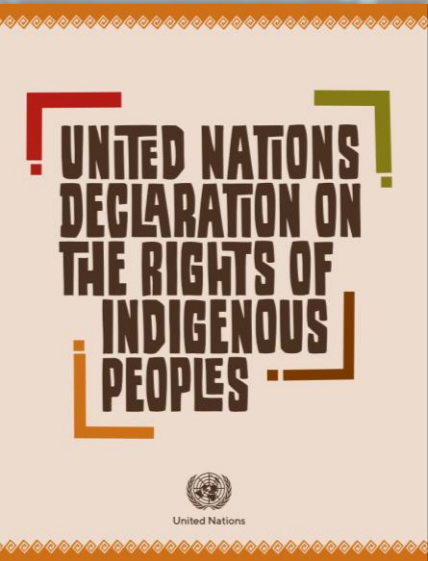
When governed through First Nations frameworks, **data becomes a tool to support nation-building**, enable responsive policy, and ensure accountability and collective benefit to communities (Maia nayri Wingara, 2018).

Increasingly, First Nations scholars are providing data governance leadership, however, **local communities are yet to be adequately empowered** to develop contextually relevant frameworks/ capabilities.

# Assembling the Principles



# Primary Set of Indigenous Data Governance Principles



Indigenous Data  
Sovereignty  
(IDSov)

Indigenous  
Cultural &  
Intellectual  
Property  
(ICIP)

Free Prior &  
Informed  
Consent  
(FPIC)

Partnerships with  
First Nations  
Peoples

Building of  
First Nations  
Digital Related  
Capabilities

Transparency  
Pertaining to  
Data Assets

Building of  
Inclusive Data  
Systems



# Definitions of Initial Principles



PROTOCOL	DEFINITION
Indigenous Data Sovereignty (IDSov)	<b>The right of Indigenous peoples to exercise ownership over Indigenous data.</b> Ownership of data can be expressed through creation, collection, access, analysis, interpretation, management, dissemination and reuse of Indigenous data.
Indigenous Cultural and Intellectual Property (ICIP)	<b>Recognises the rights Indigenous peoples have to their cultural heritage, knowledges, cultural expressions, and data.</b> They are not freely available resources but are embedded within cultural protocols and collective ownership which is legally protected
Free, Prior and Informed Consent (FPIC)	<b>Requires that Indigenous peoples consent to the collection and use of data that affect them.</b> The principle recognises that Indigenous peoples have the right to give or withhold consent to activities affecting their lands, territories, resources, knowledges, and rights. Consent must be given voluntarily, before activities are initiated, and information about the consent must be provided in a comprehensible and accessible format.
Partnerships with First Nations Peoples	<b>Requires the local and relevant Aboriginal and Torres Strait communities and peoples involved in the Indigenous data being used are wholly collaborated with,</b> including the local and relevant First Nations communities, groups, organisations, representatives, individual participants, Traditional Owners, and the wider Indigenous community, <b>across the data lifecycle and ecosystem.</b> Importantly, written agreements (agreed upon protocols, memorandums of understanding, contracts) must be entered into with mechanisms for Indigenous peoples to resolve disputes and clarify the expectations and obligations of those involved.

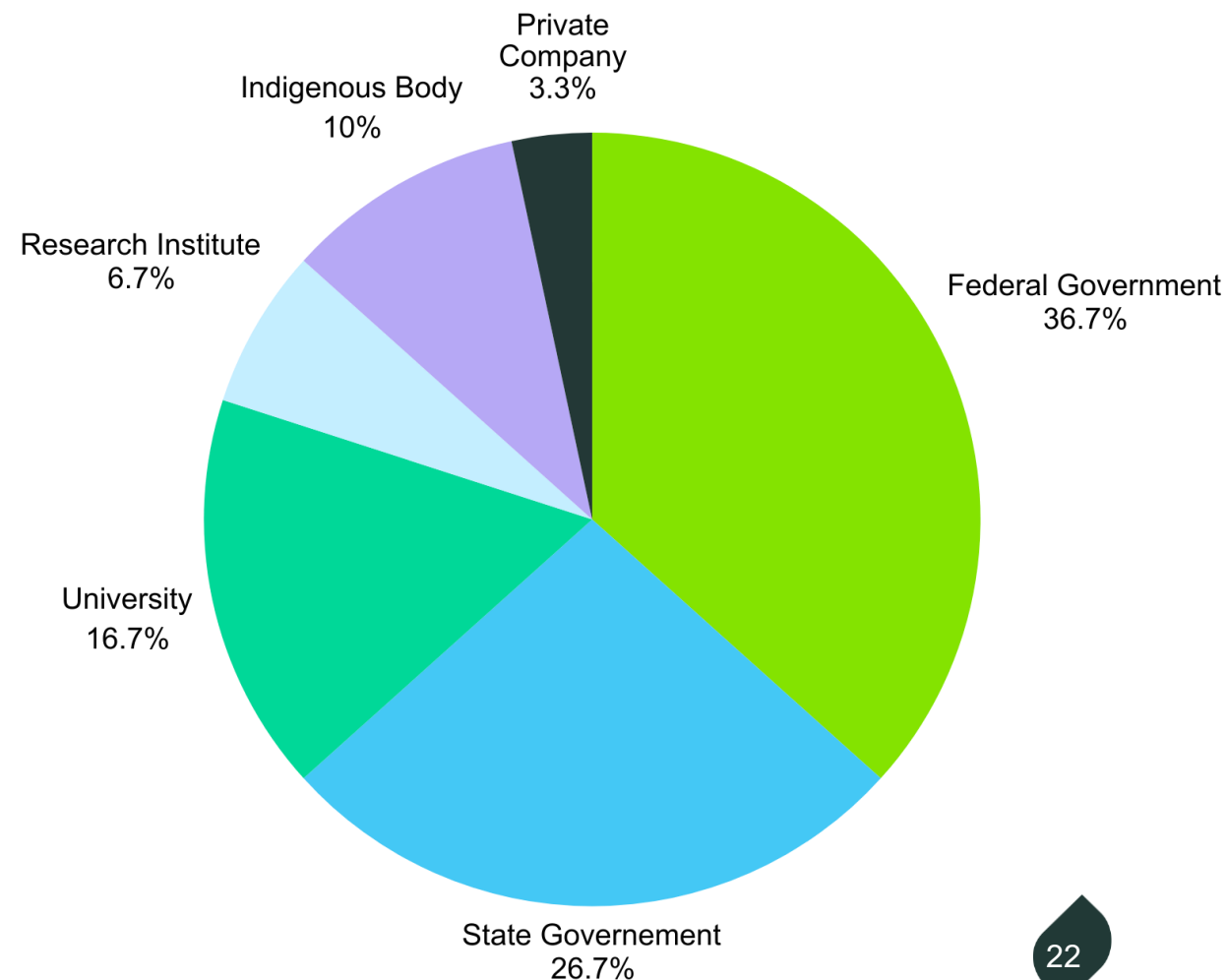
# Definitions of Initial Principles



PROTOCOL	DEFINITION
<b>Building of First Nations Digital Related Capabilities</b>	<b>Requires the funding, development, implementation, and updating of infrastructure alongside technical skills comprising data literacy, including data creation, collection, access, analysis, interpretation, dissemination, reuse, review and retirement.</b> Such infrastructure and skills need to be supported by competent understanding of how collections of Indigenous data have been rooted in deficit-based narratives and an understanding of the challenges in using existing aggregated datasets to make determinations about, on, or for Aboriginal and Torres Strait Islander communities and peoples.
<b>Transparency Pertaining to Data Assets</b>	<b>Includes the opportunity for the relevant Indigenous communities and peoples to assess the data collection, storage, and governance of Indigenous data, including confidentiality.</b> Importantly, this requires opportunities for the relevant Indigenous communities and peoples to engage in the development, design, collection, analysis, and reporting of data, including their involvement in the development of appropriate indicators and surveys that can be applied to their local contexts.
<b>Building of Inclusive Data Systems</b>	<b>Includes facilitating the infrastructure surrounding and the enhancement of digital literacy, ensuring equitable access for First Nations communities and peoples to digital infrastructure, and seeding digital-centric opportunities related to Indigenous data for relevant First Nations communities.</b> Fostering digital collaboration must include seeding project-specific opportunities so the relevant Indigenous communities and peoples can fully participate in the data process, benefit from the technology and digital services used, whilst preserving and enhancing their unique ways of knowing, being and doing.

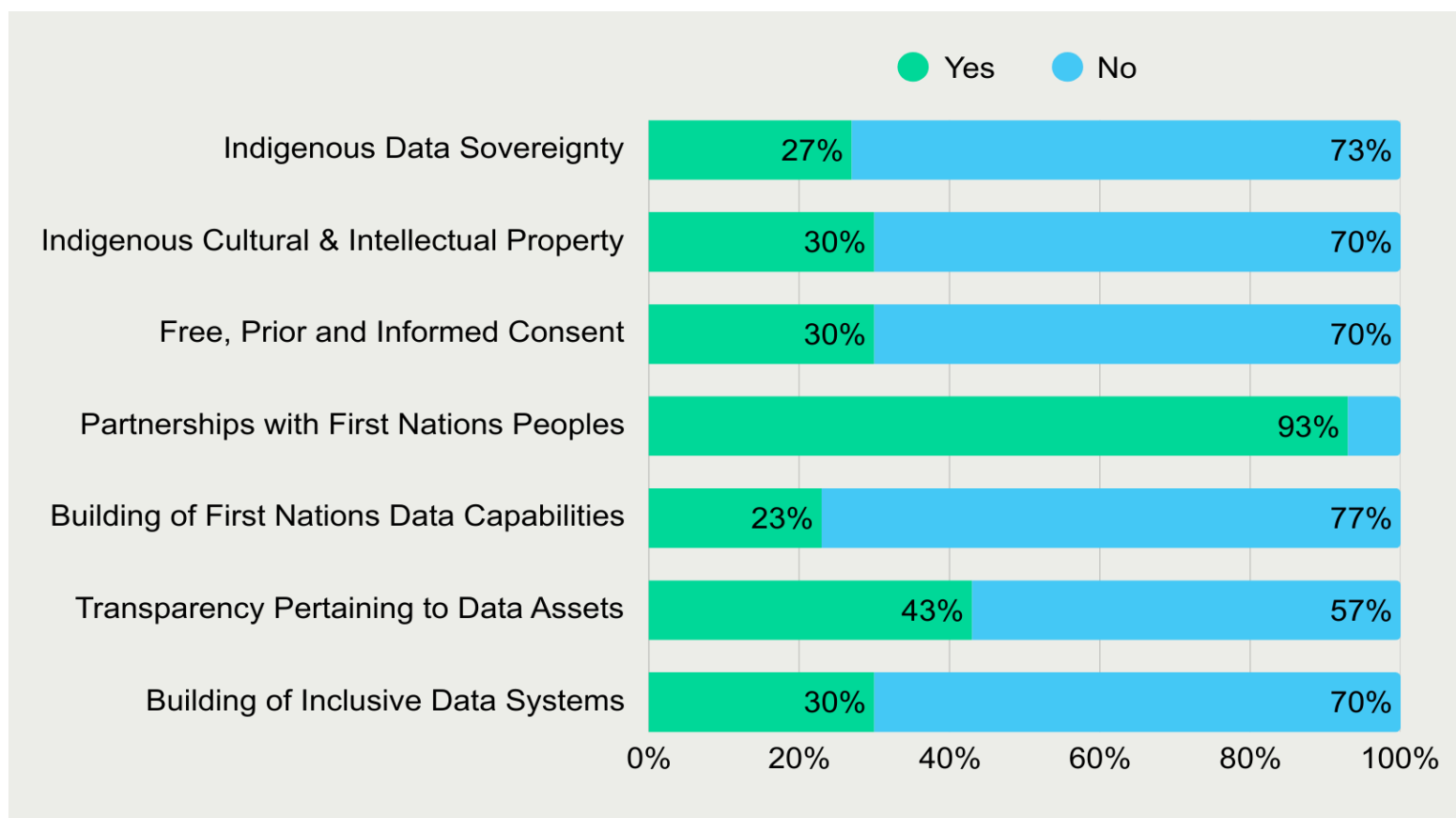
# 30 Entities Examined

Initially, we only examined publicly available and enforceable Indigenous Data Governance policies within organisations to critically assess alignment.



# IDG Alignment within Entities

Indication of entities with/without indicators of IDG within policies



Deep Dive into  
10 Entities - 20  
additional IDG  
principles  
identified



AIATSIS

## AIATSIS Code of Ethics for Aboriginal and Torres Strait Islander Research

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## Framework for Governance of Indigenous Data

Practical guidance for the Australian Public Service



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TJC - Aug 14 - 4 min read

## Keeping Our Data Strong: Upholding Indigenous Data Sovereignty Through Data Sharing Agreements

14 August 25  
By Dr Terri Janke

### Introduction

In our recent article *AI Got No Dreaming*, we explored how AI has the potential to both protect and endanger Indigenous Cultural and Intellectual Property (ICIP) and Indigenous Data Sovereignty. Now, we turn to one of the most effective safeguards: culturally grounded **Data Sharing Agreements**. These agreements play a crucial role in protecting Indigenous data — whether in the context of AI or the broader technological landscape.

Data Sharing Agreements are essential for managing and safeguarding Indigenous data, particularly at the point of collection, access, or sharing. They provide a legal framework that defines the conditions under which data is exchanged, ensuring clarity and respect for the rights of all parties involved.

In the context of Indigenous Data Sovereignty (IDSov) — which emphasises the right of Indigenous peoples to govern their data — these agreements take on profound cultural and political importance.



NHMRC

Ethical conduct in research with  
Aboriginal and Torres Strait Islander  
Peoples and communities: Guidelines  
for researchers and stakeholders

INDIGENOUS DATA  
SOVEREIGNTY  
EVERYWHERE...  
ALL THE TIME.

© Malen nanyi Wingers

## DISCOVERED INDICATORS

## COUNT

Self-determination / sovereignty

9

Indigenous leadership / governance

9

Trust/Spirit & Integrity / Respect, Reciprocity & Responsibility in relation to data

5

Accountability Measures

4

Accessible data through central dashboards

5

Access

4

Benefit Sharing

4

Proper attribution to Indigenous communities and peoples

2

Cultural and personal privacy respected and protected

2

Impact and value

1

Sustainability

1

Consistent data sharing agreements

1

ICIP management standardised

1

Contextual and disaggregated data

1

Respects and protects individual and collective interests

1

Explicit purpose and parameters of use

1

Duration and termination timeframes

1

Culturally appropriate dispute resolution

1

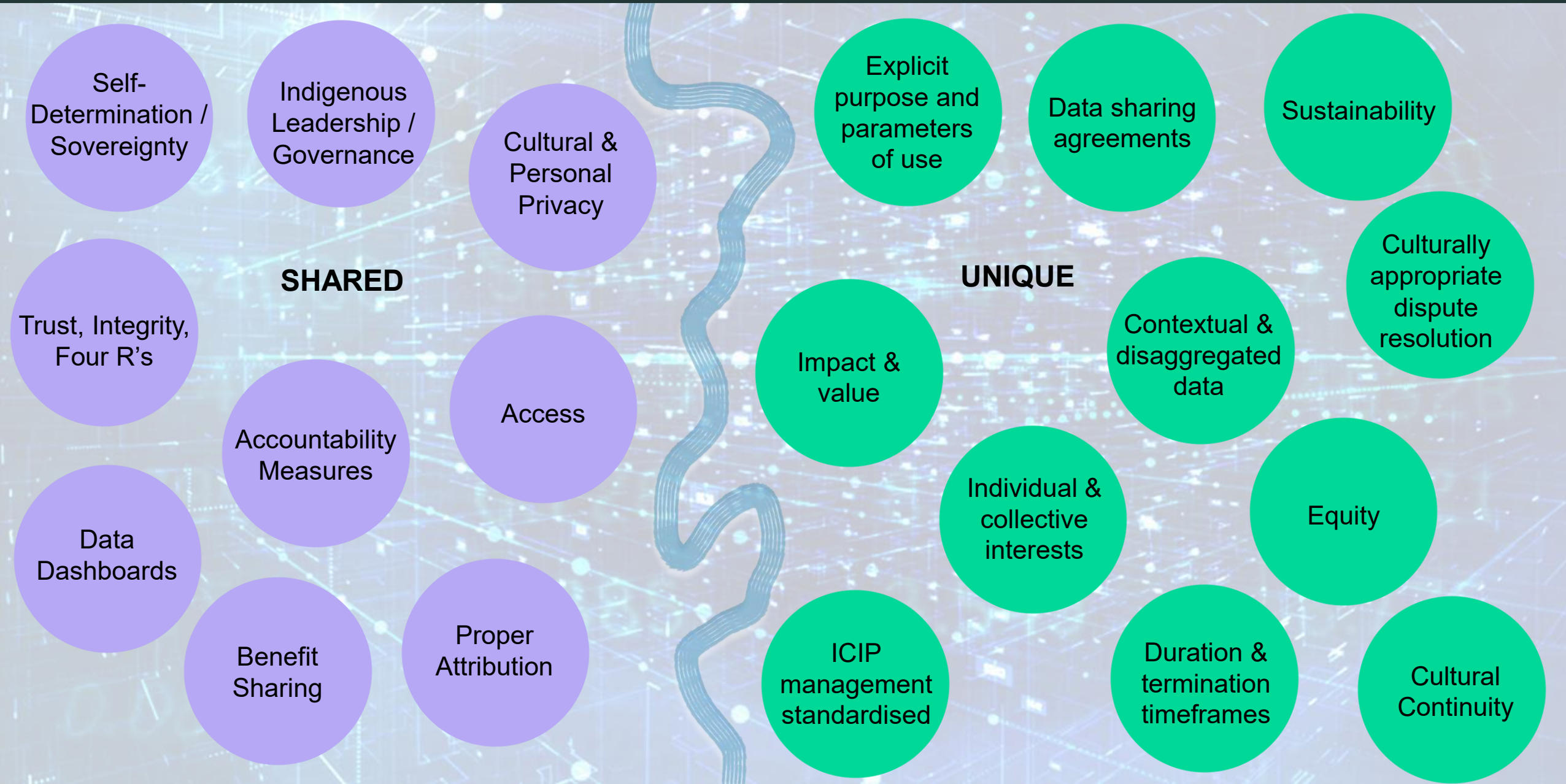
Cultural Continuity

1

Equity

1

# Additional Identified IDG Principles



# 27 Indigenous Data Governance Principles

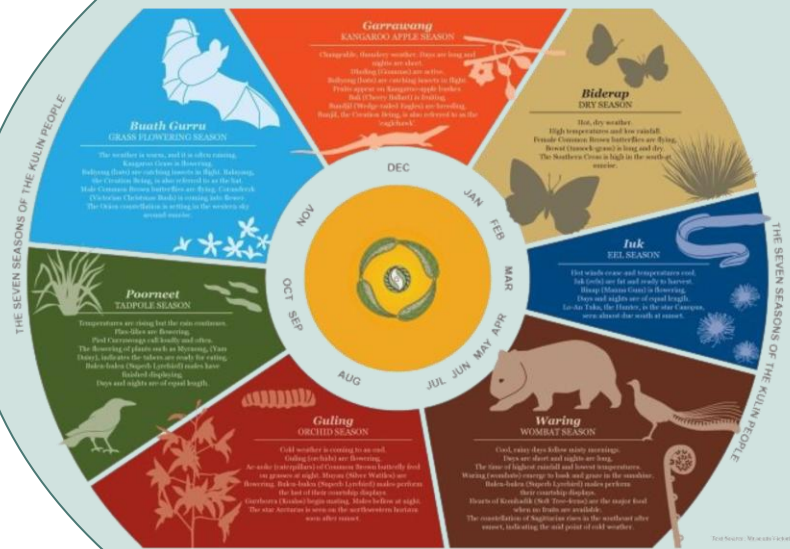


# IDG Principles Applied to Public Data



# Framing: Seasonal Flows in the Murray Darling Basin

## INDIGENOUS VIEWS OF SEASONS



SOURCE: <https://www.rsv.org.au/articles/seasons-in-the-sky?srsltid=AfmBOophfZP4qM3zaOzsRow4QpbuuiHv5UKE5C3ZUPYmcpIlnZcLrCr>

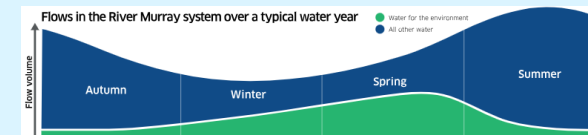
## CULTURAL INTERFACE (Nakata, 2007)

*“How do we embed Country — those living voices?”*

*“This all sits on Country, which already stores data... Country ‘stores the right data’.”*

FNAMAC Panelists

## WESTERN VIEWS OF SEASONS



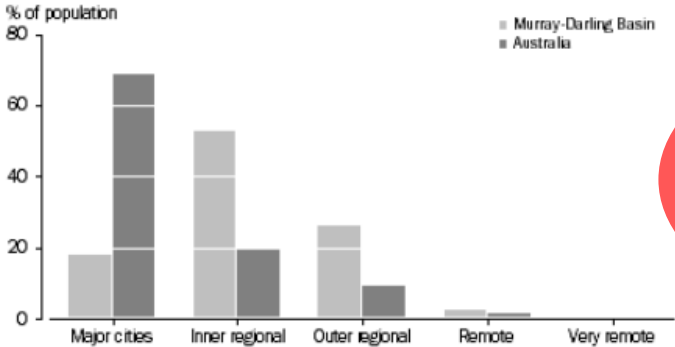
Autumn	Winter	Spring	Summer
<ul style="list-style-type: none"> <li>River operations focus on managing dam storage levels and river system for the following water year</li> <li>River flows are relatively stable</li> <li>Medium demand for consumptive use (irrigation, industry, communities)</li> <li>Water for the environment flows are low</li> <li>Dam storage levels decline</li> </ul>	<ul style="list-style-type: none"> <li>River operations focus on capturing inflows from tributaries and meeting early season demand*</li> <li>River flows are highly variable</li> <li>Lowest demand for consumptive water (irrigation, industry, communities)</li> <li>Water for the environment flows increase</li> <li>Dam storage levels increase</li> </ul>	<ul style="list-style-type: none"> <li>River operations aim to capture water inflows and manage dam storage levels for summer demand*</li> <li>Increasing demand for consumptive water (irrigation, industry, communities)</li> <li>River flows are highly variable</li> <li>Water for the environment flows are highest</li> <li>Dam storage levels increase due to higher inflows</li> </ul>	<ul style="list-style-type: none"> <li>River operations focus on managing water supply to meet large system demand*</li> <li>River flows are relatively stable</li> <li>Highest demand for consumptive water (irrigation, industry, communities)</li> <li>Water for the environment flows decrease</li> <li>Dam storage levels decline</li> </ul>

SOURCE: <https://www.mdba.gov.au/publications-and-data/data-and-dashboards/flows-river-murray-system>

# Example - Water & the MDB: A Statistical Profile (2001-2006)



2.4 Population, by remoteness area - Murray-Darling Basin and Australia - 2006



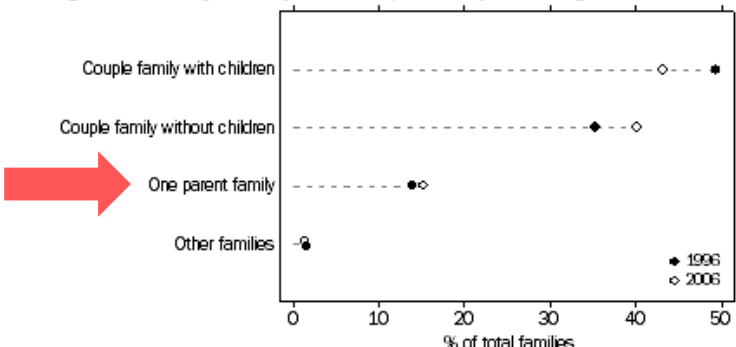
Source: ABS data available on request, ABS Census of Population and Housing, 2006

**WARNING**  
This data re-orientates Country into hierarchy



**WARNING** This data uses western notions of familial structures, erasing First Nations relationships, kinship systems, and ethics of caring

2.11 Change in family composition, Murray-Darling Basin-1996 and 2006



Source: ABS data available on request, ABS Census of Population and Housing, 2006

**WARNING**  
This data homogenises First Nations Peoples



2.1 Population characteristics - 2006

		Murray-Darling Basin					Australia
		NSW	Vic.	Qld	SA	ACT	Total MDB
Area covered(a) (km <sup>2</sup> )		597 926	129 761	259 313	69 216	2 354	1 058 549
Population density (persons/km <sup>2</sup> )		1.3	4.4	0.8	1.6	137.1	1.9
Indigenous status	Non-Indigenous						
	Number (no.)	695 330	543 120	198 500	104 510	304 510	1 845 970
	Percent (%)	89.6	94.3	91.3	93.1	94.2	92.1
	Indigenous						
	Number (no.)	45 650	8 670	8 870	2 500	3 850	69 530
	Percent (%)	5.9	1.5	4.1	2.2	1.2	3.5
Not stated	Number (no.)	34 670	24 190	9 940	5 290	14 970	89 050
	Percent (%)	4.5	4.2	4.6	4.7	4.6	4.4
Total Population(b) (no.)		775 640	575 980	217 310	112 300	323 330	2 004 560
State/territory population as a proportion of MDB population (%)		38.7	28.7	10.8	5.6	16.1	100.0

# Creation of a Diagnostic Tool



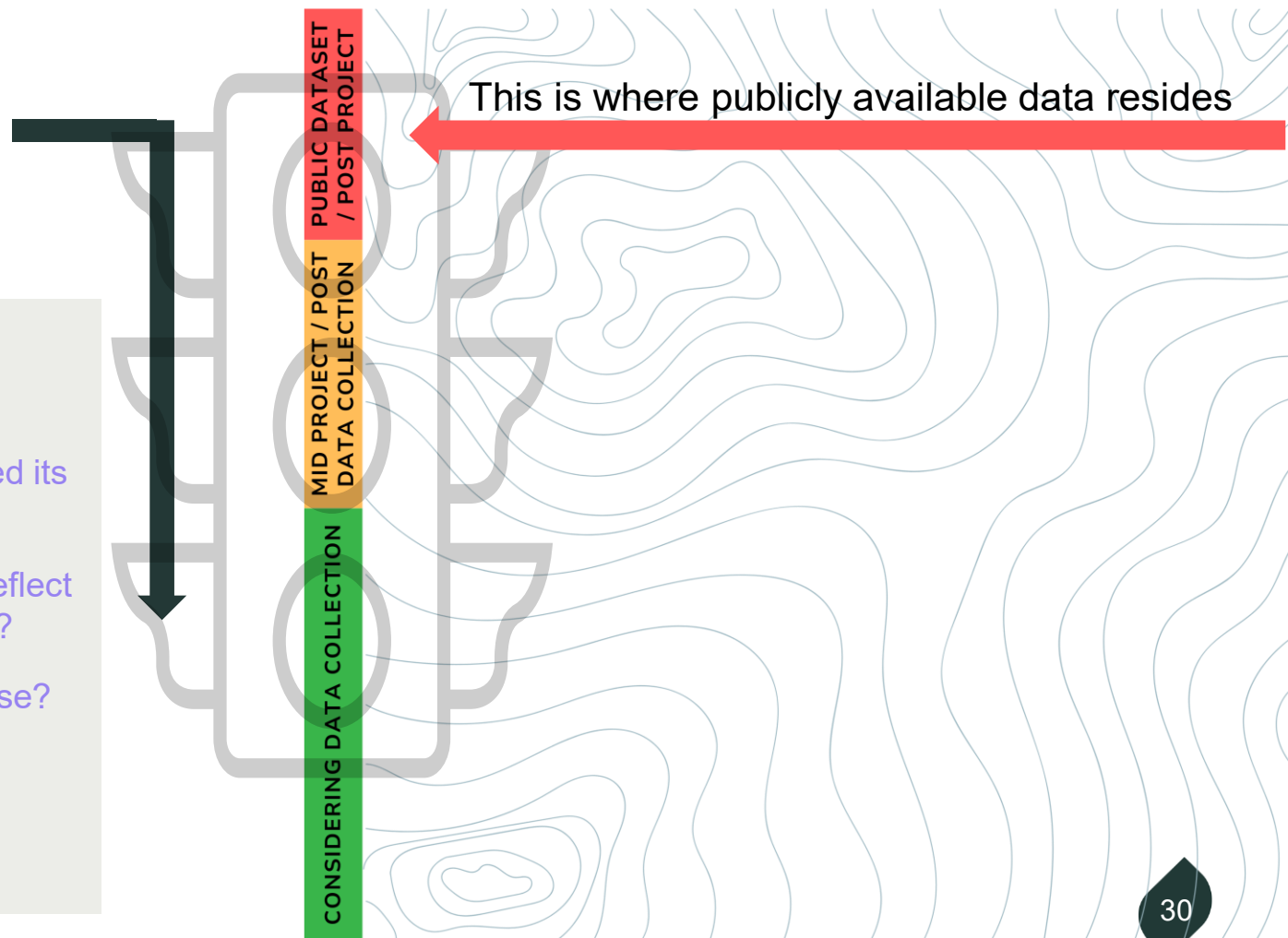
## NOTE

This tool was designed for a specific project

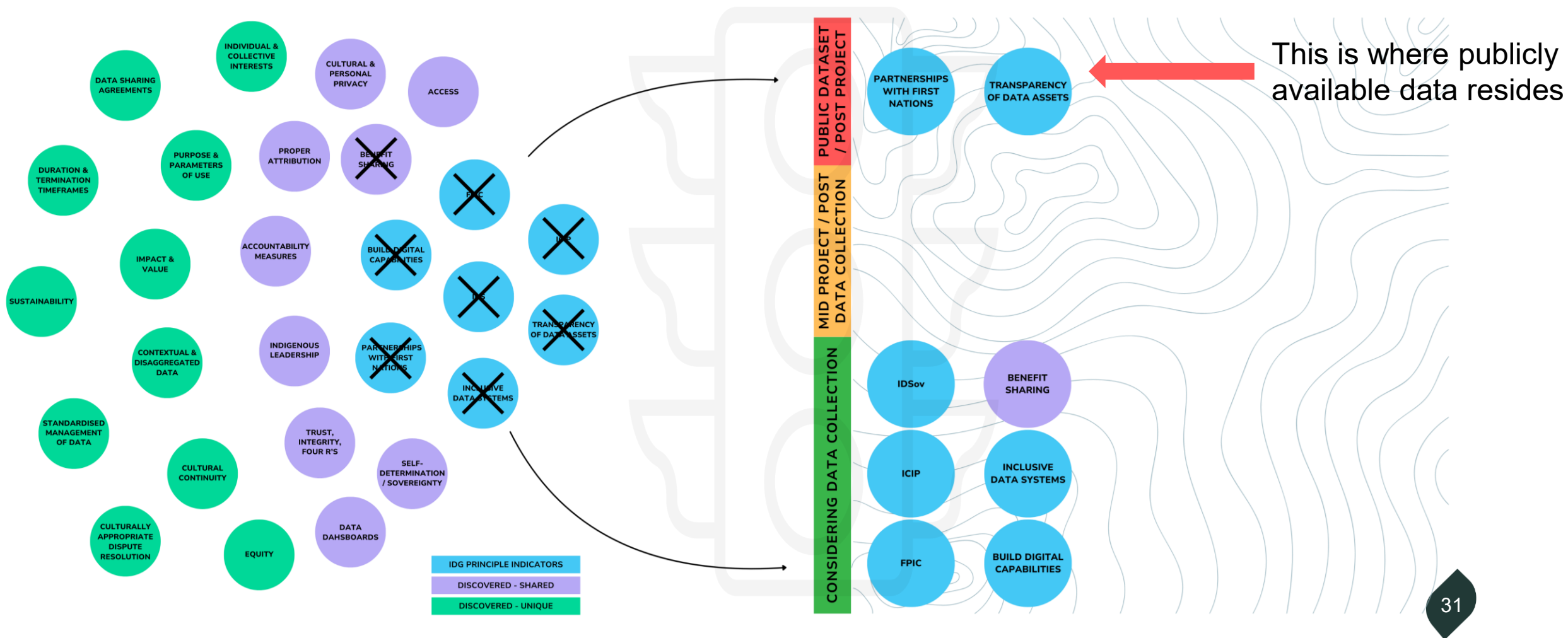
Working from the top down, when is the soonest each principle can be applied through the stages

## Types of Questions to Consider

- How self-determined is this data?
- What mechanisms of cultural authority informed its collection?
- Does the dataset allow for disaggregation to reflect specific peoples, Nations, or language groups?
- Who is accessing the data and for what purpose?
- Do community want this data accessed?
- Is there measurable community benefit from collection and analysis of this data?



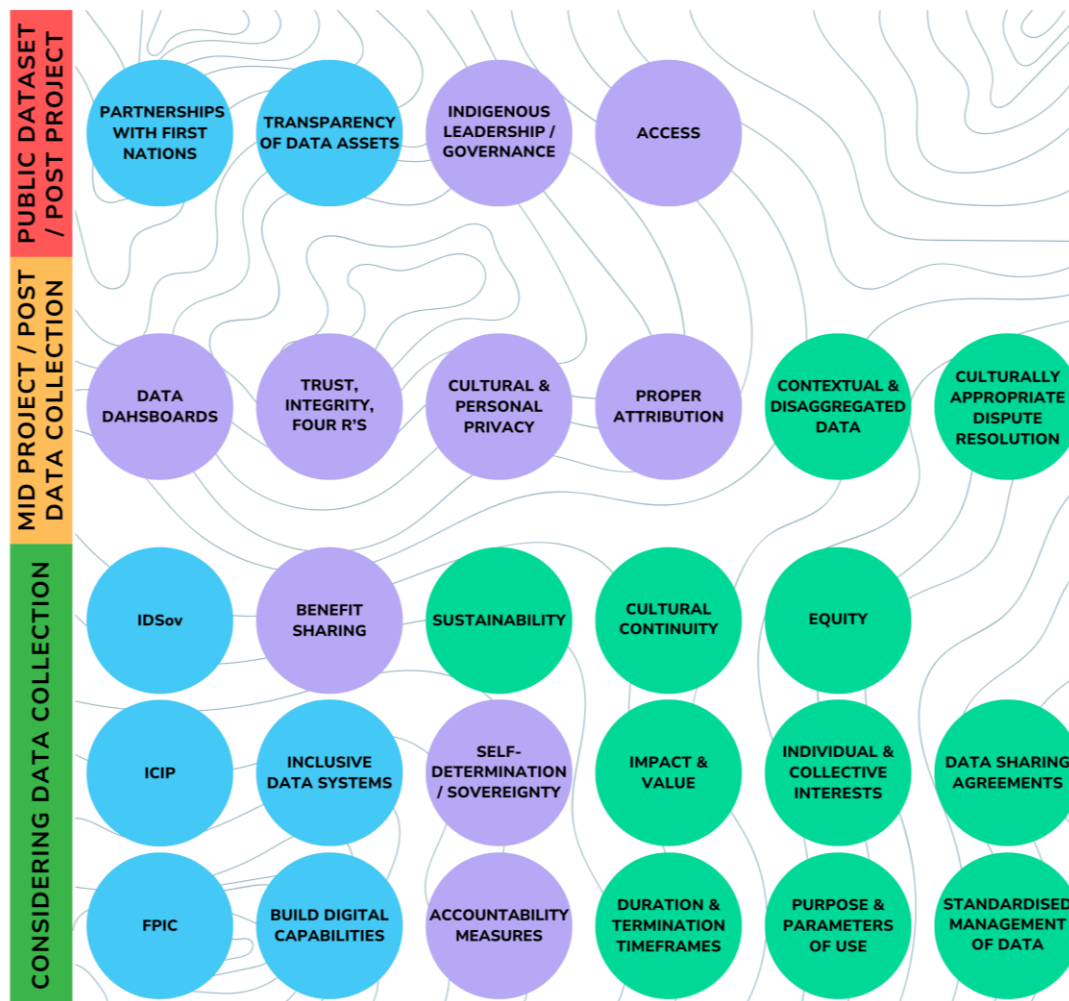
# Creation of a Diagnostic Tool



# Diagnostic Tool

## NOTE

This tool was designed for a specific project



This configuration resulted from questions related to a specific dataset

# Public Data - Red Tier



## NOTE

This tool was designed for a specific project

Only four of the Principles were able to be applied **partially** at this stage.



*This now relates to interpretation and use of the data, as consultation did not happen prior to collection*

PROTOCOL	DEFINITION
Partnerships with First Nations Peoples	Requires the local and relevant Aboriginal and Torres Strait communities and peoples involved in the Indigenous data being used are <b>wholly collaborated with</b> , including the local and relevant First Nations communities, groups, organisations, representatives, individual participants, Traditional Owners, and the wider Indigenous community, <b>across the data lifecycle and ecosystem</b> . <u>Importantly, written agreements (agreed upon protocols, memorandums of understanding, contracts) must be entered into with mechanisms for Indigenous peoples to resolve disputes and clarify the expectations and obligations of those involved.</u>

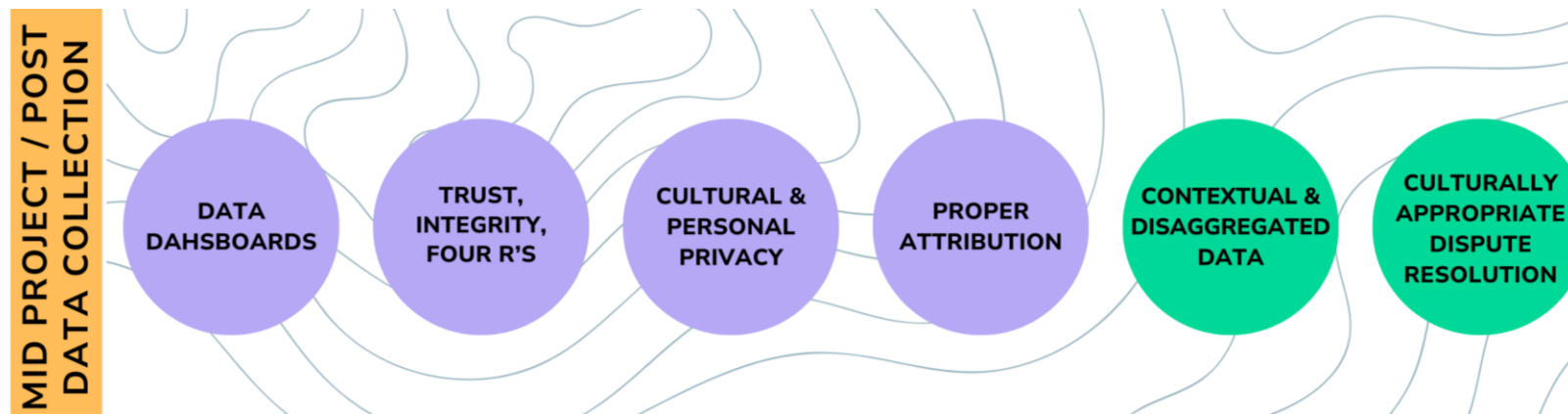
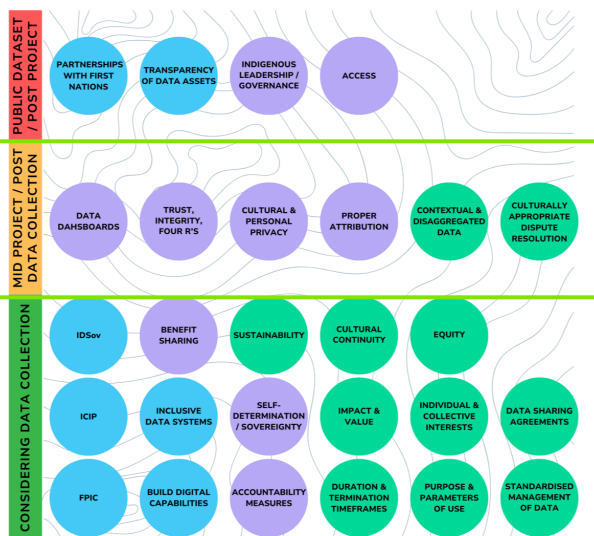
# Orange Tier

## NOTE

This tool was designed for a specific project

Principles can still guide the ethical use, analysis, and interpretation of the data, ensuring that benefit-sharing, attribution, and cultural safeguards are maintained.

*Principles applied in the red tier are also applied here.*



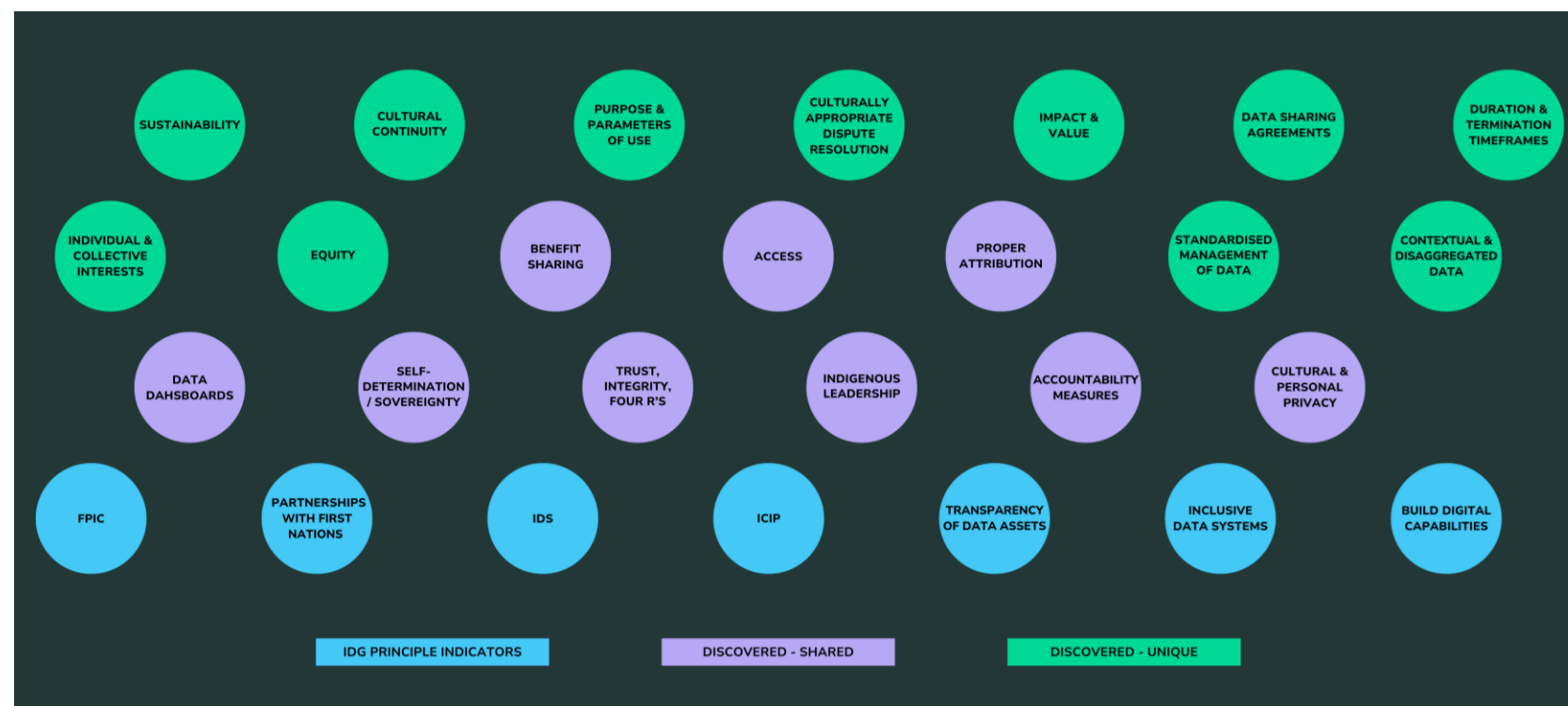
# Green Tier

## NOTE

This tool was designed for a specific project

This is the critical moment for embedding ethical and culturally grounded practices.

*At this stage, all 27 Principles can & should be integrated into the design & governance of data* →



# Organisation-level Considerations



Broad, holistic definitions of Indigenous Data, integrating IDS & ICIP + all dimensions of First Nations community level descriptors (e.g., social, economic, cultural, spiritual, ecological, hydrological, etc.).



Self-determination/sovereignty over entire data lifecycle and governance, with mandated accountability and oversight measures.



First Nations FPIC, agency, and capacity building from project inception to data collection, publication, and beyond.



Data must be contextual, disaggregated, and culturally responsive to the distinct needs of First Nations individuals, and communities.

# Preliminary Questions from Registration



1. A lot of data collected as part of a previous Aboriginal Water Program. However, we were not able to use any of it for a renewed Aboriginal Water Program. IP rights being the reason given, how do we ensure data...
2. Detailed examples of how to store ICIP privately on an organisation's database/cloud system?
3. Will be interesting to see how this applies to Heritage places. Mens/Womans areas etc.

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# Thank you

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