



# Access and benefit sharing with Aboriginal and Torres Strait Islander People

## Briefing Paper No. 9

### Plain language material

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Aboriginal and Torres Strait Islander people may wish to share with the wider community their knowledge of, and practices with regard to plants and animals, and the properties and uses of these, such as for medicinal or cosmetic purposes.

There is increasing interest from scientists, government, industry and other sectors in developing commercial products based on Aboriginal and Torres Strait Islander knowledge, or incorporating Aboriginal and Torres Strait Islander knowledge into commercial products and processes.

In 1999, the Australian Government introduced a new law for protecting and managing Australia's environment and biodiversity. The *Environment Protection and Biodiversity Conservation Act 1999* provides for the regulation of access to biological resources on Commonwealth lands. The Act (the 'EPBC Act') also includes (in Regulation 301) provision for the development of contracts with Aboriginal and Torres Strait Islander people over use of their traditional knowledge.

The EPBC Act is, in part, the Australian Government's response to its obligations to implement the United Nations Convention on Biological Diversity (the CBD) in Australia. The CBD requires countries that have signed it (such as Australia) to develop measures to preserve and maintain Aboriginal and Torres Strait Islander knowledge related to biological diversity, and to develop measures so that the holders of Aboriginal and Torres Strait Islander knowledge can receive fair and equitable benefits if their knowledge is used by the wider community.

These laws are important for Aboriginal and Torres Strait Islander people to know about, and to understand. If you or your community or group are involved in discussions in regard to actual, or potential uses of plants, animals, or knowledge related to these, with companies, governments, research organisations or others, then you will need to make sure that you negotiate agreements to receive an equal share of any profits that may result from the commercial uses of your knowledge.

Good benefit-sharing agreements should include at least the following:

- They should be negotiated on 'mutually agreed terms'

- They should uphold the rights of Aboriginal and Torres Strait Islander people to their cultural and intellectual property
- They should be negotiated on the basis of free, prior informed consent with the knowledge holders
- They should include provisions for the holders of Aboriginal and Torres Strait Islander knowledge to receive fair and equitable shares in all profits, and to be compensated for the use of their knowledge and associated practices.

See also the [Aboriginal and Torres Strait Islander Research Engagement Protocol](#) for a practical guide to the broader aspects of benefit sharing. An example is that payment may be made for work undertaken, and lifts may be provided for family and friends as vehicles are a valuable resource in remote areas. See also [Standard rates of pay for Aboriginal and Torres Strait Islander Workers in Research](#).

### **Selected references**

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