

THE AUSTRALIAN NATIONAL UNIVERSITY

National Centre for Indigenous Genomics Statute 2021

Background and purpose

- 1 The University held, in the John Curtin School of Medical Research, at the commencement of the earlier statute a collection of biological samples that were obtained from Indigenous people for scientific research from the 1960s until the early 1990s. The collection includes documents and data relating to the samples.
- 2 In recognition of the collection's immense cultural, historical and scientific importance, the University is committed to ensuring:
 - (a) that the collection is held and added to under appropriate Indigenous custodianship; and
 - (b) that there is proper engagement with Indigenous people and communities from which the samples and records were collected about any use of the collection for research; and
 - (c) that appropriate consents are obtained for any research using material in the collection.
- 3 The Council's purpose in making this instrument is to continue, with minor change, the framework previously established to ensure Indigenous governance of, and the application of best practice for, the conduct of any research using material in the collection.

The Council of the University, therefore, makes the following statute.

Dated 11 February 2021

The Hon Julie Bishop

Chancellor

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Part 1—Preliminary

1 Name

This is the *National Centre for Indigenous Genomics Statute 2021*.

2 Commencement

This instrument commences on the day after it is registered.

3 Authority

This instrument is made under the *Australian National University Act 1991*, section 50 (Statutes).

4 Definitions

In this instrument:

Board means the Board of the Centre.

Centre means the National Centre for Indigenous Genomics established by this instrument.

Collection means the National Indigenous Genomics Collection.

Director means the Director of the Centre.

earlier statute means the *National Centre for Indigenous Genomics Statute 2016*.

member means a member of the Board, and includes the Chair and Deputy Chair of the Board.

[Note: For definitions applying to University legislation generally, see the dictionary in the Legislation Statute. That dictionary defines terms relevant to this instrument, including the following:

- establish
- exercise
- function
- University legislation (see section 6).]

Part 2—National Indigenous Genomics Collection

5 The Collection

The National Indigenous Genomics Collection consists of:

- (a) the material known as the ‘Indigenous Collection’ that formed part of the ‘ANU Geographical Human Sample Collection’ held in the John Curtin School of Medical Research at the commencement of the earlier statute, including all biological samples, associated documents and data that were part of the ‘Indigenous Collection’ at the commencement of that statute; and
- (b) any of the following additional material added to the Collection by the Centre after the commencement of that statute:
 - (i) biological samples collected from Indigenous people;
 - (ii) associated documents, including donor and other records relating to the samples;
 - (iii) data derived from the samples and associated documents;
 - (iv) other genomic data collected from Indigenous people.

Part 3—National Centre for Indigenous Genomics

6 Establishment of Centre

The National Centre for Indigenous Genomics is established as a body within the University.

7 Functions of Centre

The Centre has the following functions:

- (a) to hold the Collection, and add to it, in accordance with international standards;
- (b) to engage with Indigenous communities, organisations and people in relation to the Collection, particularly those associated with material in the Collection;
- (c) to promote the use of the Collection, including by engaging with researchers and research institutions outside the University;
- (d) to support research using the Collection;
- (e) to do anything incidental or conducive to the exercise of any of its other functions.

8 Centre to comply with Commonwealth laws, University legislation etc.

To remove any doubt, the Centre must comply with:

- (a) Commonwealth laws that apply to the University; and
- (b) University legislation and policies.

[Note: The *Public Governance, Performance and Accountability Act 2013* has, for example, provisions about audit and bank accounts that apply to the University.]

9 Director of Centre

- (1) The Centre is to have a Director, who is to be a member of staff of the University.
- (2) The Vice-Chancellor must, by written instrument, appoint a person as the Director, after seeking the Board's advice.
- (3) A member of the Board cannot be appointed as the Director.
- (4) The Director is responsible for:
 - (a) supporting the Board as the custodian of the Collection and in the exercise of its other functions under this instrument; and
 - (b) managing the operations of the Centre in accordance with:
 - (i) Commonwealth laws that apply to the University; and
 - (ii) University legislation and policies; and
 - (iii) the operational plan prepared and varied, from time to time, by the Board; and
 - (iv) policies approved by the Board in relation to the Collection.
- (5) Without limiting subsection (4)(a), the Director must:
 - (a) provide the Board with the reports that it requires on the Centre's operations; and
 - (b) provide the Board with the assistance that it requires as the custodian of the Collection and for the exercise of its other functions under this instrument; and

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- (c) ensure that the Board has sufficient timely information to enable it to prepare its annual reports and operational plans.
 - (6) If the Director loses the confidence of the Board, the Board may ask the Vice-Chancellor to end the Director's appointment.

Part 4—Board of Centre

Division 4.1—Establishment, role and functions of Board

10 Establishment of Board

The Board of the Centre is established.

11 Delegation of custodianship of collection to Board

- (1) The Council delegates the custodianship of the Collection to the Board.
- (2) The Board must exercise its custodianship in accordance with this instrument.

12 Functions of Board

- (1) The primary function of the Board is to be the custodian of the Collection.
- (2) As custodian of the Collection, the Board is responsible for the management and use of the Collection, and for the appropriate addition of material to the Collection, in accordance with international standards.
- (3) Without limiting subsection (1), the Board has the following functions:
 - (a) to oversee the operations of the Centre;
 - (b) to approve policies for the following:
 - (i) the management and use of the Collection, including, for example, policies to ensure the ethical, transparent use of the Collection;
 - (ii) the addition of material to the Collection;
 - (iii) the engagement of the Centre with Indigenous communities, organisations and people in relation to the Collection;
 - (c) to provide advice to the Council and Vice-Chancellor about the Collection;
 - (d) to promote the Collection as a national and international resource;
 - (e) to seek funding for the purposes of the Centre, including for research and community engagement;
 - (f) to encourage the Centre to promote the use of the Collection, including by engaging with researchers and research institutions outside the University;
 - (g) to exercise any other function given to it under this instrument;
 - (h) to do anything incidental or conducive to the exercise of any of its other functions.

Division 4.2—Board members

13 Appointment of members

- (1) The Board is to consist of following members appointed, by written instrument, by the Vice-Chancellor:
 - (a) 8 members appointed as recommended members;
 - (b) 2 other members.
- (2) A member of the Board may be appointed for a term of no longer than 4 years.

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- (3) A member of the Board may be reappointed. However, a member may not hold office for longer than 8 consecutive years.
 - (4) A person must not be appointed as a member if the person is:
 - (a) a member of the Commonwealth Parliament, a State Parliament or the legislature of a Territory; or
 - (b) disqualified from managing corporations under the *Corporations Act 2001*, Part 2D.6.

[Note: Part 2D.6 provides for automatic periods of disqualification on conviction for certain kinds of offences, bankruptcy and personal insolvency, and disqualification under foreign law. The Part also provides for disqualification orders by courts and ASIC in certain circumstances (e.g. for contravention of certain penalty provisions).]
 - (5) The Board must at all times have a majority of members who are recognised as Indigenous persons.
 - (6) A person must be appointed as a recommended member on the recommendation of the Board.
 - (7) In recommending and making appointments to the Board, the Board and the Vice-Chancellor must have regard to the need for the members to have between them sufficient expertise and experience for the Board to properly exercise its functions, including expertise and experience in the following:
 - (a) the culture and values of Indigenous peoples;
 - (b) research into human biological material;
 - (c) community engagement, especially with Indigenous communities;
 - (d) corporate governance;
 - (e) accessing Commonwealth, State and Territory programs and funding sources;
 - (f) the ethical conduct of research involving Indigenous people.

14 Chair and Deputy Chair of Board

- (1) The members of the Board must, from time to time, elect a member as the Chair of the Board and another member as the Deputy Chair of the Board.
- (2) The Chair must be an Indigenous person.
- (3) If the Chair is for any reason unable to call or preside at a meeting or otherwise perform the functions of the Chair, the Deputy Chair is to act as the Chair.

[Note: The Acts Interpretation Act has provisions applying to acting arrangements (see section 33A(2) and (3)).]

15 Remuneration etc. of members

A member is not entitled to remuneration as a member, but may be reimbursed for any reasonable expenses incurred in carrying out the duties of a member.

16 Resignation of members

A member may resign by written notice given to the Vice-Chancellor.

17 Duty of members to disclose interests

Application of section

- (1) This section applies if a member has a material personal interest that relates to the affairs of the Centre.

Disclosure of interest

- (2) The member must disclose details of the interest, orally or in writing, to each other member.
- (3) The disclosure must include details of:
 - (a) the nature and extent of the interest; and
 - (b) how the interest relates to the affairs of the Centre.
- (4) The member must make a disclosure at a meeting of the Board:
 - (a) as soon as practicable after the member becomes aware of the interest; and
 - (b) if there is a change in the nature or extent of the interest after the member discloses the interest under this section—as soon as practicable after the member becomes aware of the change.
- (5) The member must ensure that a disclosure is recorded in the minutes of the meeting.

Consequences of having interest

- (6) If a matter in which the member has an interest is being considered by the Board, the member must not:
 - (a) be present while the matter is being considered at a meeting; or
 - (b) vote on the matter.
- (7) However, if the members of the Board who do not have a material personal interest in the matter have decided that the member is not disqualified from being present or voting (or both), and the decision is recorded in the minutes of a meeting of the Board, the member may be present or vote (or both) in accordance with the decision.

18 Termination of appointment of members

The Vice-Chancellor must terminate the appointment of a member if:

- (a) the member is absent, except on leave of absence given by the Board, from 3 consecutive meetings of the Board; or
- (b) the member becomes a member of the Commonwealth Parliament, a State Parliament or the legislature of a Territory; or
- (c) the member is or becomes disqualified from managing corporations under the *Corporations Act 2001*, Part 2D.6; or
- (d) the member contravenes section 17 (Duty of members to disclose interests); or
- (e) the member is or becomes incapable (other than on a temporary basis) of carrying out the member's duties as a member; or
- (f) the member is appointed as the Director.

Division 4.3—Annual reports and operational plans

19 Annual reports

- (1) After the end of each calendar year, the Board must prepare and give an annual report to the Vice-Chancellor, for presentation to the Council, on the activities of the Centre and the Board during the year (the *report year*).
- (2) The report must be given to the Vice-Chancellor by 1 March after the end of the report year or any further period that the Vice-Chancellor allows in writing.
- (3) The annual report must comply with any requirements notified, in writing, by the Vice-Chancellor to the Board during the report year.
- (4) Without limiting subsection (3), the annual report for the report year must include the following:
 - (a) a list of the present and immediately past members of the Board;
 - (b) the dates of the Board meetings held during the report year;
 - (c) information about the status of research projects undertaken, in whole or part, during the report year using material in the Collection;
 - (d) information about any collaborations or significant partnerships during the report year involving the Centre or the Board;
 - (e) an assessment of the current condition of the Collection;
 - (f) information about the engagement during the report year of the Centre and the Board with Indigenous sample donors and their descendants and communities;
 - (g) a projection of what is intended to be achieved by the Centre and the Board during the next year;
 - (h) the Board's comments on any audit report during the report year relating to the Centre or the Board.

20 Operational plans

- (1) Before the end of each calendar year, the Board must prepare and give an operational plan to the Vice-Chancellor on the proposed activities of the Centre and the Board during the next year (the *plan year*).
- (2) The operational plan for the plan year must include the following:
 - (a) projected revenue and expenses for the Centre and the Board for at least the plan year;
 - (b) any anticipated changes to the staff of the Centre (including the Director) during the plan year;
 - (c) research projects intended to be undertaken, in whole or part, during the plan year using material in the Collection;
 - (d) information about the status of those projects;
 - (e) community engagement activities intended to be undertaken by the Centre and the Board, in whole or part, during the plan year;
 - (f) information about the status of those activities.
- (3) The Board may, at the Vice-Chancellor's request or on its own initiative, vary the operational plan to reflect changes in the funding available for the activities of the Centre and the Board.

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- (4) If the Board varies the operational plan, the Board must give a copy of the varied plan to the Vice-Chancellor.

Division 4.4—Board proceedings

21 Calling Board meetings

- (1) The Board must meet at least 4 times a year.
- (2) The Chair is to call meetings of the Board.
- (3) The Chair must call a meeting if asked by at least 5 members.

22 Presiding at Board meetings

- (1) The Chair of the Board presides at all meetings at which the Chair is present.

[Note: If the Chair is absent from a meeting but the Deputy Chair is present, the Deputy Chair acts as the Chair and presides at the meeting (see section 14(3) (Chair and Deputy Chair of Board)).]

- (2) If the Chair and Deputy Chair are absent, the member chosen by the members present presides.

23 Other provisions about Board proceedings

- (1) Business may be carried out at a meeting of the Board only if:
 - (a) a majority of the members appointed for the time being are present; and
 - (b) a majority of the members present are Indigenous persons.
- (2) At a meeting, each member has a deliberative vote and the member presiding has a casting vote.
- (3) A member may vote on a resolution at a meeting by email or in writing if notice of the resolution is given, and the member votes, under procedures decided by the Board.
- (4) If a member votes under subsection (3) on a resolution at a meeting, the member is taken, for the purposes of the application of subsection (1) to the resolution, to have been present at the meeting.
- (5) A resolution of the Board is a valid resolution, even though it was not passed at a meeting of the Board, if:
 - (a) a majority of the members appointed for the time being agree, in writing, to the proposed resolution; and
 - (b) a majority of the members who agree are Indigenous persons; and
 - (c) notice of the resolution is given under procedures decided by the Board.
- (6) The Board must keep a record of its proceedings.
- (7) The Board may conduct its proceedings (including its meetings) as it otherwise considers appropriate.

[Note: Under the Acts Interpretation Act, section 33B the Board may permit members to participate in meetings by telephone, close-circuit television or any other means of communication.]

24 Delegation by Board

- (1) The Board may, in writing, delegate any or all of its functions under this instrument to a committee consisting of members or members and other persons.
- (2) However, the Board may not delegate any of its functions to the Director or to a committee of which the Director is a member.

Division 4.5—Secretary

25 Secretary to Board

- (1) The Vice-Chancellor may, by written instrument, appoint a person as the Secretary to the Board.
- (2) The Secretary is to assist the Board to maintain a record of its proceedings.

Part 5—Repeal and transitional provisions

Division 5.1—Repeal

26 Repeal

The *National Centre for Indigenous Genomics Statute 2016* is repealed.

Division 5.2—Transitional provisions

27 Transitional: existing delegations by Vice Chancellor

- (1) This section applies to a delegation by the Vice-Chancellor that was in force, immediately before the commencement of this section, under the *National Centre for Indigenous Genomics Statute 2016*, section 26 (Delegation by Vice-Chancellor).
- (2) The delegation continues in force (and may be dealt with) as if it were a delegation made under the Governance Statute, section 66 (Delegation and subdelegation of Vice-Chancellor's functions).

28 Application of Legislation Statute, section 26

- (1) The Legislation Statute, section 26 (Repeal of University legislation) applies to the repeal of the *National Centre for Indigenous Genomics Statute 2016*.
- (2) For the Legislation Statute, section 26 the provisions of this Division are transitional provisions.

29 Transitional provisions additional

This Division is additional to, and does not limit:

- (a) the Legislation Statute, section 26 (Repeal of University legislation); or
- (b) the Acts Interpretation Act, section 7 (Effect of repeal or amendment of Act), as applied by the Legislation Act, section 13(1)(a) (Construction of legislative instruments and notifiable instruments).