

# Ownership, Control, Access & Possession (OCAP®)

## INTRODUCING OCAP® TO CULTURAL HERITAGE IN AUSTRALIA

The principles of Ownership, Control and Access were established in 1998 as part of a brainstorming session of the National Steering Committee of the First Nations and Inuit Regional Longitudinal Health Survey. The principle of Possession was later added as it was recognised as the piece of the puzzle that holds Ownership, Control and Access together. The principles of OCAP® were implemented in response to First Nations concerns of the management of information and data collected as part of the mandatory health survey held every 4 years (FNIGC 2022).

The First Nations Information Governance Centre (FNIGC) was established in 2010 and works to assist First Nations in Canada with research, training, capacity building, and implementation of the principles of OCAP®. An aim of the FNIGC has been to establish standards on how First Nations data should be collected, protected, used, and shared (FNIGC 2022).

### AUTHOR

Samantha Fidge, Department of Transport  
Eastern Maar Aboriginal Corporation (EMAC)



### OWNERSHIP

The notion of ownership refers to the relationship of a First Nations community to its cultural knowledge, data, and information. The principle states that a community or group owns information collectively in the same way that an individual owns their personal information.



### CONTROL

The principle of 'control' asserts that First Nations people, their communities and representative bodies must control how information about them is collected, used, and disclosed. The element of control extends to all aspects of information management, from collection of data to the use, disclosure, and ultimate destruction of data.



### ACCESS

First Nations must have access to information and data about themselves and their communities, regardless of where it is held. The principle also refers to the right of First Nations communities and organizations to manage and make decisions regarding who can access their collective information.



### POSSESSION

While ownership identifies the relationship between a people and their data, possession reflects the state of stewardship of data. First Nation possession puts data within First Nation jurisdiction and therefore, within First Nation control. Possession is the mechanism to assert and protect ownership and control.

The descriptions of the principles of OCAP® have been provided by the FNIGC (FNIGC 2022)

## CAN OCAP® BE APPLIED TO OTHER INDIGENOUS COMMUNITIES

The FNIGC states that OCAP® is an expression of First Nations jurisdiction over information about their communities and members. As such OCAP® is a set of specifically First Nations – not worldwide Indigenous principles, although many of the principles do overlap (FNIGC 2022). OCAP® is not a four-stage checklist, the principles need to be understood in the context of the First Nations' actions, priorities, rights, and values. This process involves understanding and respecting the communities' structures, values, history, and expectations. The Assembly of First Nations (2009) affirms that the crucial aspect of the implementation of OCAP® is to understand that each community determines how each principle is interpreted and actioned. Researchers are expected to anticipate that each community will have a different set of guidelines that must be respected and applied to their research practices.

## COULD OCAP® BE APPLIED TO CULTURAL HERITAGE IN VICTORIA?

As part of my Masters of Archaeology and Heritage Management (Flinders University) in collaboration with EMAC, I examined if the principles of OCAP® can be adapted by the Registered Aboriginal Party (RAP) to the cultural heritage management plan (CHMP) process to support EMAC and their actions for self-determination.

In Victoria, a CHMP is completed as part of the statutory approval process under Part 4 of the Victorian Aboriginal Heritage Act (VAHA) 2006 and the Regulations 2018. The CHMP is completed by a Sponsor undertaking a high-impact activity as prescribed by the Regulations, who contracts a Heritage Advisor to undertake the CHMP and archaeological investigation. As part of this process, the Sponsor is required to consult with the RAP about heritage management. The RAP is the guardian, keeper, and knowledge holder of Aboriginal cultural heritage within their determined boundary (Kurpiel 2021:95). A CHMP process generates a vast amount of research information and data which is collated into a report. This research information and data can include tangible and intangible cultural heritage, historical research, spatial data, archaeological investigation data, photos, and traditional knowledge. The VAHA 2006 and Regulations are limited in the ownership, control, access, and possession rights that they provide to the RAP. Self-determination underpins the VAHA 2006 and should empower Traditional Owners as the protectors of their cultural heritage and Country.

The implementation of OCAP® can be a stepping stone to building a stronger relationship between the RAP and the VAHA 2006, Sponsors, and Heritage Advisors. Although the principles of OCAP® are reflective of First Nations Jurisdiction, the study identified that the implementation of OCAP® can be adapted to reflect how the EMAC interprets and actions each principle. EMAC can adapt OCAP® to reflect their actions, priorities, rights, and values and install these into a data governance framework. The data governance framework will then guide the EMAC IP Management Plan, self-determination action plans, and stakeholder relationships.

## TRADEMARK

In 2011 after noting that the principles of OCAP® were being misrepresented, the FNIGC approved a multi-year plan to protect the integrity of the principles. The FNIGC completed a trademark application and logo design with the Canadian Intellectual Property Office, which was approved in 2015 (FNIGC 2022).



### REFERENCE

Assembly of First Nations 2009 Ethics in First Nations Research. Retrieved 21 May 2022 from < [www.afn.ca/uploads/files/rp-research\\_ethics\\_final.pdf](http://www.afn.ca/uploads/files/rp-research_ethics_final.pdf) >.  
First Nations Information Governance Centre (FNIGC) 2022 About FNIGC. Retrieved 21 May 2022 from < <https://fnigc.ca/about-fnigc/> >  
Kurpiel, R. 2021 Collecting, storing and accessing archaeological science data produced during heritage management projects in the State of Victoria, southeast Australia. Excavations, Surveys and Heritage Management in Victoria 10:95–99.