



A Procedural Framework for Researchers in the Torres Strait 2018

Prepared for Protected Zone Joint Authority Torres Strait
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BACKGROUND

This project was commissioned by the Protected Zone Joint Authority's Torres Strait Scientific Advisory Committee (TSSAC) and funded by the Torres Strait Regional Authority (TSRA). The aim of this project is to review the *Guide for Researchers Working in the Torres Strait 2012 (the Guide)* and develop a procedural framework to support fisheries research and management to ensure:

- research conducted in the Torres Strait involves appropriate consultation and engagement with key stakeholders (for example native title representatives, Registered Native Title Body Corporates or RNTBCs, relevant fisheries associations and fisheries industry stakeholders) prior to, and throughout, the undertaking of each research project; and
- consultation and engagement outcomes are clearly documented in a form that is supported by community stakeholders.

The project emerged from the TSSAC identifying a priority need for improvements in the way research is undertaken in the Torres Strait region. This included the need for:

- greater instruction/direction around the appropriate protocols for undertaking research work commissioned by the TSSAC;
- more comprehensive and prescriptive procedures to ensure appropriate engagement on research being conducted in the Torres Strait; and
- documented processes to evidence engagement and agreements reached with key Torres Strait stakeholders and communities.

Members of Torres Strait communities, regional RNTBC representatives (i.e. Traditional Owners), fishers, and other stakeholders were consulted on research issues in earlier work commissioned by the TSSAC. This resulted in development of *the Guide* to assist researchers. Assistance has now been sought on the development of a procedural framework that could further build from, and operationalise, the principles set down in *the Guide*.

The scientific research work sponsored by the Torres Strait Scientific Advisory Committee (TSSAC) constitutes a vital part of the ongoing effort to support evidence-based fisheries management arrangements that can sustain the fisheries of the Torres Strait region well into the future.

INTRODUCTION

This procedural framework is designed to be a guide for researchers, PZJA agencies, and the TSSAC on:

- appropriate consultation and engagement with Torres Strait communities and/or key Torres Strait community stakeholders, including Traditional Owners/ Native Title Holders (key Torres Strait stakeholders); and
- gaining amenable access to particular places in the Torres Strait.

How should you use this document?

The procedural framework provides researchers with a comprehensive step by step process, including for record keeping that protects, satisfies and promotes the interests and appropriate engagement of key TS stakeholders. It should be used alongside, and to assist in completing, the TSSAC research application documents.

The list of resources at the end of the document point to national and international standards used in best practice models for research in Indigenous communities relating to:

- the safety of participants and researchers;
- consultation and consent of traditional owners/native title holders;
- prior and informed consent from individual participants;
- recognition of intellectual and cultural property rights;
- consideration of shared-benefit arrangements;
- uses of and citation of local or traditional knowledge sources as part of the study;
- initial and ongoing communication with, and engagement of, participants; and
- respect of Traditional knowledge and local culture.

A Checklist also has been added at the end of the document to assist researchers in following the procedure.

Why is a procedural framework important?

Building and maintaining meaningful working relations with key community stakeholders, including Traditional Owners, of the Torres Strait region is a critical component in ensuring the success of research projects. The ongoing

research effort is establishing up-to-date baseline and related scientific, economic and social information on the marine resources of the Torres Strait region. This information informs government, industry and communities about the sustainable management of the Torres Strait marine resources and other important socioeconomic objectives.

What is in the framework?

The procedural framework has been developed to help:

- provide a clear process for researchers to engage with key Torres Strait stakeholders when developing research proposals, undertaking research and accessing particular places in the Torres Strait region and to ensure community consultations (including any required permissions for island access) are documented; and
- ensure compliance with Commonwealth and State legal reporting and ethics requirements, including appropriate application for seeking prior and informed consent when visiting islands, or any required ethics approvals regarding working with Torres Strait community groups or individuals engaged in research projects.

Who should be involved?

Depending on which Torres Strait community groups or individuals are engaged in the research project, this may include:

- Relevant Registered Native Title Body Corporates (RNTBCs - representing traditional owners). Researchers must engage all RNTBCs that represent holders of Native Title in areas where the research is to occur.
- Relevant community fisheries associations (there are currently around 10 formally registered fisheries organisations) should be engaged in relevant fisheries research projects. At a minimum these groups should be informed on research project objectives, progress and outcomes.
- Community Councillors and divisional managers. It is important to include the relevant council contacts in this process as they will be aware

of day to day activities occurring on communities such as cultural events and sorry business that may limit a researcher's access to communities, their resources or availability of key stakeholders.

- The Torres Strait Scientific Advisory Committee (TSSAC) provides strategic advice to the PZJA on research priorities for fisheries management in the Torres Strait and assesses and recommends research applications for funding
- The Australian Fisheries Management Authority (AFMA) is the Australian Government agency responsible for the efficient management and sustainable use of Commonwealth fish resources on behalf of the Australian community and in accordance with the objectives set out in the *Torres Strait Fisheries Act 1984*. Their office on Thursday Island provides fisheries management and monitoring services to the PZJA to ensure fish stocks are sustainable and the fishing industry is viable. AFMA also provides the secretariat services for the TSSAC, including contract management and milestone monitoring and payments.
- Torres Strait Regional Authority (TSRA) is a Commonwealth Authority established under the *Aboriginal and Torres Strait Islander Commission Act 1989*, now known as the *Aboriginal and Torres Strait Islander Act 2005 (ATSIA Act 2005)*. It is the leading Commonwealth representative body for Torres Strait Islander and Aboriginal people living in the Torres Strait.

PROCEDURE FOR UNDERTAKING RESEARCH IN THE TORRES STRAIT

Starting assumptions

- This procedure applies to research projects for which any of the components are to be undertaken in the Torres Strait region.

- The Researcher holds (or will obtain) the appropriate ethics approval(s) relevant to the activities to be undertaken during the research project (see Appendix 1 for further detail).

Pre-proposal phase

Step 1. Review the TSSAC research priorities (contact the TSSAC Executive Officer (EO) for the current list) to ensure alignment with the proposed research project NB. If you are not sure if your proposed project aligns to an identified priority, please contact the TSSAC EO to discuss project merits and likelihood of gaining support from the TSSAC.

Step 2. Address the consultation and engagement section of the pre-proposal application to identify:

- the areas in the Torres Strait region where the proposed research activities may occur;
- the Torres Strait community groups or individuals that you will engage/involve from these areas in the development of and or during the research project (key stakeholders) (AFMA & TSRA can assist in identifying key stakeholders and the TSSAC will provide feedback and guidance on this aspect of your pre-proposal application); and,
- how you plan to engage/involve key stakeholders (e.g. community notices, telephone, email, employment, interviews, meetings, workshops) in the project development. Note, depending on the level of engagement with the RNTBCs this may be on a fee for service basis. Any potential fee for service rates need to be factored into your research project budget.

Full-proposal phase

Step 3. Address any TSSAC comments on the pre proposal, with particular focus on the consultation and engagement with key stakeholders section.

Step 4. As part of the full proposal you must also develop a stakeholder engagement strategy, including a plain English community consultation package (details required in the strategy and consultation package are in Appendix 4). These two documents should be

provided to the TSSAC EO for approval/review prior to consultation and finalising the full proposal. (Please allow 2 weeks for TSSAC EO consideration).

Step 5. Undertake consultation with key stakeholders in line with the approved stakeholder engagement strategy. Record a response from each key stakeholder (even if the response is “no comment”; note that community consultation can take time and repeated efforts to achieve contact). NB; depending on the level of engagement with the RNTBCs this may be on a fee for service basis. Any potential fee for service rates need to be factored into the research project budget.

Step 6. Include in the consultation section of the full-proposal a summary of the consultation with key stakeholders and details of any suggestions and issues with the project. At this point the full proposal application for the project is submitted (including your stakeholder engagement plan).

If assessed as suitable the project can then proceed to contract and funds will be released for research to commence.

If assessed as unsuitable, AFMA, other PZJA agencies and the researcher may be able to resolve issues raised by key stakeholders and adjust project activities if the project is still considered a priority.

Research projects should not go ahead until any outstanding issues are resolved and/or project activities are adjusted to mitigate or eliminate potential risks (this may mean amending proposed study sites or methods in certain areas). AFMA will keep a record of this process and the full proposal will need to be updated with necessary amendments before the contract is made.

Post-approval and project commencement phase

Step 7. Advise key stakeholders (in accordance with your stakeholder engagement strategy) that the project has been approved, including proposed start date and any changes since the initial stakeholder consultation (update the engagement strategy with new details if required). Obtain ethics approvals as appropriate once the project commences and provide a copy to the TSSAC EO.

During the project

Step 8. Researcher to update key stakeholders on progress at significant points during the project using the stakeholder engagement strategy. At a minimum these updates should align with the schedule for the project milestones outlined in the research contract. Key stakeholders should be advised of any changes to the project including in relation to objectives, study sites and methods, stakeholder involvement, and handling of data and intellectual property. Please keep a record of any significant consultation during the project and provide with the final report.

Project finalisation phase

Step 9. At the completion of the project it is standard TSSAC process for a final report to be submitted as the last milestone which incorporates the TSSAC's final comments and considerations. A plain English summary of no more than two pages covering project outcomes, immediate and ongoing stakeholder benefits (particularly to communities), use of Traditional knowledge and information on the handling of data. The TSSAC EO, on behalf of the researcher will disseminate the project summary to key stakeholders. To communicate the research outcomes more broadly, AFMA may use the project summary for developing

PZJA forum papers, local media articles or posting on community notice boards.

COMPLETION STATEMENTS AND LODGEMENT OF RESEARCH FINDINGS

In the past, Torres Strait Islanders have been unaware of the outcomes of projects once researchers have left the Torres Strait. Adherence to the specific stakeholder engagement strategies and provision of plain English summaries has been established to address this gap. Additionally, in order to facilitate easier access to Torres Strait research outcomes for communities and other interested parties, the TSSAC would like to have a repository for TSSAC research projects. This repository will be compiled on the PZJA website where links to the reports, and plain English summaries will be available.

Researchers are asked to include an access point for the findings of their research with submission of the final report.

Responsibilities of Researchers

The researcher has a responsibility to build respectful relations with host communities and key stakeholders (including Traditional owners) for the duration of a project. This means being respectful and establishing rapport in the formal and informal aspects of the contact and negotiation process. This requires some understanding of the technological and inter-cultural communication challenges in remote communities (refer to the Guide at Appendix 3 and TSRA Cultural Protocols Guide 2011 at Appendix 5).

For the duration of the project, it means fulfilling the documented research, ethical and protocols intentions or requirements and informing the key stakeholders when changed circumstances do not allow these to be fulfilled. The researcher cannot expect any member of the community to incur costs associated with carrying out the research.

BOX 1 - Best Practice Management of Traditional Inhabitants Intellectual Property and confidentiality

Ethics approval will require a plan to manage IP and the confidentiality concerns of traditional sources. Once a project is completed, for your own protection in any disputes or legal contests, researchers are advised to take precautions, with respect to traditional IP interests in future knowledge innovation, and attributions and confidentiality concerns of traditional sources in publications and other public dissemination products. The following precautions are suggested:

- To avoid publishing traditional knowledge or information from sources who have not given signed informed consent to publish or publicly disseminate.
- To ensure the attribution of any traditional source of information used in any form of public dissemination, (where consent was provided) BUT to de-identify the particular individual or group who provided the information, if that is their wish.
- To de-identify GPS references or place names attached to sensitive fisheries information given by traditional sources, in any form of public dissemination, if that is their wish.
- To keep lists of individuals or group sources for any traditional information used but de-identified in publications.
- To retain original notes that identify and link sources directly to particular knowledge and information.
- To retain all signed informed consent forms.
- To ensure the attribution of any traditional source of information used in any future knowledge innovation.

GLOSSARY OF TERMS

AIATSIS - Australian Institute of Aboriginal and Torres Strait Islander studies. Provide a Guideline for Ethical Research in Australian Indigenous Studies which can be used with Torres Strait fisheries research.

Registered Community Fishers

Associations – formal associations established within communities to represent the local fishing industries.

The Guide - Guide for Researchers Working in the Torres Strait 2012 (the Guide)

PZJA – Protected Zone Joint Authority, comprised of the Commonwealth Minister responsible for Fisheries (the Chair), the Queensland Minister responsible for Fisheries and the Chair of the TSRA. The PZJA is responsible for management of commercial and traditional fishing in the Australian area of the Torres Strait Protected Zone (TSPZ) and designated adjacent Torres Strait waters.

TSRA – Torres Strait Regional Authority.

TSSAC – Torres Strait Scientific Advisory Committee. The research body responsible for advising on Torres Strait research funded by AFMA, and sometimes other agencies.

Traditional Inhabitants - in relation to Australia, are people who —

- (i) are Torres Strait Islanders who live in the Protected Zone or the adjacent coastal area of Australia,
- (ii) are citizens of Australia, and
- (iii) maintain traditional customary associations with areas or features in or in the vicinity of the Protected Zone in relation to their subsistence or livelihood or social, cultural or religious activities.

Traditional Knowledge –

IP – Intellectual Property -

Traditional Owners – Native Title Holders or claimants. Relating to Torres Strait research, traditional owners are most commonly engaged through the relevant Registered Native Title Body Corporates (RNTBC).

PZJA agencies – the Australian Fisheries Management Authority, the Torres Strait

Regional Authority and Fisheries Queensland. The agencies responsible for advising the PZJA on all aspects of Torres Strait fisheries management.

RNTBC - Registered Native Title Body Corporates. When a determination recognising native title is made, the [Native Title Act 1993 \(Cth\)](#) requires that native title holders must establish a corporation to represent them and their interests. These organisations are known as PBCs, but become RNTBCs when they are registered with the [National Native Title Tribunal \(NNTT\)](#).

APPENDIX 1 - INFORMATION AND RESOURCES ON RESEARCH ETHICS AND PROTOCOLS

If you plan to involve human participants in your study, you will need to apply for the relevant ethics approvals. In the Torres Strait, this requirement applies to the involvement of participants as informants and/or as assistants to any of the project activities. The Human Ethics approval requirement provides a level of protection for participants and for researchers. It ensures that Prior Informed Consent is in place for the acknowledgement, attribution, or citation of local knowledge sources and assists in the attribution of local Traditional knowledge for potential intellectual property recognition and any potential benefit-sharing arrangements. It reassures Torres Strait Islanders that Traditional Owner interests are being respected. Torres Strait Islanders are very wary of the blurred lines that emerge between informal (casual conversations) and formal information sharing and gathering processes (recorded interviews) when local or Traditional knowledge is shared with researchers.

It is most important that the process is undertaken seriously by researchers to maintain good faith relationships between researchers and Torres Strait Islanders into the future.

The AIATSIS Guidelines for Ethical Research in Australian Indigenous Studies, and the NHMRC Values and Ethics: Guidelines for Ethical Conduct in Aboriginal

and Torres Strait Islander Health Research are the primary Indigenous research ethics guides used in Australia.

NHMRC Human Research Ethics
<https://www.nhmrc.gov.au/health-ethics/human-research-ethics-committees-hrecs>

NHMRC Animal Research Ethic
<https://www.nhmrc.gov.au/health-ethics/animal-research-ethics>

AIATSIS Guidelines for Ethical research in Australian Indigenous Studies
<http://aiatsis.gov.au/research/ethical-research/guidelines-ethical-research-australian-indigenous-studies>

Values and Ethics: Guidelines for Ethical Conduct in Aboriginal and Torres Strait Islander Health Research
https://www.nhmrc.gov.au/files_nhmrc/publications/attachments/e52.pdf

Torres Strait Regional Authority Cultural Protocols Guide
http://www.tsra.gov.au/data/assets/pdf_file/0005/1778/tsra20cultural20protocols20guide.pdf

Guidelines for ethical and effective communication for researchers working in Torres Strait
http://www.tsra.gov.au/data/assets/pdf_file/0008/2051/torres_protocols.pdf

The Convention of Biological Diversity Article 8j
<https://www.cbd.int/traditional/>

The Nagoya Protocol on Access and Benefit-sharing and Traditional Knowledge
<https://www.cbd.int/traditional/Protocol.shtml>

WIPO-UNEP Study on the Role of Intellectual Property Rights in the Sharing of Benefits Arising from the Use of Biological Resources and Associated Traditional Knowledge
http://www.wipo.int/edocs/pubdocs/en/tk/769/wipo_pub_769.pdf

AFMA Report on Torres Strait Fisheries Research Protocols http://pzja.gov.au/wp-content/uploads/2011/06/2011-Nakata-Nakata-Report-on-Torres-Strait-Fisheries-Research-Protocols_ISBN.pdf

The United Nations Declaration on the Rights of Indigenous peoples
<https://www.humanrights.gov.au/publications/un-declaration-rights-indigenous-peoples-1>

Related information

AFMA (Includes information on Torres Strait fisheries and scientific permits)
<http://www.afma.gov.au/about/>

Protected Zone Joint Authority (includes information on fisheries and the Torres Strait Scientific Advisory Committee)
<http://pzja.gov.au/about-us/#.WBfmUHpKVQ4>

Native Title Unit's website for the Prescribed Bodies Corporate (PBCs)
<http://nativetitle.org.au/>

Torres Strait Regional Authority
<http://www.tsra.gov.au/the-tsra>

Torres Strait Regional Authority Land and Sea Management Strategy 2016-2036
http://www.tsra.gov.au/data/assets/pdf_file/0019/11782/TSRA-Land-and-Sea-Strategy-2016-2036-FINAL-WEB-VERSION.pdf

Malu Lamar information
http://www.nativetitle.org.au/profiles/profile_tsi_malulamar.html

Malu Lamar Challenges
http://aiatsis.gov.au/sites/default/files/docs/presentations/maluwap_nona_pp.pdf

Torres Strait Regional Council
<http://www.tsirc.qld.gov.au/>

Initial Contacts and addresses in the Torres Strait

AFMA
<http://www.afma.gov.au/contact/contact-afma/>

Malu Lamar
http://www.nativetitle.org.au/documents/TSI_MaluLamar.pdf

APPENDIX 2 – CHECKLIST FOR RESEARCHERS

Tick	Relevant step	Procedure	Yes / No/ notes	Notes regarding TSSAC and secretariat responsibility relating to step
	Starting assumption.	Developed project pre-proposal, including basic information on planned stakeholder engagement. 1		No action C
	Step 1	Submitted pre-proposal to TSSAC, including basic information on planned stakeholder engagement.		Consider pre-proposal and provide comment.
PENDING APPROVAL OF EOI				
	Step 2	Developed detailed stakeholder engagement strategy including the plain English community consultation package and submitted to TSSAC EO for approval (consult TSRA as needed).		TSSAC EO to approve and seek TSSAC advice where required.
	Step 3	Completed consultation using approved engagement strategy, including getting formal permissions for gaining access to islands where required.		No action
	Step 4.1	Attached the stakeholder engagement strategy to updated full proposal. Submitted full-proposal including outcomes of consultation and any permissions sought/granted..		TSSAC to store consultation and permissions approvals.
	Step 4.2	Worked with TSSAC to work through any problems around progressing the project.		As required
	Step 4.3	Signed contract (provided by AFMA) to obtain funding.		Develop contract and provide to researcher for consideration.
	Step 5	Advised key stakeholders of project approval, start date and any major changes to project since consultation.		No action
	Step 6	Applied for Human ethics approvals from relevant institution; sent copy of ethics approval to TSSAC.		Retain copy of ethics approval
	Step 7	Updated engagement strategy and advised key stakeholders of significant progress or changes during the project. Note, in the case of a time lag between approval and commencement, update engagement strategy again at start up, if needed.		No action
	Step 8.1	Submit draft final report to TSSAC EO for approval.		Approve or provide feedback

	Step 8.2	Make any necessary amendments and submit final report, 2 page plain English summary and a link to the report online to TSSAC EO.		Retain copies
	Step 8.3	Record any significant consultation throughout the whole project and provide summary with the final report.		Retain copy

**APPENDIX 3 - GUIDE FOR RESEARCHERS WORKING IN
THE TORRES STRAIT 2012**

APPENDIX 4 - STAKEHOLDER ENGAGEMENT STRATEGY AND COMMUNITY CONSULTATION PACKAGE

Planning & development – who to engage and how

Researchers are required to develop a stakeholder engagement strategy as part of their TSSAC full proposal application process, which will include a short community consultation package.

The stakeholder engagement strategy should detail the level of engagement required with various key stakeholders throughout the stages of the project (including the pre-proposal preliminary consultation phase) and a communication and engagement strategy to guide this process (this may be best developed through discussions with PZJA Agencies (i.e. AFMA and/or TSRA). Please note that some communities may request face to face consultation, as some communities feel strongly about this. It is up to the researchers discretion on when face to face consultation is needed.

The strategy should be no more than 2 pages and include:

- which stakeholders should be consulted at which stages of a project;
- types of engagement you plan to use (engagement could include (but is not limited to conducting community consultations, such as meetings workshops, participation in research or data collection or analysis activities, posting community notices, developing plain English summary reports, phone calls or emails); and
- options for engaging community members from participation through to employment in research activities, or if this is not possible, why not.
- how research data, traditional knowledge and intellectual property will be handled;
- how researchers will show respect for Traditional Inhabitant culture at all times; and

The strategy should consider the projects schedules and fieldwork and allow for extra lead-time, longer engagement periods in the community and appropriate response times when drafting milestones.

Note, depending on the level of engagement with the RNTBCs this may be on a fee for service basis.

Researchers need to factor in any potential fee for service rates into the research project budget.

The community consultation package should contain plain language information about the proposed research, be no more than two pages and may include:

- a process for clearly noting, upfront, that the project is in the application stage which is why you are seeking their consideration;
- the research objectives and timeframes;
- areas to be accessed for the study, and a detailed description of areas and details of what will be done there;
- materials, equipment and techniques to be used and how you will minimise risk of negative impacts on the area;
- involvement of key stakeholders (including local knowledge informants, local research assistants, and community information-sharing and research dissemination intentions) OR a brief explanation of why community involvement does not fit the nature of the project);
- anticipated outcomes including direct or indirect benefits* to key stakeholders such as any future benefit-sharing expectations, protections for traditional knowledge sources. AFMA may use the project summary for developing papers to communicate the research at relevant PZJA forums;
- likelihood and details of any extension activities following the research;
- how research data and intellectual property will be handled; and
- seeking advice about relevant traditional knowledge which could assist the project, or suggest changes to improve the projects plan or success.

These two documents should be submitted to the TSSAC EO before being used, at Step 4 of the procedural framework.

The engagement strategy should also be submitted with your full proposal application, and updated following any feedback during the pre-proposal consultation phase.

*For example a) a greater understanding of a fishery through participation (potentially employment) in the research project and extension activities following the research (direct); b) improved understanding of stock status may lead to less precautionary Total Allowable Catch therefore increased utilisation of resource (indirect).

APPENDIX 5 – TSRA CULTURAL PROTOCOLS GUIDE 2011