



# NORTHERN LAND COUNCIL

*Our Land, Our Sea, Our Life*

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## **Statement from the NLC in response to media coverage in relation to the interim intertidal zone access arrangements.**

In July 2008 the High Court confirmed that traditional owners of Aboriginal land adjacent to tidal waters have exclusive access rights to those waters. The mechanism for allowing access to people who do not have traditional interests in those waters is the same as for the adjacent land areas. That is by way of permits granted under the *Aboriginal Land Act*.

Decisions to issue or withhold permits are made by traditional owners as a group, and it is the NLC's job to implement decisions of traditional owner groups, and also to negotiate on their behalf with the Northern Territory Government (NTG) in relation to the use and protection of their traditional waters (including waters beyond the intertidal zone subject to native title rights). This job includes progressing economic reforms in relation to securing a genuine stake in the commercial fishing industry.

Since July 2008 the NLC has been trying to negotiate with the NTG to get a satisfactory outcome for traditional owners, knowing that the NTG's position has been one of trying to maintain open access to as much of the Top End coastline as possible. For many years traditional owners were incredibly patient and for most (although not all) tidal waters in the NLC area the requirement to get a permit was waived on successive occasions. While most groups had given only conditional temporary access approval pending the outcome of negotiations, others were happy to assure unconditional ongoing access to particular tidal waters areas (these are the areas marked in green in the attached map).

By 2018 the view of most traditional owners was that enough was enough, and in the absence of proof of a genuine commitment from the NTG, outsiders would be required to seek permits after 4 December 2018. Last minute assurances from the NTG led to an extension of negotiations and what was to be one final waiver period.

On 29 July 2020 the NLC and the NTG signed the Blue Mud Bay Implementation Action Plan, which would allow a period up to the end of December 2022 for the NTG to confirm and deliver in relation to its commitments, and for the NLC to undertake further consultations with traditional owner groups to ascertain how many of them wanted to include their tidal waters in the open access plan being negotiated with the NTG (the wording used in the NLC media release on 1 September 2020 was: 'Consult traditional owners on extending the permit free interim arrangements for fishing access in Blue Mud Bay tidal waters to 31 December 2022').

While the NLC has always acknowledged that other stakeholders (including AFANT, the NT Guided Fishing Industry Association, and the NT Seafood Council) have significant interests in the ultimate outcome of the ongoing negotiations, the negotiations themselves are necessarily between the NLC and the NTG, because it is the NTG which administers the *Fisheries Act* and coastal waters generally.

The NLC has kept the NTG informed as to developments from the NLC's side of the table, including briefing the NTG as to the outcome of discussions at NLC's Full Council meeting earlier this month. As reported by me to stakeholders and the media recently (by reference to the attached map) many traditional owner groups have agreed for their waters to continue to be accessed through to 31 December 2022. This interim arrangement is to be subject to a new online registration process to be put in place by March 2021.

The areas to be subject to the interim arrangement are those marked yellow on the map. This constitutes a significant (and cost-free) benefit for members of the Northern Territory public, and it was anticipated by Full Council members and traditional owners that the response from stakeholders and others would be one of gratitude.

As regards the red area on the map, the NLC has been open and transparent in explaining that while those areas include a few locations that were already excluded from the earlier waivers (where traditional owners may never be willing to reconsider open access) most of the coastline marked red on the map represents tidal waters that were previously part of the waiver arrangement, and in respect of which traditional owner groups are still to make their mind up.

The NLC is presenting the Action Plan to traditional owner groups as a worthy option that can deliver valuable outcomes in terms of future jobs and joint-management arrangements. But the choice is theirs.

A key issue for traditional owners is respect, and acknowledgement of their status and rights as property owners. Recent statements on behalf of a particular stakeholder group could be interpreted as reflecting a mind-set of entitlement, and seem calculated to seek a negative outcome. Comments made to media on behalf of the NTG suggesting that the suspension of open access in respect of those areas where consultation is currently being undertaken has taken them by surprise are disingenuous.

My hope is that a more conciliatory approach will be forthcoming in the New Year.

**Marion Scrymgour - CEO**

**ENDS**