



Access to Tidal Waters on Aboriginal Land NLC waives requirement for a permit until 31 December 2018

15 November 2017

From 1 January 2019 all commercial fishing operators and recreational fishers will require permission from Aboriginal land owners and the Northern Land Council (NLC) through the grant of a licence or permit to fish in tidal waters over Aboriginal land.

Aboriginal land is privately owned. It is not Crown land, nor public land. Permission must be obtained before going onto Aboriginal land.

This includes access to tidal waters over Aboriginal land. That is, access to the water and land between the low and high tide watermarks. This is regardless of whether you hold a commercial fishing licence issued by the Northern Territory Government.

The 'interim' (short-term) arrangement put in place in 2007 that allowed all recreational fishers and commercial operators' access to tidal waters over Aboriginal land ended on 31 December 2016. After almost 10 years, the interim arrangement between the NLC and the Northern Territory Government has not been renewed.

However, on 15 November 2017, the NLC issued a Public Notice, pursuant to section 5(8) of the *Aboriginal Land Act*, that waives the requirement for a permit to enter tidal waters overlying Aboriginal land for a further period of 12 months, until 31 December 2018.

As of 1 January 2019, all recreational and commercial fishers will be required to have a permit or licence, except in permitted access areas.

Permitted Access Areas

Access to tidal waters over Aboriginal land by recreational fishers and commercial operators is still permitted in areas where the Northern Territory Government has entered into an Agreement with the relevant Aboriginal Land Trust.

Those Permitted Access Areas include the:

- A. Five 20 year intertidal fishing access agreements in place for
 - I. Thamurrurr (Wadeye/Moyle River area) – until 30 June 2034.
 - II. Anson Bay area – until 31 December 2033.
 - III. Malak Malak (Daly River area) – until 30 June 2032.
 - IV. Dhimurru (Nhulunbuy area) – until 31 December 2034.
 - V. Yanyuwa (McArthur River and Sir Edward Pellew islands area) – until 30 June 2032.
- B. One year agreement in place for Iwaidja Armurduk (Mini Mini/Murgenella Rivers area), which will expire on the 30 June 2018.

C. Kenbi Open Area (Cox Peninsula) as for

- I. Category 3 – fishing is permitted only at high tide at Roche Reef, Middle Reef, Simms Reef, Charles Point and Talc Head. Anchoring, disturbing the seabed and landing on the reef at low tide are NOT permitted for these areas.
- II. Category 4 – fishing is permitted in the area of the outstation on the west coast of the Cox Peninsula. Fishers must observe sacred site restricted areas.
- III. Category 5 – fishing and access to the beach is permitted at Grose Island, Beer Eetar Island, Turtle Island, Quail Island, Dum-in-mirre Island and residual coastline of the Cox Peninsula. Access to the private lease area is NOT permitted and fishers must observe sacred site restricted areas.
- IV. Category 6 – fishing, beach access and beach camping are permitted at Bare Sand Island and Indian Island. Fishers must observe sacred site restricted areas.

For those areas that do allow beach access and beach camping, access is from the high tide watermark to the crest of the secondary sand dune; or, if there is no secondary sand dune, to 50 metres inland. Visit the NLC website to download a map showing all access categories of the Kenbi Open Area at www.nlc.org.au/articles/cat/kenbimap.

These permitted access areas do not require individual commercial fishing licence holders or recreational fishers to get permission from land owners to access tidal waters over Aboriginal land.

The permitted access areas are shown in GREEN on the Sea Country Access Arrangements in the Northern Land Council Region map (the NLC Map).

Access Not Permitted Areas

No access is permitted, unless with a permit, for some areas. This is regardless of the 12 month waiver on the requirements for a permit. These are shown in RED on the NLC Map. Areas include:

- A. Cape Scott, within the Daly River Port Keats Aboriginal Land Trust.
- B. Upper Finniss River, within the Delissaville Wagait Larrakia Aboriginal Land Trust.
- C. Closed sea areas adjoining and within 2 kilometres of the Aboriginal land.
 - I. Milingimbi, Crocodile Island and Glyde River area, gazetted in 1981.
 - II. Castlereagh Bay and Howard Island area, gazetted in 1988.

Access is not permitted in some areas within the Kenbi Open Area (Cox Peninsula), specifically

- I. Category 2 – fishing is NOT permitted in the tidal waters of Ida Bay, Knife Island and Crocodile Island.
- II. Category 5 – Access to the private lease area is NOT permitted and fishers must observe sacred site restricted areas.

Visit the NLC website to download a map showing all access categories of the Kenbi Open Area at www.nlc.org.au/articles/cat/kenbimap.

Access Requirements for Other Areas

For the rest of the Northern Territory, permission to access tidal waters over Aboriginal land will be mandatory in accordance with the requirements of the *Aboriginal Land Act* as of 1 January 2019. These areas are shown in YELLOW on the NLC Map. NLC issued a Public Notice on 15 November 2017 that waives the requirement for a permit to these areas for 12 months, until 31 December 2018.

Commercial Operators

Commercial operators include any person holding a licence issued by the Northern Territory Government under the *Fisheries (NT) Act 1988* for any of the commercially harvested fisheries and for guided fishing tours.

Commercial operators seeking to access tidal waters over Aboriginal land where an access agreement is not in place will be required to hold a license issued through the NLC as of 1 January 2019.

Permission is granted through a s19 Land Use Agreement (s19 LUA) under the *Aboriginal Land Rights (Northern Territory) Act*.

Please note that the time frame for an assessment of a s19 LUA expression of interest and the subsequent consultation with Traditional Owners can take a minimum of 6 months to progress. In these cases, the NLC makes no guarantee on time frames given that each interest will vary depending on the type of interest and the region.

More information about the process and to download a s19 LUA expression of interest form can be found on the NLC web site at www.nlc.org.au/articles/cat/s19-land-use-agreements.

Recreational Fishers

Recreational fishers include anyone who is a member of a fishing association, and the general public who fish for non-commercial purposes.

Anyone seeking to fish recreationally in tidal waters over Aboriginal land where an access agreement is not in place will be required to get permission from land owners through the NLC as of 1 January 2019.

Permission is granted through a permit. An application for a permit can be found on the NLC web site at www.nlc.org.au/articles/cat/work-transit-tourist-permits.

Please allow a minimum of 10 days to process applications.

Access Rules

- Access agreements, s19 LUAs and permits DO NOT ALLOW access to Aboriginal land unless specified on the agreement. This includes the land and beach. A permit is required to enter and remain on Aboriginal land.
- The Kenbi Open Area is the only case where beach access and beach camping are declared at some designated areas on the Cox Peninsula and do not require further permissions through a S19 LUA or permit (for more detail see: www.nlc.org.au/articles/cat/kenbimap).
- Where permissions are in place, fishers must observe restrictions to sacred site areas. All sacred sites are protected in accordance with the *Northern Territory Aboriginal Sacred Sites Act*. You must NOT fish within 100 metres of any sacred site, though some sacred sites may have more restrictive access. More information on sacred sites can be found on the Aboriginal Areas Protection Authority web site at www.aapant.org.au/sacred-sites.
- Where permissions are in place, all fishing sectors must abide with rules set out under the *NT Fisheries Act*. More information on fishing regulations can be found on the Northern Territory Government web site at www.nt.gov.au/marine.

Code of Conduct

The coastline of the Northern Territory mainland is 5,100km long and offshore islands contribute a further 2,100km of coastline. Around 84% or 6,050km of the coastline is owned by Traditional Aboriginal Owner groups. It remains one of the world's most intact marine environments, rich in natural resources, biodiversity and cultural heritage and supports a range of regional and local economies and livelihoods.

Aboriginal land is privately owned. In most coastal areas, Traditional Owners have established Ranger Groups that provide land and sea management services, including fisheries compliance.

Recognise the cultural and spiritual connection of Traditional Owners to their land and waters.

- Respect Aboriginal cultural activities and ceremonies and observe restricted access to temporarily closed areas.
- Do not land ashore without first obtaining an access permit from the NLC.
- Be courteous to other water users and those who belong to the local Aboriginal community.

Respect Sacred Sites

- Do not enter any part of the waters containing identified sacred sites.
- Take care when boating to avoid damaging sensitive areas.

Observe all fishing regulations.

- Report any suspicious fishing activity to the local Ranger group or Water Police. Fishwatch Hotline **1800 891 136**.
- Stay safe on the water and always observe rules and safety standards.

Respect our waters

- Do not dispose of any rubbish or release boat engine fluid into the water.
- Discard any fish remains in open waters.
- Respect the movement and protection of any species such as dugong and turtles.
- Do not anchor on seagrass or reef beds.
- Do not speed through dugong and turtle nesting and feeding grounds.

Respect the role of Aboriginal Rangers carrying out sea country management activities, including fisheries compliance

- Aboriginal Ranger Groups operate across most of the Northern Territory coast delivering a range of management services.
- Respect Rangers with authority as Fisheries Inspectors to carry out fisheries compliance measures in accordance with the *Fisheries Act*.
- Some sea country is managed as Indigenous Protected Areas (IPA).

Be CrocWise

Saltwater crocodiles inhabit estuaries and coastal waters in the Northern Territory. Be Croc Wise and do not swim in any water or approach the edge of waterways. Clean fish away from the water's edge; www.becrocwise.nt.gov.au.