



NORTHERN LAND COUNCIL

What lies beyond that
high tide mark...

Keith Rory and Lorrae McArthur

Introduction

The Northern Land Council

- Established in 1974
- is an independent statutory authority established under the Aboriginal Land Rights (NT) Act 1976
- And a Native Title rep body for the purposes of the Native Title Act 1993.



Our land, our sea, our life

Taken from Land Rights News –
Northern Edition, April 2015 p.11.
Article © Jon Altman.

Northern Territory

Discrete Indigenous communities

- 0 - 50
- 51 - 200
- 201 - 500
- 501 - 3,500

■ Exclusive possession native title or land rights lands and reserves, 2013

■ Non-exclusive possession native title or ILUA



Sea Rights – NLC history

From a legal and historical context, five cases have to asserted sea rights beyond the high tide mark.

- *Yarmirr v Northern Territory* – Croker Island seas non-exclusive native title
- *Risk v Northern Territory* – Beagle Gulf Area land claim
- ‘Beds and banks’ – land claims to intertidal zone
- *Director of Fisheries v Arnhem Land Aboriginal Land Trust* – exclusive fishing rights
- *Gawirrin Gumana & Ors v Northern Territory* – Blue Mud Bay case – exclusion of fishing access



Sea Rights – intertidal rights

Blue Mud Bay Case:

- Aboriginal Land Rights Act
- High Court Blue Mud Bay decision 2008
- TOs control access to the intertidal area
- Accounts for around 84% (5000km) of the Northern Territory coastline



Sea Rights – intertidal access arrangements

- Five 20 year agreements
- One 3 year agreement
- Two areas require a permit
- Kenbi open area declaration – Cox Peninsula in Darwin Harbor
- ‘Interim’ permit free access arrangement for all other areas



Sea Rights – Sea Closures

The Aboriginal Land NT (1978) Act:

- Closure of seas within 2km adjacent to Aboriginal land
- TOs control access to sea closures
- Provide 'quiet enjoyment' for Aboriginal people
- Exist in seas adjacent to the Crocodile Islands and Howard Island



Sea Rights – Native Title

The Native Title (1993) Act:

- Provides recognition of rights and interests relevant to traditional laws and customs
- Non-exclusive sea country native title in the Northern Territory
- Does not provide control of access
- Exist in seas adjacent to Crooker Islands and in Blue Mud Bay



Sea Rights – Sacred Sites

The Northern Territory Aboriginal Sacred Sites (1989) Act:

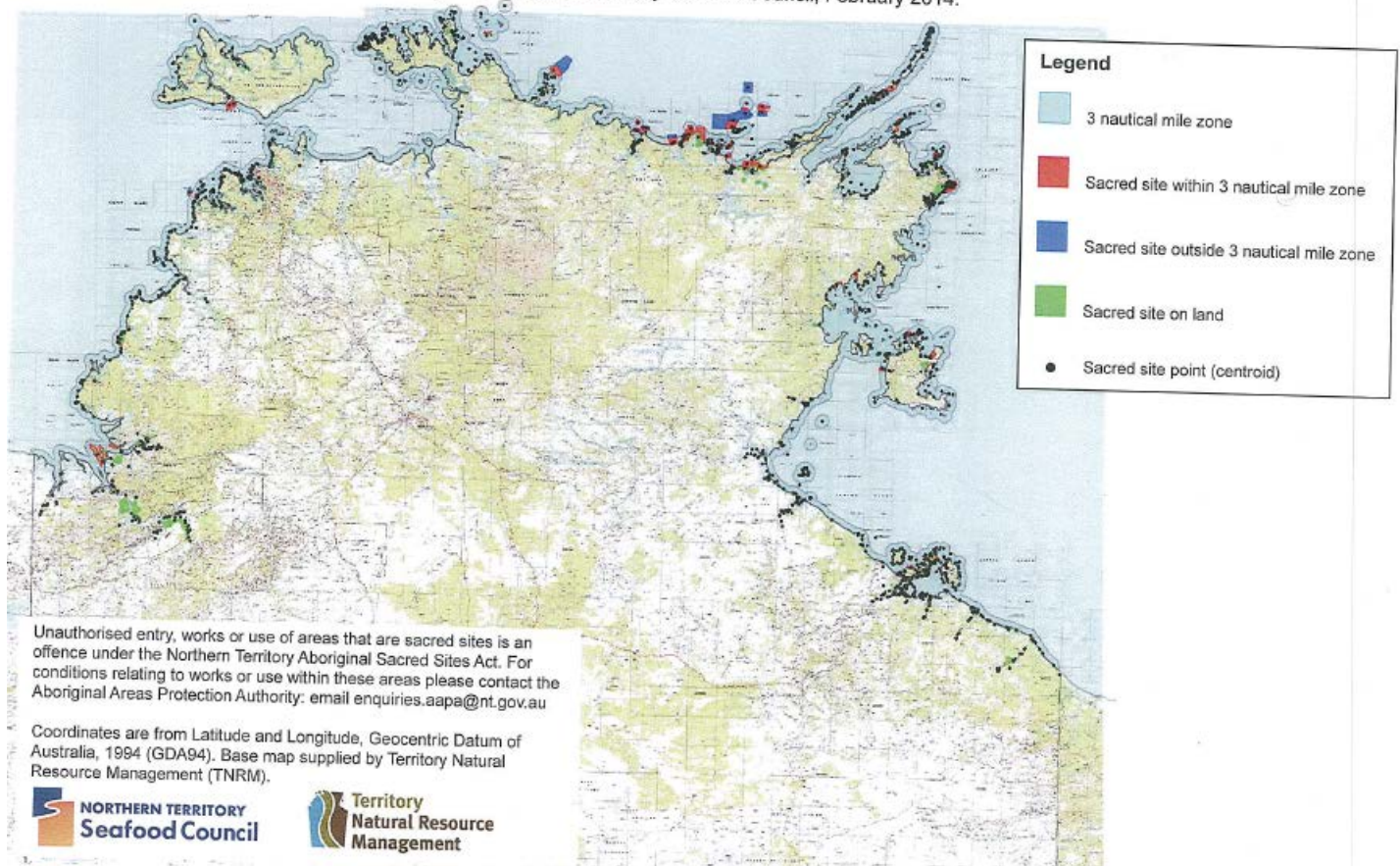
- Provides protection of sacred sites and areas
- Relevant to land use agreements, development approvals and sacred site clearances
- Sacred sites and dreaming tracks are common in both coastal and marine environments, with many of those registered with AAPA
- ALRA recognises it is an offense to enter or damage sacred sites



Sea Rights – Sacred Sites

Sacred sites centroids and boundaries - all NT

Registered or Recorded Sacred Sites as supplied electronically by the Aboriginal Areas Protection Authority to the Northern Territory Seafood Council, February 2014.



Our Land, Our Sea, Our Life

Sea Rights – other policy frameworks



- Aboriginal and Torres Strait Islander heritage Protection (1984) Act
- Environmental Protection and Biodiversity conservation (1999) Act – EPBC Act
- Commonwealth Marine Reserves
- Indigenous Protected Areas – IPAs
- National Parks
- Fisheries Management zones
- UNDRIP



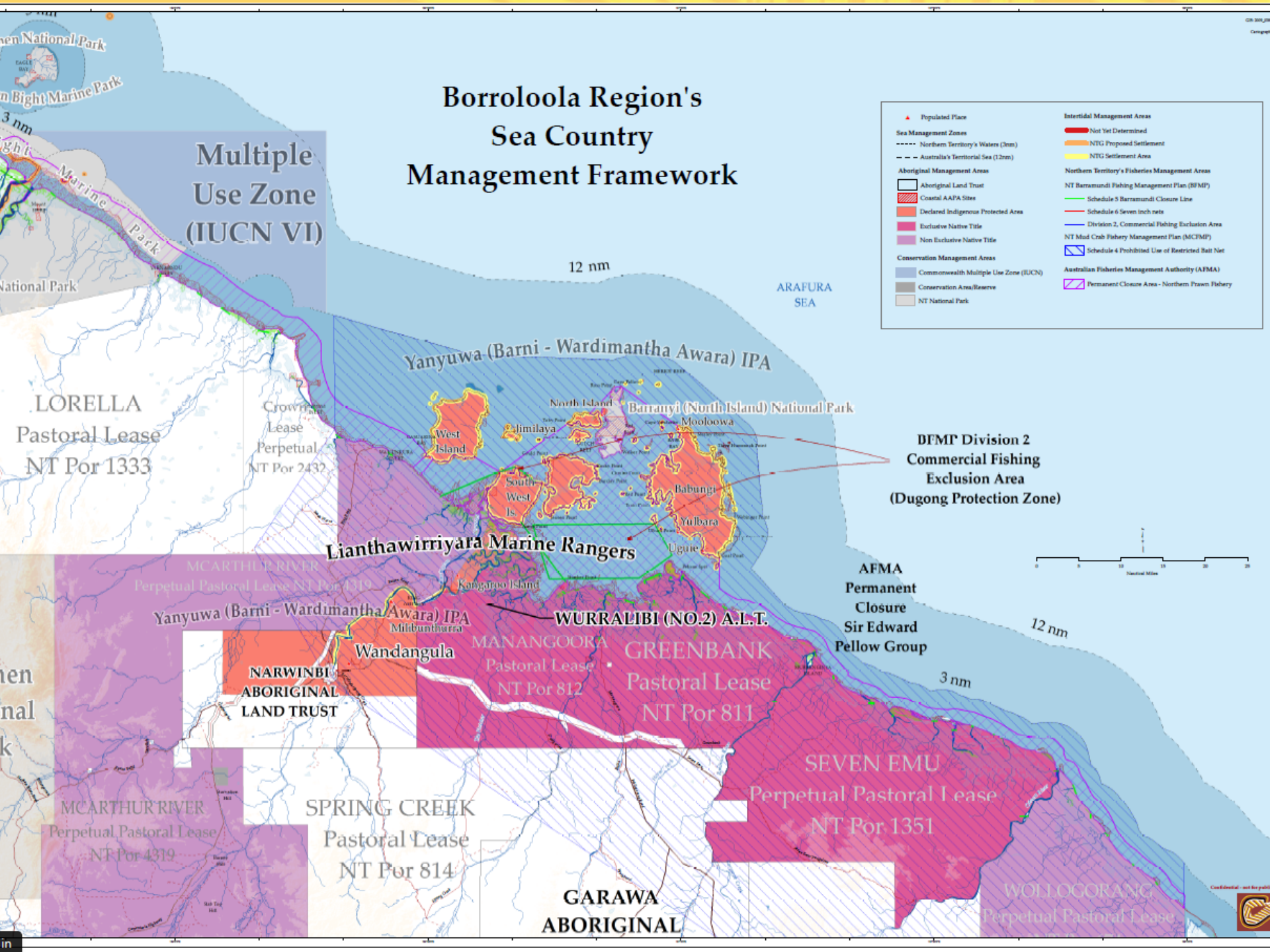
NLC Sea Country Working Group

- Established June 2015
- Resolve ongoing of interest of Government for fishing access to tidal waters over Aboriginal Land



Our Land, Our Sea, Our Life

Borroloola Region's Sea Country Management Framework



<ul style="list-style-type: none"> Populated Place Sea Management Zones <ul style="list-style-type: none"> Northern Territory's Waters (3nm) Australia's Territorial Sea (12nm) Aboriginal Management Areas <ul style="list-style-type: none"> Aboriginal Land Trust Coastal AAPA Sites Declared Indigenous Protected Area Exclusive Native Title Non Exclusive Native Title Conservation Management Areas <ul style="list-style-type: none"> Commonwealth Multiple Use Zone (IUCN) Conservation Area/Reserve NT National Park 	<ul style="list-style-type: none"> Intertidal Management Areas <ul style="list-style-type: none"> Not Yet Determined NTG Proposed Settlement NTG Settlement Area Northern Territory's Fisheries Management Areas <ul style="list-style-type: none"> NT Barramundi Fishing Management Plan (BFMP) Schedule 5 Barramundi Closure Line Schedule 6 Seven Inch nets Division 2, Commercial Fishing Exclusion Area NT Mud Crab Fishery Management Plan (MCFMP) Schedule 4 Prohibited Use of Restricted Salt Net Australian Fisheries Management Authority (AFMA) <ul style="list-style-type: none"> Permanent Closure Area - Northern Prawn Fishery
---	---



Our Sea interests– Management

- Indigenous Protected Areas
- Role of Rangers
- Protection of sacred sites
- Maintaining cultural practices



Our Sea interests– Economic development

- Engagement in policy and decision making
- Recognition of customary fishing rights
- Participate in management and activity of fishing industries



Summary

What lies beyond that high tide mark:

- Culturally rich landscape
- Resource rich environment
- Significant vested interests
- Opportunity
 - to engage in the management of sea country
 - to benefit from commercial activities
 - to maintain cultural practices



Going forward – beyond rights

The Sea Country Working Groups calls on governments to work with us to:

- engage our interests in policy and decisions
- recognise and protect our rights – fisheries management
- develop economic development and management framework
- Support jobs and growing the role of Rangers





NORTHERN LAND COUNCIL

Thank you!

Our land, our sea, our life

