

Recognition of Aboriginal Fishing Activities

and Allotting Unique Identifying Codes
under the *Living Marine Resources
Management Act 1995*

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RECOGNITION OF ABORIGINAL FISHING ACTIVITIES AND ALLOTTING UNIQUE IDENTIFYING CODES UNDER THE *LIVING MARINE RESOURCES MANAGEMENT ACT 1995*

Background

The purpose of this policy paper is to outline the policy and process that DPIPW uses to administer Aboriginal fishing activity under the provisions of the *Living Marine Resources Management Act 1995* (the Act) and its subordinate legislation.

The Act provides that an Aboriginal person (that is, an Aboriginal person within the meaning of the *Aboriginal Lands Act 1995*) who is engaged in an Aboriginal activity* does not require a licence to undertake certain forms of fishing. The *Aboriginal Lands Act* places the onus of proof on a person to prove they are Aboriginal.

For some forms of recreational fishing, a licence is required to set certain gear and take certain types of fish. For set gear such as rock lobster pots, gill nets and set lines, fishers are issued a unique identifying code (UIC) which must be marked on buoys attached to this gear. This numbering system is central to the monitoring of licensed fishers and the gear they are licensed to use; identifying who owns gear left in the water; and also assisting in the identification of people setting multiple sets of gear.

The Act and certain rules provide slightly different arrangements for Aboriginal fishing activities. However, it is necessary for all non-commercial gear – recreational or Aboriginal – to be marked. Gear with no number or other recognised marking is assumed by enforcement officers to be illegally set, and may be confiscated.

(*The key part of the definition under the Act, which applies to the activities covered in this paper, is “the non-commercial use of the sea and its resources by Aborigines”.)

General policy outline

The management plans for the scalefish and rock lobster fisheries (the *Fisheries (Scalefish) Rules 2015* and the *Fisheries (Rock Lobster) Rules 2011*) have similar provisions relating to the use of UICs and allotting them to Aboriginal persons for the purpose of Aboriginal fishing activity.

The processes for recognising an Aboriginal person for the purposes of issuing a UIC are underpinned by the provisions of the *Aboriginal Lands Act 1995*. Section 3A provides that:

(1) An Aboriginal person is a person who satisfies all of the following requirements:

(a) Aboriginal ancestry;

(b) self-identification as an Aboriginal person;

(c) communal recognition by members of the Aboriginal community.

(2) The onus of proving that a person satisfies the requirements referred to in [subsection \(1\)](#) lies on that person.

A person making an application for a UIC must use the approved form (see attachment 1). This provides both for people whose eligibility has already been established, and for people making their first claim.

If a person has not previously been recognised as eligible, DPIPWE follows the Tasmanian Government's process on eligibility for Tasmanian Government Aboriginal and Torres Strait Islander programs and services, which took effect 1 July 2016. It covers all elements of the Aboriginal Lands Act definition (including communal recognition by members of the Aboriginal community).

In such cases, an application for a UIC must be submitted together with a completed [Eligibility Form](#) for Tasmanian Government Aboriginal and Torres Strait Islander program and services (see attachment 2 – copy of the Eligibility Form and instructions). The Eligibility Form includes a Statutory Declaration and Confirmation Statement.

A UIC is allotted to a person for life and does not need to be renewed. It cannot be transferred and is not a tradeable commodity.

UICs issued under previous policies for Aboriginal fishing activity will continue to be recognised. A person who has been issued a UIC for Aboriginal fishing activity does not need to make fresh application under this policy.

