



# Great Australian Bight Marine Park

(Commonwealth Waters)



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GREAT AUSTRALIAN BIGHT MARINE PARK (COMMONWEALTH WATERS) MANAGEMENT PLAN 2005-2012

**Director of National Parks 2005** 

This is the second Management Plan prepared for the Great Australian Bight Marine Park



#### **Australian Government**

Environment Protection and Biodiversity Conservation Act 1999

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#### Cover images

Background line drawings left to right:

Southern bluefin tuna (Thunnus maccoyii)

School shark (Galeorhinus galeus)

Orange roughy (Hoplostethus atlanticus)

Food and Agriculture Organization of the United Nations – Fisheries Global Information system (FIGIS)

#### Background image bottom:

Southern right whale cows with calves: Mandy Watson

#### Small images left to right:

- 1. Benthic life: Ib Svane, SARDI
- 2. Fishing boat leaving Port Lincoln: AFMA
- 3. Head of Bight viewing platform: Paul Anderson, DEH

4. Australian Sea-lion: Australian Heritage Photo Library

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#### **Foreword**

The area commonly referred to as the Great Australian Bight Marine Park is made up of adjoining South Australian and Commonwealth protected areas. The State Marine Park, in the State (coastal) waters of the Bight, combines a whale sanctuary established under the Fisheries Act 1982 (SA) and a marine national park established under the National Parks and Wildlife Act 1972 (SA). The adjoining Great Australian Bight Marine Park (Commonwealth Waters) is a Commonwealth reserve established under the National Parks and Wildlife Conservation Act 1975, which was replaced on 16 July 2000 by the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

The Australian and South Australian governments manage their respective components of the Great Australian Bight Marine Park cooperatively in accordance with management plans to protect conservation values while allowing ecologically sustainable uses. These uses must be consistent with protecting the area's ecological values and contribute to regional and national development. The plans regulate recreational, scientific and commercial uses of the Great Australian Bight Marine Park using four distinct management areas or 'zones' as follows:

1.	Sanctuary Zone	State waters
2.	Conservation Zone	State Waters
3.	Marine Mammal Protection Zone	Commonwealth waters: covered by
4.	Benthic Protection Zone	this Management Plan

# Significance of this Management Plan

This Management Plan applies to the area managed by the Australian Government, which was proclaimed in 1998 as the 'Great Australian Bight Marine Park (Commonwealth Waters)' (see Figure 1, p.1) and is referred to as 'the Park' in this Management Plan. The Park contains two of the four zones of the Great Australian Bight Marine Park: the Marine Mammal Protection Zone and the Benthic Protection Zone (see Figure 2, p.2).

The Park is a Commonwealth reserve under the EPBC Act. The Act (s.367) requires a management plan for a Commonwealth reserve to specify or indicate, among other things:

- any limitation or prohibition on the exercise of a power or performance of a function under an Act in or in relation to the reserve
- any operation or activity that may be carried on in the reserve
- generally the activities that are to be prohibited or regulated in the reserve and the means of prohibiting or regulating them.

A management plan is an essential part of the effective regulation of the Park. It is the only way to allow a range of uses of the Park that would otherwise be prohibited by the EPBC Act under ss.354 and 355 (see Section 2.3 of this Management Plan).

This is the second Management Plan for the Park. The first Management Plan lasted for five years. During this time major achievements and progress were made in managing the Park's resources, biodiversity and habitats:

- Stakeholder confidence in management rose with the establishment of a Consultative Committee of stakeholders that contributed effectively to management planning.
- Compliance improved: discussions with industry resulted in increased compliance by the trawl fishery.
- Surveillance was increased in the closed area, which led to two successful court actions.
- The Park Manager established a regional whale and Australian Sea-lion disentanglement capability for the South Australian Government.

#### Research and monitoring progressed:

- Several seabed-mapping surveys provided benchmark data on ecological status and resource use that will form a basis for future monitoring to detect trends and evaluate management performance.
- These data confirmed the appropriate siting of the Benthic Protection Zone to represent continental shelf habitats, and that benthic biodiversity is unusually high.

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 Risk assessments were conducted to assess the risks that could be posed to southern right whales (Eubalaena australis) and Australian Sea-lions (Neophoca cinerea) by mining operations, and whale and sea-lion research was facilitated.

Most of this work was the result of effective working relations between the Australian and South Australian governments. One of the major successes of the first Management Plan is that it has allowed for a successful cooperative management enterprise between the two governments through a Service Level Agreement.

To help develop this second Management Plan, a review of the Australian and State governments' management plans for the Park was conducted by a committee consisting of the Great Australian Bight Marine Park Steering and Consultative Committees (August 2003–May 2004) (see Section 1.3 of this Management Plan). The review found:

- Future plans should be short and easy to understand, with realistic, measurable objectives.
- Planning should use an holistic approach, and should particularly
  address tourism, bioprospecting and recreational fishing as the
  priority issues for the Park, with a focus on managing risks to key
  values, e.g. the coastline, marine mammals and unique seabed
  ecology.
- Plans should capitalise on the willing participation of stakeholders; in particular the fishing industry, for cooperation in compliance and research.
- Cooperation between government agencies should be developed, to avoid duplication in management activities.
- More specifically the review recommended developing strategies
  to protect southern right whales and Australian Sea-lions, and
  to promote the Park as a model of a successful multiple use
  protected area, exploring partnerships that promote stakeholder
  participation in marketing the Park, and scientific assessment of
  threats to Park values.
- Indigenous and cultural values of the Park should be addresed.
- Research for Native Title claims in the area should be facilitated.

### Significance of the Park

At around 19 700 square kilometres in extent, the Park is one of the Australian Government's largest marine protected areas. It was the first to include an area especially designed to be representative of the region, and an early model for sustainable use management in a temperate marine protected area. The range of uses allowed means that several government agencies have responsibilities relevant to protecting the environment in the area of the Park.

Section 1.1 of this Management Plan sets out the particular reasons for establishing the Park and also the purposes for which the Park is deemed to have been declared under the *Environmental Reform (Consequential Provisions) Act 1999*. The Park is managed in accordance with Australian reserve management principles set out in the *Environment Protection and Biodiversity Conservation Regulations 2000* (EPBC Regulations). The applicable Australian reserve management principles are at Appendix A.

The Park is part of the National Representative System of Marine Protected Areas. As part of the National Representative System the overarching goal of park management is to help safeguard the marine biological diversity of the Great Australian Bight. Park declaration is just one tool for contributing to this goal, but in the long term it can make a difference by helping to protect habitat from human impacts and by helping to increase awareness and understanding of marine conservation issues.

The particular conservation values that the Park aims to protect are set out in Section 1.2 of this Management Plan and include habitat for species of conservation significance, particularly the southern right whale (*Eubalaena australis*) and the Australian Sea-lion (*Neophoca cinerea*), and the ecological communities and sediments of the seabed.

The EPBC Act (s.354) prohibits actions affecting all native species inside the Park unless authorised by this Management Plan, which allows a range of activities, including fishing and scientific research, to be carried on under permit. Other provisions of the Act prevent activities that affect species of particular conservation interest (in the Park or other Commonwealth waters), and control actions that could have a 'significant' impact on the Commonwealth marine

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environment, including the Park's seabed. Management of the Park supplements this protection by minimising disturbances to areas of habitat important to these species, and disturbances to the seabed, while allowing for ecologically sustainable activities in the Park.

Note that because resource information can date rapidly, unlike the first Management Plan for the Park, this Management Plan does not include a detailed description of the Park. Instead, up-todate information about the Park is available on the website of the Australian Government Department of the Environment and Heritage. At the time of preparation of this Plan this information is at www.deh.gov.au/coasts/mpa/gab.

## Managing uses of the Park's resources

This second Management Plan takes into account the findings of the review of the previous Management Plan as well as an independent report that recommended continuing the moratorium on mining in the Marine Mammal Protection Zone due to the lack of certainty about impacts (Pidcock *et al.* 2003). The Plan will mark the commencement of a long-term strategy for evaluating and improving the Park's protective measures (see below).

Consistent with its assignment to the World Conservation Union (IUCN) category 'managed resource protected area', for the next seven years the Park will be managed mainly for the sustainable use of natural ecosystems. This means that uses of the Park, including resource extraction, will be allowed if they generally:

- entail no disturbance or minimal disturbance to habitat for marine mammals inside the Marine Mammal Protection Zone and the benthos inside the Benthic Protection Zone; and
- do not threaten the ecosystems overlapping the Park, and are exempt from approval or are approved under Commonwealth laws designed to protect the environment; and
- contribute to regional and national development, and have previously occurred inside the area now covered by the Park or cannot reasonably occur outside the Park.

Section 6 of this Management Plan sets out the uses allowed and the restrictions that apply to these uses. It is particularly relevant to people who visit and use the Park and to people who manage and regulate activities in the Park.

## Long-term strategy for improving protective measures

This Management Plan will see the commencement of a risk-based approach to setting levels of protection as more information about the Park is gathered and assessed (see Sections 5.1.1 and 5.2.1). The initial priorities will be to assess possible threats to marine mammals and to increase our knowledge about the seabed environment. This will help us to assess whether the current management arrangements adequately protect the Park. This approach will closely involve Park users where possible, because their business interests may be affected by changes to management, and because Park users are able to contribute valuable information about the conservation values of the Park.

In addition, day-to-day management of the Park is based on regular, formal assessment of risks.

Finally, an important consideration in management of the Park is the ongoing cooperation of the Australian Government with the South Australian Government and Park users in order to manage the entire Great Australian Bight Marine Park as a unit, to the extent possible. This Management Plan embodies the spirit of cooperation that commenced even before the Park was proclaimed.

Stephen Oxley
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Marine Conservation Branch
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Delegate of the Director of National Parks

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# Acknowledgements

The Director of National Parks is grateful to those individuals and organisations, representing industry, conservation, indigenous, scientific and government interests that assisted in the drafting of this Management Plan. The contribution of those individuals and groups that provided initial submissions, information and assistance during the preparation of this Plan is acknowledged.

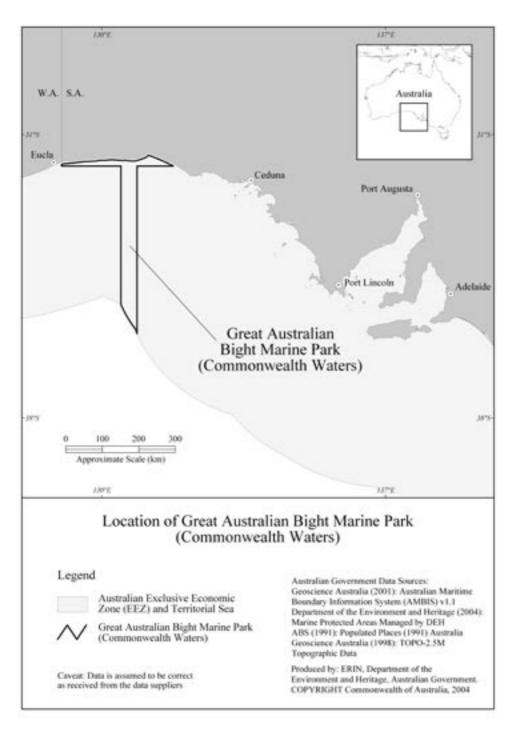
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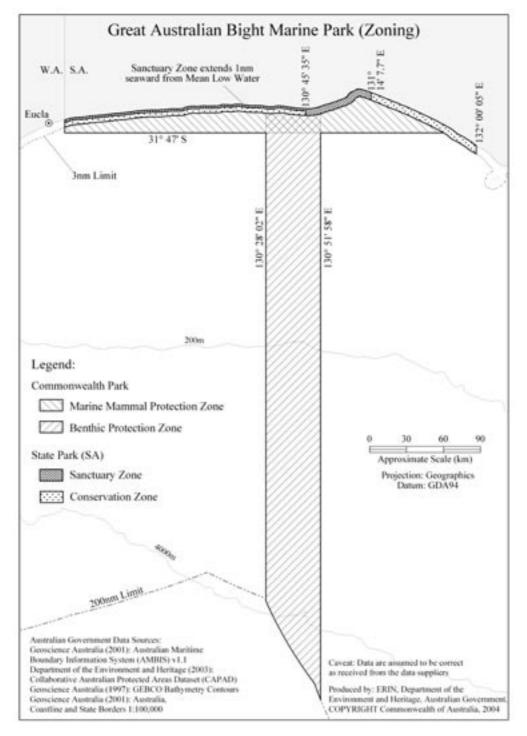
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**FIGURE 1.**Location of the Great Australian Bight Marine Park (Commonwealth Waters)



**FIGURE 2.**The Great Australian Bight Marine Park showing management zones





# Part 1 Introduction

# 1. Establishment and previous management

#### 1.1 Proclamation of the Park

The Great Australian Bight Marine Park (Commonwealth Waters) (the Park) was proclaimed on 17 April 1998 under the *National Parks and Wildlife Conservation Act 1975*, which was replaced on 16 July 2000 by the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The proclamation for the Marine Park was amended on 4 November 2004 to make changes to the boundary description to take account of current mapping practice and to correct minor technical problems and errors.

The reasons for proclaiming the Park were:

- 1. To complement the adjacent Great Australian Bight Marine National Park (the **State Park**) for the primary purpose of protecting the endangered southern right whale and Australian Sea-lion. On 26 September 1996 the South Australian Government declared the State Park, which encompassed the Great Australian Bight Marine Park Whale Sanctuary at the Head of Bight. The State Park was declared primarily for the protection of the calving waters of the southern right whale and important populations of the Australian Sea-lion. It is made up of the Great Australian Bight Marine Park Whale Sanctuary proclaimed on 22 June 1995 under the *Fisheries Act 1982* (SA) and the Great Australian Bight Marine National Park proclaimed on 26 September 1996 under the *National Parks and Wildlife Act 1972* (SA).
- To protect a representative strip of the unique seafloor (benthic) environment in line with the development of a National Representative System of Marine Protected Areas under Australia's Oceans Policy and international agreements (see Section 2.8).

The Park continues as a **Commonwealth reserve** under the EPBC Act pursuant to Schedule 4 of the *Environmental Reform (Consequential Provisions) Act 1999*, which deems the Park to have been declared for the following purposes:

a. the preservation of the area in its natural condition; and

b. the encouragement and regulation of the appropriate use, appreciation and enjoyment of the area by the public.

## 1.2 Conservation significance

The Park is in a relatively undisturbed area of Australia's marine jurisdiction. It contains features that are unusual or unique including key habitat for species listed in the EPBC Act; a broad shelf that is largely uninfluenced by run-off from the land; endemic species; and, compared to other Australian marine areas, relatively low human visitation and use, apart from past use by the whaling industry. It protects a relatively large sample of these features as part of Australia's National Representative System of Marine Protected Areas, which aims to conserve marine biodiversity. It provides a scientific reference area, that is, an area that is relatively undisturbed and that can be compared with other areas outside the Park.

The particular conservation values that the Park protects are:

- 1. Habitat for the southern right whale (Eubalaena australis).
- 2. Habitat for the Australian Sea-lion (Neophoca cinerea).
- 3. Habitat for other species of conservation significance.
- 4. A transect representative of the seabed on the continental shelf and slope of the Great Australian Bight.

The EPBC Act protects the **southern right whale** as a listed threatened species (endangered). The World Conservation Union (**IUCN**) considers that the survival of this species depends on conservation. The Head of Bight, where southern right whales aggregate each winter to give birth and breed, is the most significant site for the recovery of this species in Australian waters. The exact habitat requirements for southern right whales visiting the Head of Bight region are unknown. At the time of preparation of this Plan research to determine these requirements is underway.

The Great Australian Bight Marine Park is designed to protect the aggregating population, with a particular emphasis on protecting mothers and calves. Any alteration in the behaviour of a mother could threaten the survival of a calf, with implications for the recovery of the species. The Park's Marine Mammal Protection Zone complements the adjacent Sanctuary and Conservation Zones of the State Park

in minimising the risk of human interference with the annual aggregation of southern right whales, protecting the individual and social behaviour of southern right whales and their habitat during their annual migration, and minimising disturbances to that habitat at other times.

The Australian Sea-lion is also a listed threatened species (vulnerable) under the EPBC Act. It is Australia's only endemic pinniped (seals and sea-lions) species. Colonies of Australian Sealions occur on the coast under the Bunda Cliffs adjacent to the State Park and include 10 breeding sites. Australian Sea-lions are benthic (seafloor) feeders that are expected to forage in the Park. The species is unusual in that it breeds every 17 months and has an asynchronous breeding cycle, meaning that various colonies could be breeding at different times. Genetic studies suggest that females may return to the same sites for breeding events. Current theories suggest that Australian Sea-lions are unlikely to recolonise areas from which they have been removed, noting that there are few colonies remaining in Bass Strait.

Other species of conservation significance occur in the Park, including species protected under the EPBC Act (Part 13) such as the great white shark (*Carcharodon carcharias*), cetaceans, seals, albatrosses, petrels and other protected seabirds, various marine turtles at the limit of their range (e.g. *Dermochelys coriacea*), and various seahorses, seadragons and pipefish. The Park's Marine Mammal Protection Zone was intended mainly to protect habitat for the southern right whale and Australian Sea-lion but also protects the habitat of other species of conservation significance.

The continental shelf **seabed** in the Great Australian Bight supports some of the highest levels of seafloor (benthic) marine diversity and endemism found anywhere in Australia, particularly among red algae (sea weed), ascidians (sea squirts), bryozoans (lace corals), molluscs (shellfish) and echinoderms (sea urchins and sea stars). The Park's Benthic Protection Zone is a transect across the continental shelf, the continental slope, the Ceduna Terrace in the continental slope, and part of the Nullarbor Canyon, which captures a representative sample of the seafloor life (benthos). The Benthic Protection Zone minimises human sources of direct disturbance to the benthos, mainly by preventing seabed or 'demersal' trawl fishing. It provides a

reference area for 'inside vs. outside' comparisons of human induced environmental change. The Park also extends to 1000 metres below the seabed.

At the time of preparation of this Plan:

- Nationally, the southern right whale population is recovering strongly. The potential sources of human induced disturbance to southern right whale habitat include noise (aircraft, vessels and seismic operations), entangling materials, vessel strikes, research activities and pollutants.
- Recent data suggest numbers of Australian Sea-lions appear to be declining over parts of the species' range. National research, including in the Park, is underway to determine population recruitment, where Australian Sea-lions forage, and on what species they feed. The potential sources of disturbance to Australian Sea-lion habitat include entangling materials (especially demersal gill nets), reduction in food supply, human disturbance and pollution.
- Surveys suggest the continental shelf benthos is more diverse inside than outside the Park. The potential sources of disturbance to the benthos in the Park include introduced pest species, demersal trawling, sedimentation from drilling discharges and some scientific research.

### 1.3 Previous Management Plan

This is the second Management Plan for the Park. The first Management Plan came into operation in 2000 to remain in force until 16 May 2005. A committee consisting of the Great Australian Bight Marine Park Steering and Consultative Committees reviewed the first Management Plan towards the end of its period of operation. The committee completed its review in May 2004. This Management Plan takes the review's findings into account.

## 1.4 Structure of this Management Plan

Part 1 of this Management Plan explains the context of managing the Park, including the legal context. Part 2 sets out prescriptions about how the Park will be managed and has been structured to reflect

the Parks Australia Strategic Planning and Performance Assessment Framework. The framework consists of seven Key Result Areas:

Key Result Area 1 (KRA1): Natural heritage management

Key Result Area 2 (KRA2): Cultural heritage management

Key Result Area 3 (KRA3): Joint management

Key Result Area 4 (KRA4): Visitor management and park use

Key Result Area 5 (KRA5): Stakeholders and partnerships

Key Result Area 6 (KRA6): Business management

Key Result Area 7 (KRA7): Biodiversity knowledge management

The Director of National Parks has developed outcomes for each Key Result Area under the framework (see Appendix B).

Note: KRAs 2, 3 and 7 are not relevant to the Park and KRA 4 is most relevant to commercial activities in the Park. Research and knowledge management issues are dealt with under KRAs 1 and 4. The framework, under continual development, helps to ensure reporting of management achievements is consistent across all Commonwealth reserves. Section 8.4 of this Management Plan sets out the way the Park's performance will be assessed under the framework. Appendix B sets out the outcomes under each Key Result Area relevant to the Park.

#### Most sections of this Management Plan contain:

- Aims that describe the desired result of park management activity
- Performance indicators that can be used to measure whether management of the Park is effective in achieving the aims
- Background that explains why the section is needed
- *Prescriptions* that set out controls on activities in the Park and strategies for managing the Park.

# 2. Legal context

Section 1.1 of this Management Plan explains the legal context of the proclamation of the Park and the continuation of the Park as a Commonwealth reserve under the EPBC Act.

#### 2.1 Director of National Parks

Administration, management and control of Commonwealth reserves are the function of the Director of National Parks (the **Director**), a corporation under the EPBC Act (s.514B). The Director can delegate all or any of the Director's powers or functions under the EPBC Act (s.515).

# 2.2 Requirement to prepare and comply with a management plan

The EPBC Act requires the Director to prepare management plans for the Park. When prepared, a plan is given to the Minister for the Environment and Heritage (the **Minister**) for approval. A management plan is a 'legislative instrument' for the purposes of the *Legislative Instruments Act 2003*, and when approved must be registered under that Act and tabled in each House of the Commonwealth Parliament. Either House of the Parliament may disallow a plan. A management plan for a Commonwealth reserve has effect for seven years, unless it is revoked and replaced by a new management plan.

The Director must exercise the Director's powers and perform the Director's functions to give effect to a management plan in operation for a Commonwealth reserve; and the Commonwealth and Commonwealth agencies must not perform functions or exercise powers in relation to the reserve inconsistently with the Plan (s.362).

# 2.3 Activities prohibited unless allowed by a management plan or permit

The EPBC Act (s.354) prohibits certain actions being taken in a Commonwealth reserve except in accordance with a management plan. These actions are:

 kill, injure, take, trade, keep or move a member of a native species; or

- · damage heritage; or
- carry on an excavation; or
- erect a building or other structure; or
- carry out works; or
- take an action for commercial purposes.

The EPBC Act (s.355) also prohibits mining operations in a Commonwealth reserve unless the Governor-General has approved them and they are carried out in accordance with a management plan.

Civil and criminal penalties may be imposed for breaches of the EPBC Act.

Division 12.2 of the EPBC Regulations controls, or allows the Director to control, a range of activities in Commonwealth reserves including the use of vehicles and vessels, littering, commercial activities, commercial fishing, recreational fishing and research. Many of these activities are prohibited unless certain exemptions apply under r.12.06, for example, where the Director has issued a permit that authorises the activity, or where a management plan in force for the Commonwealth reserve allows the activity. A management plan can provide that the activity be done in accordance with a permit issued by the Director.

Criminal penalties may be imposed for breaches of the EPBC Regulations.

Hence, a management plan is an essential part of the effective regulation of the Park. In addition to its primary role in providing for the protection and conservation of the Park, a management plan is the only way to allow certain uses of the Park that would otherwise be prohibited by the EPBC Act, and can allow uses that would otherwise be prohibited by the EPBC Regulations.

# 2.4 Activities that may require additional environmental approval

Other parts of the EPBC Act may also be relevant to the management of the Park and the taking of actions in, and in relation to, the Park. The Park lies in a 'Commonwealth marine area' and the 'Australian Whale Sanctuary' for the purposes of the EPBC Act.

Firstly, actions that will or are likely to have a significant impact on

matters of 'national environmental significance' will be subject to the assessment and approval provisions of Chapters 2 to 4 of the EPBC Act (irrespective of where the action is taken). Matters of national environmental significance are identified in Part 3 of the Act. They include the environment in a Commonwealth marine area and threatened and migratory species listed under the Act.

Responsibility for compliance with the assessment and approvals provisions of the EPBC Act lies with persons taking relevant 'controlled' actions. A person proposing to take an action that the person thinks may be, or is, a controlled action, should refer the proposal to the Minister for the Minister's decision whether or not the action is a controlled action. The Director may also refer proposed actions to the Minister.

Secondly, the EPBC Act contains provisions (Part 13) that prohibit and regulate actions in relation to listed threatened species and ecological communities, listed migratory species, and listed marine species in Commonwealth areas; and in relation to cetaceans (whales and dolphins) in the Australian Whale Sanctuary established by the Act. The waters of the Park are part of the Australian Whale Sanctuary.

Appendix C to this Management Plan lists fauna species of conservation significance to the Park, including species that are protected under Part 13 of the EPBC Act.

Hence a person intending to take an action in the Park may require up to three independent types of approval under the EPBC Act:

- approval by the Minister under Part 9 for controlled actions, which are actions that are likely to have a significant impact on matters of national environmental significance
- a permit from the Minister under Part 13 for activities that affect members of species protected by Part 13. Approval under Part 9 removes most requirements for a permit under Part 13 but not in relation to whales or other cetaceans
- 3. a permit from the Director for activities covered by s.354(1) of the EPBC Act or by the EPBC Regulations; or, if the action is a mining operation conducted in accordance with the management plan, approval by the Governor-General.

## 2.5 Traditional use by Indigenous persons

Section 359A of the EPBC Act provides that the provisions of the Act and EPBC Regulations relating to Commonwealth reserves do not prevent an Indigenous person from continuing, in accordance with law, the traditional use of an area in a Commonwealth reserve for hunting or food-gathering (except for purposes of sale), or ceremonial and religious purposes; although the Regulations do affect the traditional Indigenous use of an area in a Commonwealth reserve if those Regulations are made for the purpose of conserving biodiversity in the area and expressly affect the traditional use of the area by Indigenous persons.

#### 2.6 Native title

At the time of preparation of this Plan part of the Park is subject to two applications for a determination of native title under the *Native Title Act 1993*. Section 8 of the EPBC Act provides that the EPBC Act does not affect the operation of the Native Title Act. In cases where native title is determined to exist, s.211 of the Native Title Act has the effect of preserving certain native title rights and interests. It provides that native title holders are exempt from certain permit requirements to engage in native title activities comprising hunting, fishing, or gathering for personal, domestic or non-commercial communal needs, or to engage in cultural or spiritual activities.

Section 211 of the Native Title Act will not apply if an activity is prohibited completely or if the regulatory regime provides that the licences or permits are only to be issued for research, environmental, public health or public safety purposes. In these situations native title holders will not be able to engage in the activity at all, or will need to comply with the licence or permit requirements.

# 2.7 Purpose and content of a management plan

Under the EPBC Act (s.367) a management plan for a Commonwealth reserve must provide for the protection and conservation of the reserve. In particular, the plan must (so far as relevant to the Park):

 assign the reserve to an IUCN category (whether or not a proclamation has assigned the reserve or a zone of the reserve to that IUCN category)

- state how the reserve, or each zone of the reserve, is to be managed
- state how the natural features of the reserve, or of each zone of the reserve, are to be protected and conserved
- specify any limitation or prohibition on the exercise of a power, or performance of a function, under an Act in or in relation to the reserve
- specify any mining operation, major excavation or other works that may be carried on in the reserve, and the conditions under which it may be carried on
- specify an operation or activity that may be carried on in the reserve
- indicate generally the activities that are to be prohibited or regulated in the reserve, and the means of prohibiting or regulating them
- indicate how the plan takes account of Australia's obligations under each agreement with one or more other countries that is relevant to the reserve (including the World Heritage Convention and the Ramsar Convention, if appropriate).

A management plan may divide a Commonwealth reserve into zones and assign each zone to an IUCN category. The category to which a zone is assigned may differ from the category to which the reserve is assigned (s. 367(2)).

A management plan must not make any provisions that are inconsistent with the management principles for the IUCN category to which the reserve or a zone of the reserve is assigned (s.367(3)).

## 2.8 International agreements

This Management Plan must take account of Australia's obligations under relevant international agreements. At the time of preparation of this Plan the following agreements are relevant to the protection and conservation of biodiversity and heritage in the Park.

#### *United Nations Convention on the Law of the Sea (UNCLOS)*

UNCLOS was made in 1982 and entered into force for Australia in 1994. It provides a framework to regulate many aspects of the uses

of the sea and the conservation of marine environment. UNCLOS includes the right of innocent passage of foreign ships through the Territorial Sea, and the freedom of navigation through the Exclusive Economic Zone (EEZ).

The right of innocent passage allows foreign ships to pass through the Territorial Sea, without entering internal waters or calling at a roadstead or port facility outside internal waters, or proceeding to or from internal waters or a call at such roadstead or port facility. Passage must be continuous and expeditious, but includes stopping and anchoring in the course of ordinary navigation, or if it is necessary by *force majeure* or distress or to assist persons, ships or aircraft in danger or distress. Certain activities are specified as not being innocent passage including launching, landing or taking on board aircraft; wilful and serious pollution contrary to UNCLOS; fishing; research or survey activities; other activities not having a direct bearing on passage.

UNCLOS requires that foreign ships enjoying the right of innocent passage through the Territorial Sea must comply with laws relating to certain matters, including conservation of the living resources of the sea; prevention of infringement of the fisheries laws; preservation of the environment and the prevention, reduction and control of pollution of the environment; and marine scientific research and hydrographic surveys.

Within the EEZ foreign ships have rights closely associated with their rights on the high seas, including the freedom of navigation. Ships enjoying the freedom of navigation must comply with laws relating to certain matters, including marine scientific research, and protection and preservation of the marine environment.

#### Convention on Biological Diversity (CBD)

The CBD requires countries to develop and implement strategies for sustainable use and protection of biodiversity, including establishing protected areas. An international programme of work to protect marine and coastal biological diversity was agreed in February 2004 under the auspices of the CBD. It establishes an international agenda for protecting marine biodiversity, including establishing networks of marine and coastal protected areas. These networks can include areas that, like the Park, allow extractive uses.

# Convention on the Conservation of Migratory Species of Wild Animals (CMS)

The CMS aims to conserve terrestrial, marine and avian migratory species throughout their range. It lists certain migratory species as 'endangered'. For these species Australia is required to (among other things) conserve important habitats; deal with activities that seriously impede or prevent the migration of the species; and deal with factors that are endangering the species, including controlling introduced exotic species.

The CMS list includes species that occur in the Park, particularly the southern right whale, but also the great white shark and marine turtles (Appendix C lists species of conservation significance found in the Park).

# International Convention for the Prevention of Pollution from Ships (MARPOL 73/78 Convention)

The MARPOL 73/78 Convention deals with pollution from shipping accidents such as collisions or groundings and with all types of waste generated during the normal operation of ships. It is the basis for Australian and State government regulation of pollution from all ships, including fishing vessels, in Australian waters. The International Maritime Organization, a specialised agency of the United Nations, administers this convention and related conventions.

# Agreement between the Government of Australia and the Government of the People's Republic of China for the Protection of Migratory Birds and their Environment (CAMBA)

CAMBA provides for China and Australia to co-operate in the protection of migratory birds listed in the annex to the agreement, and their environment, and requires each country to take appropriate measures to preserve and enhance the environment of migratory birds (see Appendix C).

# Agreement between the Government of Australia and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction and their Environment (JAMBA)

JAMBA provides for Japan and Australia to cooperate in taking measures for the management and protection of migratory birds,

birds in danger of extinction, and the management and protection of their environments, and requires each country to take appropriate measures to preserve and enhance the environment of birds protected under the provisions of the agreement (see Appendix C).

#### Agreement on the Conservation of Albatrosses and Petrels (ACAP)

ACAP provides for parties, including Australia, to conserve highly migratory, threatened seabirds over their normal range by protecting critical habitat, controlling non-native species detrimental to albatrosses and petrels, introducing measures to reduce the incidental catch of seabirds in long-line fisheries, and supporting research into the effective conservation of albatrosses and petrels (see Appendix C).

# 2.9 Other relevant legislation

Other legislation relevant to uses of the Park is noted in Section 6.

Note: There are no listed heritage areas or known historic shipwrecks in the Park.

# 3. Interpretation

#### 3.1 Short title

This Management Plan may be cited as the Commonwealth Great Australian Bight Marine Park Management Plan 2005–2012.

## 3.2 Commencement and termination

This Management Plan will come into operation on 17 May 2005. The Plan will cease to have effect seven years after commencement, unless sooner revoked and replaced by a new Management Plan.

## 3.3 Interpretation (including acronyms)

In this Management Plan:

**ACAP** means the Agreement on the Conservation of Albatrosses and Petrels.

Australian IUCN reserve management principles have the meaning given by s.348(1) of the EPBC Act.

**Benthic Protection Zone** has the meaning given by Section 4.2(b) of this Management Plan.

CBD means the Convention on Biological Diversity.

**CAMBA** means the Agreement between the Government of Australia and the Government of the People's Republic of China for the Protection of Migratory Birds and their Environment.

**CMS** means the Convention on the Conservation of Migratory Species of Wild Animals.

**Commonwealth marine area** has the meaning given by s.24 of the EPBC Act.

**Commonwealth reserve** means a reserve declared under Division 4 of Part 15 of the EPBC Act.

**Department** means the government agency responsible for administering the EPBC Act, being at the time of preparation of this Plan the Australian Government Department of the Environment and Heritage.

**Director** means the Director of National Parks referred to in s.514A of the EPBC Act.

**EEZ** means the Exclusive Economic Zone (as defined in the *Seas* and *Submerged Lands Act* 1973) of Australia (including its external Territories).

**EPBC Act** means the *Environment Protection and Biodiversity Conservation Act 1999*, including Regulations under the Act, and includes reference to any Act amending, repealing or replacing the EPBC Act.

**EPBC Regulations** means the Environment Protection and Biodiversity Conservation Regulations 2000 and includes reference to any Regulations amending, repealing or replacing the EPBC Regulations.

IUCN means the World Conservation Union.

**IUCN category** has the meaning given by s.346(1) of the EPBC Act.

**JAMBA** means the Agreement between the Government of Australia and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction and their Environment.

**KRA** means Key Result Area, which is explained in Section 1.4 of this Management Plan.

**Marine Mammal Protection Zone** has the meaning given by Section 4.2(a) of this Management Plan.

MARPOL 73/78 Convention means the International Convention for the Prevention of Pollution from Ships.

**Mining operations** has the meaning given by s.355 of the EPBC Act. The term covers a broad range of activities, including exploration for 'minerals', also defined by s.355.

**Minister** means the Minister responsible for administering the EPBC Act, being at the time of preparation of this Plan the Minister for the Environment and Heritage.

**Park** means the Great Australian Bight Marine Park (Commonwealth Waters).

**Park users** means active participants with an interest in the proclamation and ongoing management of the Park including the general public, conservation groups, the fishing industry, the mining

industry, the tourism industry, the scientific community and the Indigenous community.

**Parks Australia** means that part of the Department that assists the Director in performing the Director's functions under the EPBC Act.

**State Park** means the area in the coastal waters of the State of South Australia comprising the Great Australian Bight Marine Park Whale Sanctuary proclaimed under the *Fisheries Act 1982* and the Great Australian Bight Marine National Park proclaimed under the *National Parks and Wildlife Act 1972*.

**UNCLOS** means the United Nations Convention on the Law of the Sea.



# Part 2 How the Park will be managed

# 4. Zoning and IUCN categories

#### Background

Under the EPBC Act (s.367) a management plan for a Commonwealth reserve can divide the reserve into zones and must assign the reserve, and any zones, to one of the IUCN categories listed in the Act (s.347). The EPBC Regulations prescribe Australian IUCN management principles for each IUCN category. The management principles that are relevant to the Park are set out in Appendix A.

The Park is made up of two overlapping zones (see Figure 2). Directly adjacent to the South Australian Marine Park is the Marine Mammal Protection Zone that extends from three nautical miles to approximately 12 nautical miles offshore. This area is primarily intended to provide for undisturbed calving for the southern right whale and protection of Australian Sea-lion colonies.

To the west of the Head of Bight is the Benthic Protection Zone, a 20 nautical mile-wide representative strip of the ocean floor extending 200 nautical miles from the edge of the State Park (at three nautical miles) directly south to the edge of Australia's Exclusive Economic Zone. This area aims to protect a sample of the unique and diverse plants and animals that live on, and are associated with, the ocean floor.

#### **Prescriptions**

# 4.1 The Park is assigned to the IUCN category 'managed resource protected area'.

This category corresponds to the international IUCN Protected Area Management Category VI and indicates that the Park will be managed mainly for the sustainable use of natural ecosystems based on the following principles:

• The biological diversity and other natural values of the reserve or zone should be protected and maintained in the long term.

- Management practices should be applied to ensure ecologically sustainable use of the reserve or zone.
- Management of the reserve or zone should contribute to regional and national development to the extent that this is consistent with these principles.

#### 4.2 The Park is divided into two zones as follows:

- a. **Marine Mammal Protection Zone**, being all of that area within the Southern Ocean contained within and bounded as follows:
  - i. commencing at the intersection of the parallel of latitude 31 degrees 47 minutes south and the adjacent area boundary between Western Australia and South Australia;
  - ii. then generally north along that adjacent area boundary to its intersection with the outer limit of the coastal waters of South Australia;
  - iii. then generally east along the outer limit of the coastal waters of South Australia to its intersection with the parallel of latitude 31 degrees 47 minutes south; and
  - iv. then west along the parallel of latitude 31 degrees 47 minutes to the point of commencement.
- b. **Benthic Protection Zone**, being all of that area within the Southern Ocean contained within and bounded as follows:
  - i. commencing at the intersection of the meridian of longitude 130 degrees 51 minutes 58 seconds east and the outer limit of the coastal waters of South Australia;
  - ii. then south along the meridian of longitude 130 degrees 51 minutes 58 seconds east to its intersection with the outer limit of the Exclusive Economic Zone;
  - iii. then generally northwest along the outer limit of the Exclusive Economic Zone to its intersection with the meridian of longitude 130 degrees 28 minutes 2 seconds east;
  - iv. then north along the meridian of longitude 130 degrees 28 minutes 2 seconds east to its intersection with the outer limit of the coastal waters of South Australia; and
  - v. then generally east along the outer limit of the coastal waters of South Australia to the point of commencement.

#### Note:

- All geographic coordinates are expressed in terms of the Geocentric Datum of Australia 1994 (GDA94) as described in the Commonwealth of Australia Gazette GN35 of 6 September 1995.
- 2. The Marine Mammal Protection Zone and Benthic Protection Zone overlap.
- 3. The Park boundaries are described in Appendix D and are depicted in Figure 2, including the boundaries of the zones.
- 4. The Park encompasses the waters and seabed beneath the sea and the subsoil beneath the seabed to a depth of 1000 metres below the seabed. It does not encompass the airspace above the Park although Regulation 12.36 of the EPBC Regulations applies to commercial activities in the airspace up to 3000 metres above sea level.
- 5. The Exclusive Economic Zone in relation to Australia and its external territories has been declared under the *Seas and Submerged Lands Act 1973* in accordance with the United Nations Convention on the Law of the Sea (proclamation dated 26 July 1994 published in the *Commonwealth of Australia Gazette* s290 of 29 July 1994).
- 4.3 Both zones are assigned to the IUCN category 'managed resource protected area'.

# 5. Natural heritage management (KRA1)

Section 5 of this Management Plan states the Director's aims in protecting the Park's conservation values. It sets out broad strategies for improving protection for these values. Section 6 sets out specific regulations and strategies that will help to achieve these aims during the period of operation of this Management Plan while allowing people to visit and use the Park.

### **5.1** Species of conservation significance

Aim: To contribute towards the protection of species of conservation significance, particularly the southern right whale (Eubalaena australis) and the Australian Sea-lion (Neophoca cinerea), by minimising human disturbance to habitats considered important to the survival of these species

#### Performance indicators

- Number of interactions causing southern right whale injury or death in the Park and the State Park due to direct human intervention.
- Distribution and abundance of the southern right whale population in the region.
- Number of interactions causing Australian Sea-lion injury or death in the Park and the State Park due to direct human intervention.
- Presence and numbers of Australian Sea-lion pups at known breeding sites along the Bunda Cliffs.
- Number of interactions causing injury or death to other species of conservation significance in the Park and the State Park due to direct human intervention.

#### Background

This section of the Management Plan provides a long-term strategy to monitor and improve the protection afforded to species of conservation significance, especially the southern right whale and Australian Sea-lion, in the Marine Mammal Protection Zone. Section 6 of the Plan contains specific prescriptions relating to activities

that can impact on habitat and thus on species in the zone (see, for example, Section 6.1.1 in relation to use of vessels). This Plan affords a high level of protection to habitat that is important for the recovery of the southern right whale and, by doing so, helps to meet Australia's international obligations under the Convention on Migratory Species (CMS).

Section 354(1) of the EPBC Act prohibits certain actions being taken in the Park, except in accordance with this Management Plan, including actions affecting members of native species, and carrying out works. This applies to the Director as well as to park visitors and users (see Section 2.3).

A number of species that are protected under Part 13 of the EPBC Act occur in the Park (listed threatened, migratory and marine species, and cetaceans). At the time of preparation of this Plan, threatened species recovery plans under the EPBC Act are in place for the great white shark and marine turtles. Recovery plans for other listed threatened species, including the southern right whale, are in preparation and may come into effect during the period of operation of this Management Plan.

The EPBC Act promotes the conservation of biodiversity in Commonwealth waters (including the Park) by protecting listed species and communities (including listed threatened species and ecological communities, listed migratory species and listed marine species) and cetaceans (all whales, dolphins and porpoises). In Commonwealth waters including the Park, unless authorised to do so by a permit from the Minister, a person must not kill, injure, take, trade, keep, or move any member of a listed threatened species or ecological community, member of a listed migratory species, or member of a listed marine species or cetacean. In these waters it is also an offence to interfere with, or treat (divide or cut up, or extract any product from) any cetacean without a permit. A person must not take an action that has, will have, or is likely to have a significant impact on a listed threatened species or ecological community or a listed migratory species, without approval from the Minister. Finally, the Act allows the Australian Government to:

- identify key threatening processes
- protect critical habitat and develop a Register of Critical Habitat

- prepare recovery plans, threat abatement plans, wildlife conservation plans, bycatch action plans, bioregional plans and conservation agreements
- issue conservation orders
- regulate exports and imports of live animals and plants, wildlife specimens, and products made or derived from wildlife.

#### Prescriptions

#### 5.1.1 In consultation with affected Park users the Director will:

- a. develop a research program with an annual review process to identify research priorities and ensure maximum management benefit from research and survey investments; and
- b. provide financial support for appropriate research relevant to understanding the habitat requirements of Australian Sea-lions and southern right whales and the threats to their habitats; and
- where appropriate, liaise with researchers investigating Australian Sea-lions, southern right whales and other species of conservation significance; and
- d. consider taking, and consider issuing permits to take, actions (including actions covered by s.354(1) of the EPBC Act) to facilitate research into populations of Australian Sea-lions, southern right whales and other species of conservation significance in the Park; and
- e. consider taking, and consider issuing permits to take, actions (including actions covered by s.354(1) of the EPBC Act) to facilitate and implement relevant recovery plans for listed threatened species, and threat abatement plans and wildlife conservation plans, under the Act, provided that the actions are not inconsistent with any other prescription in this Plan. Notwithstanding any other prescription in this Plan, the Director will not take, or issue permits to take, actions that would contravene a relevant recovery plan or threat abatement plan.

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Note: Section 8.1.1 of this Management Plan requires the Director to regularly assess risks to the values of the Park. Section 8.4.1 states the Director will monitor the performance indicators in this Management Plan and other performance indicators that the Director may identify. Section 8.4.2 states the Director will assess the effectiveness of this Management Plan in sufficient time to contribute to the development of the next Management Plan.

- 5.1.2 The Director may take actions covered by s.354(1) of the EPBC Act in the Marine Mammal Protection Zone to implement the prescriptions in this Management Plan, or where it is otherwise necessary for:
- a. preserving or protecting the Park; or
- b. protecting or conserving biodiversity or heritage in the Park; or
- c. protecting persons or property in the Park; or
- d. managing the effects of actions taken by other persons in the Park.

#### 5.2 Seafloor sample

Aim: To contribute towards the protection of the benthic habitat and associated ecological communities and seabed sediments characteristic of the Great Australian Bight by minimising human disturbance to the seabed in the Park

#### Performance indicators

- Spatial and temporal variations of benthic community structure
  - inside vs. outside the Park
  - before, during and after any operations that disturb the benthos in the region.
- Number of known nationally listed exotic benthic species and extent of colonisation.
- Number of infringements in the Benthic Protection Zone.

#### **Background**

In this section, the Management Plan provides a strategy to monitor and improve the protection afforded to the seabed in the Benthic Protection Zone. Section 6 contains specific prescriptions relating to activities that can impact on species in the zone (see, for example, Section 6.4.4 in relation to trawling and the seabed).

#### **Prescriptions**

- 5.2.1 In consultation with affected Park users the Director will set levels of protection for the benthic sediment and community structures in the Benthic Protection Zone. The Director will:
- a. develop a research program with an annual review process to identify research priorities and ensure maximum management benefit from research and survey investments; and
- b. consider providing financial support for research that proposes using the Benthic Protection Zone as a reference for evaluating the ecological consequences of renewable resource extraction; and
- c. where appropriate, liaise with researchers investigating benthic ecology in the Great Australian Bight; and
- d. consider taking, and consider issuing permits to take, actions (including actions covered by s.354(1) of the EPBC Act) to facilitate research into the benthic sediment and communities; and
- e. consider taking, and consider issuing permits to take, actions (including actions covered by s.354(1) of the EPBC Act) to facilitate and implement relevant recovery plans for listed threatened species, and threat abatement plans and wildlife conservation plans, under the Act, provided that the actions are not inconsistent with any other prescription in this Plan. Notwithstanding any other prescription in this Plan, the Director will not take, or issue permits to take, actions that would contravene a relevant recovery plan or threat abatement plan.

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Note: Section 8.1.1 of this Management Plan requires the Director to regularly assess risks to the values of the Park. Section 8.4.1 states the Director will monitor the performance indicators in this Management Plan and other performance indicators that the Director may identify. Section 8.4.2 states the Director will assess the effectiveness of this Management Plan in sufficient time to contribute to the development of the next Management Plan.

- 5.2.2 The Director may take actions covered by s.354(1) of the EPBC Act in the Benthic Protection Zone to implement the prescriptions in this Management Plan, or where it is otherwise necessary for:
- a. preserving or protecting the Park; or
- b. protecting or conserving biodiversity or heritage in the Park; or
- c. protecting persons or property in the Park; or
- d. managing the effects of actions taken by other persons in the Park.

#### 6. Visitor management and Park use (KRA4)

More than one part of Section 6 may apply to the actions of a person in the Park. For example, the general access provisions in Section 6.1 will apply to a person carrying on recreational fishing in accordance with Section 6.2. Various other legal environmental protection requirements may also apply, which are generally noted in this part of the Management Plan.

#### 6.1 Entering and using the Park generally

Aim: To protect the Park while allowing people to enter and use the Park and airspace

#### Performance indicators

- Number of reported breaches during closure of the Marine Mammal Protection Zone.
- Number of reported interactions with species of conservation significance.
- Number of permits issued and number refused.

#### Background

As noted in Section 2.3, s.354 of the EPBC Act prohibits certain actions being taken in a Commonwealth reserve except in accordance with a management plan, including actions affecting native species and actions for commercial purposes.

Section 2.3 also states that Division 12.2 of the EPBC Regulations controls, or allows the Director to control, a range of activities in Commonwealth reserves. Of particular relevance to use of vessels in the Park is r.12.56 that authorises the Director to make various kinds of determinations controlling the use of vessels, including prohibiting use. To give effect to the previous management plan the Director has made a determination under r.12.56 that the Marine Mammal Protection Zone is an area where the use of vessels is prohibited from 1 May to 31 October inclusive each year. The determination is reproduced at Appendix F.

The determination and prescriptions in this Management Plan apply to Australian vessels, but are not intended to prevent foreign vessels

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enjoying the right of innocent passage through the territorial sea or freedom of navigation through the Exclusive Economic Zone in the Park in accordance with UNCLOS. The territorial sea extends to 12 nautical miles out to sea from the territorial sea baseline along the coast (generally the line of lowest astronomical tide). In relation to the Park the territorial sea includes most of the Marine Mammal Protection Zone. Broadly speaking, foreign vessels have the right to traverse or stop in the territorial sea, but this does not extend to carrying on certain activities, such as fishing and scientific research. However, there is little likelihood of international shipping travelling through the Marine Mammal Protection Zone as to do so would require a significant northward deviation from the main route across the Great Australian Bight.

The EPBC Regulations include other provisions that prohibit or regulate visitor and recreation activities in the Park, including:

- r.12.14 discharging waste, refuse or any noxious, offensive or polluting substance; and
- r.12.15 possession and use of firearms, spears and other devices for taking animals (including nets).

Activities that are otherwise prohibited in the Park by the EPBC Regulations will be exempt if covered by an exception prescribed by r.12.06 (1). These exceptions include an activity that:

- is provided for by, and carried out in accordance with, a management plan in force for the reserve (12.06 1a); or
- is authorised by a permit in force under subregulation (2) (12.06 1c); or
- is carried out by a Commonwealth agency, or an agency of a State or of a self-governing Territory, and is reasonably necessary for law enforcement (12.06 1i); or
- is reasonably necessary to deal with an emergency involving a serious threat to human life or property (12.06 1j); or
- occurs because of an unavoidable accident, other than an accident caused by negligent or reckless behaviour (12.06 1k).

Provisions of Part 13 of the EPBC Act prohibit actions affecting members of listed threatened, migratory and marine species, and

cetaceans in the Park (including causing death or injury, taking, keeping or moving) unless authorised by a permit issued by the Minister, or another exception in Part 13 applies. The Secretary of the Department must be notified of actions that are exempt, but not authorised by a permit, within seven days.

Part 8 of the EPBC Regulations regulates the way aircraft, vessels and humans can operate in the proximity of cetaceans.

Other Commonwealth laws also contribute to protecting the Park from the impacts of shipping and aviation.

The Air Navigation Act 1920 implements the terms of the Chicago Convention and preserves the right of licensed international air services to fly across and land in Australian territory. Every aircraft in Australia must comply with the Air Navigation (Aircraft Noise) Regulations. Airservices Australia is responsible for ensuring compliance with aircraft noise regulations.

Various Commonwealth laws, particularly the *Protection of the Sea* (*Prevention of Pollution from Ships*) *Act 1983*, implement the MARPOL 73/78 Convention and other international agreements relevant to 'protection of the sea' from the environmental impacts of shipping, including fishing vessels. These laws restrict the discharge of polluting substances, such as oily mixtures and plastics, from vessels into the sea. Under these laws the master of a vessel involved in a pollution incident must report the incident. The Australian Maritime Safety Authority, and the Western and South Australian governments are responsible for applying these laws in Australian waters in the region of the Park.

The prescriptions below apply generally to entry and use of the Park. Sections 6.2 to 6.5 establish specific additional controls for how recreational fishing, research, commercial activities (including commercial fishing) and mining operations can be carried on in the Park.

#### **Prescriptions**

6.1.1 The determination under r.12.56 of the EPBC Regulations prohibiting use of vessels in the Marine Mammal Protection Zone from 1 May to 31 October inclusive each year will be maintained subject to any further determination being made under Section 6.1.5.

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6.1.2 All activities carried on in the Marine Mammal Protection Zone (except foreign vessels enjoying the right of innocent passage in accordance with UNCLOS) are subject to the determination referred to in Section 6.1.1 above, and any permits issued authorising activities in the zone will be subject to conditions requiring compliance with the determination.

Note: Regulation 12.56 does not prevent law enforcement and emergency response operations e.g. by Customs, Coastwatch and the Australian Defence Force.

- 6.1.3 The Director may in exceptional cases issue a permit for the purposes of r.12.56, authorising use of a vessel in the Marine Mammal Protection Zone during the closure period.
- 6.1.4 The Director will collate and review any reports of:
- a. southern right whales being seen in the Great Australian Bight other than during the period from 1 May to 31 October inclusive each year; and
- b. vessels or aircraft disturbing southern right whales or Australian Sea-lions in the Marine Mammal Protection Zone.
- 6.1.5 Should any significant additional risk to biodiversity values be identified, under Section 6.1.4 the Director may further control entry to and use of the Marine Mammal Protection Zone (including to make further determinations under the EPBC Regulations).

#### 6.2 Fishing other than commercial fishing

Aim: To protect the Park by allowing people to carry on fishing other than commercial fishing only if it is consistent with protecting the conservation values of the Park

#### Performance indicators

- Number and severity of environmental and safety incidents that impact on the values of the Park.
- Number of infringement notices and successful prosecutions conducted.

#### **Background**

Section 354 of the EPBC Act prohibits the killing, injuring, taking, trading, keeping or moving of a member of a native species, including all native fish and marine invertebrates, in the Park except in accordance with this Management Plan.

Regulation 12.35 of the EPBC Regulations (which operates subject to 5.354(1) of the EPBC Act and this Management Plan) allows for recreational (non-commercial) fishing subject to a number of specific restrictions, and determinations made by the Director.

Regulation 12.35 says that a person who is fishing must not use underwater breathing apparatus and must not catch fish using equipment other than lines, hooks and lures. It also prohibits use of live bait or native species as bait (other than a species of fish), leaving a fishing line unattended and cleaning or filleting fish within a marine area.

Under r.12.35, the Director may make determinations prohibiting recreational fishing or specifying conditions such as:

- gear that must or cannot be carried or used
- the kind, number or size of fish that can be taken.

The operation of r.12.35 is subject to this Management Plan.

Section 6.1 of this Management Plan controls the way people can enter and use the Park.

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#### Prescriptions

- 6.2.1 Subject to Section 6.1, a person may carry on recreational fishing in accordance with r.12.35 of the EPBC Regulations.
- 6.2.2 The Director may further control the way people can carry out recreational fishing, including making determinations under r.12.35.

#### 6.3 Commercial and scientific activities

Aim: To protect the Park by allowing people to carry on commercial and scientific activities only if they are consistent with protecting the conservation values of the Park

#### Performance indicators

- Number of permits issued and refused.
- Number of targeted scientific surveys and research programs.
- Number and severity of environmental and safety incidents that impact on the values of the Park.

#### Background

Section 354 of the EPBC Act prohibits certain actions in the Park except in accordance with this Management Plan, including killing, injuring, taking, trading, keeping or moving a member of a native species; and actions for commercial purposes (see Section 2.3). Section 355 of the EPBC Act prohibits mining operations except in accordance with this Plan, and with approval from the Governor-General

Research in the Park is prohibited by r.12.10 of the EPBC Regulations unless authorised by this Management Plan or a permit issued by the Director (or unless one of the other exceptions prescribed by r.12.06 of the EPBC Regulations applies). Research that involves taking, keeping, killing, injuring, trading, or moving native species, or is undertaken for commercial purposes, is prohibited by s.354(1) of the EPBC Act except in accordance with this Plan. Research that affects listed threatened species or ecological communities, listed migratory species, cetaceans or listed marine species is also regulated under Part 13 of the Act.

Regulation 12.36 of the EPBC Regulations deems that commercial activities carried out up to 3000 metres above sea level in the Park require a permit to be held unless authorised by a management plan. This part of the Plan provides for commercial aviation over the Park to continue without the need for a permit.

Further to Section 2.4 of this Management Plan, a person who wishes to carry out whale watching in the Park may require a permit issued by the Director unless they have a permit from the Minister under s.238 of the EPBC Act and they must comply with Part 8 of the EPBC Regulations, in addition to the requirements of this Management Plan.

Section 301 of the EPBC Act authorises the EPBC Regulations to provide for the control of access to biological resources in Commonwealth areas, which include the Park. At the time of preparation of this Plan, regulations were being prepared to control the taking of biological resources of native species for conservation, commercial application or industrial application of, or research on, any genetic resources, or biomolecules, comprising or contained in the biological resources.

Permits issued under the EPBC Regulations to authorise activities in the Park contain additional conditions that apply to the conduct of activities in the Park. For example, a permit may require that the person conducting the activity hold appropriate insurance. For most activities the Director requires permit holders to provide a report about their activities in the Park, including dates, locations used and details of incidents such as bycatch of protected species, and also a copy of any scientific information produced. Information about applying for a permit is available on the Department's website. At the time of preparation of this Plan this information is at www.deh.gov.au/epbc/permits.

The prescriptions in this part of the Management Plan provide for a broad range of commercial and research activities to occur in the Park, including emerging activities that are not otherwise specified in this Management Plan. Examples of activities that could occur in the Park include scientific research, commercial tour operations and bioprospecting.

Sections 5.1 and 5.2 of this Management Plan set out ways research programs on Park values will be facilitated.

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Section 6.1 controls the way people can enter and use the Park.

Section 6.4 establishes specific controls for how commercial fishing can be carried on in the Park, including limits on who can obtain a permit.

Section 6.5 controls mining operations in the Park.

#### Prescriptions

6.3.1 Subject to Sections 6.1, 6.3.2 and 6.3.3 commercial activities and scientific research activities (including activities that involve actions affecting members of native species) may be carried on in the Park only in accordance with a permit issued by the Director under the EPBC Regulations.

Note: The prescriptions in Sections 6.3.2 and 6.3.3 are in addition to 6.3.1.

- 6.3.2 Actions affecting species protected under Part 13 of the Act may be carried on in the Park in accordance with a permit issued by the Minister.
- 6.3.3 A person may access biological resources in the Park in accordance with applicable regulations made for the purposes of s.301 of the EPBC Act.
- 6.3.4 The Director will issue a permit for the purposes of Section 6.3.1 only after assessing an application in accordance with Part 17 of the EPBC Regulations, and only if the proposed activity:
- a. is consistent with the applicable Australian IUCN reserve management principles; and
- b. is not likely to compromise the protection of biological diversity or the Park's conservation values, whether by itself or in combination with other natural or human influences; and
- c. contributes to:
  - i. regional or national development, including commercial activities that help to support the region's communities; or

- ii. understanding the marine environment and how human activities impact on it; or
- iii. effective management of the Park.
- 6.3.5 Aircraft may be operated for commercial purposes without a permit in the airspace between the Benthic Protection Zone and 3000 metres above mean sea level in accordance with other Commonwealth laws.

Note: This does not authorise operations in the area of overlap with the Marine Mammal Protection Zone. Section 6.3.6 applies.

6.3.6 Aircraft may be operated for commercial purposes in the airspace between the Marine Mammal Protection Zone and 3000 metres above mean sea level in accordance with r.8.05 of the EPBC Regulations and other Commonwealth laws provided that use of an aircraft in the airspace over the Marine Mammal Protection Zone does not interfere with whales (see Background Section 6.3 of this Management Plan).

#### 6.4 Commercial fishing

Aim: To protect the Park by allowing people to carry on commercial fishing only if it is consistent with protecting the conservation values of the Park

#### Performance indicators

- Number of permits issued and refused.
- Number and severity of environmental and safety incidents that impact on the values of the Park.
- Presence of fishing debris.

#### Background

As outlined in Section 2.3, s.354 of the EPBC Act prohibits the killing, injuring, taking, trading, keeping or moving of a member of a native species, including all native fish and marine invertebrates, and commercial actions in the Park except in accordance with this Management Plan. This section sets out the arrangements for how commercial fishing may be carried on in the Park.

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Regulation 12.34 of the EPBC Regulations (which operates subject to s.354(1) of the EPBC Act and this Management Plan) says that commercial fishing can be carried on in a Commonwealth reserve under a permit issued by the Director, or under a Commonwealth or State law. The Regulation also says the Director may make determinations controlling fishing gear and fishing practices.

The Australian Fisheries Management Authority manages fishing activities and fisheries in the Australian Fishing Zone under the provisions of the *Fisheries Management Act 1991*. The Australian Fishing Zone extends from three nautical miles offshore (the limit of State/NT coastal waters) to the outer limits of Australia's Exclusive Economic Zone (generally 200 nautical miles offshore) and includes the waters of the Park. The *Fisheries Act 1982* (SA) regulates fishing and fisheries within the coastal waters of the State. At the time of preparation of this Plan, Primary Industries and Resources South Australia administers the Act. Some of the State fisheries extend into the Australian Fishing Zone and the Park, and are managed by the South Australian Government in accordance with arrangements made under the Fisheries Management Act.

The fisheries operating in the Park at the time of preparing this Plan are listed in Box 1.

Management of Commonwealth and State fisheries is designed to ensure Australia's commercial fisheries are ecologically sustainable and includes:

- measures to reduce bycatch, including the accidental taking of protected species; and
- reporting of the impact on the general ecosystem of extracting commercial, non-target and bycatch species.

In addition to the requirements of this Management Plan, other provisions of the EPBC Act are relevant to commercial fishing in the Park.

As noted in Section 2.4 of this Plan, Part 13 of the EPBC Act prohibits actions affecting individual members of listed threatened species and ecological communities, listed migratory species, cetaceans, and listed marine species in the Park unless authorised by a permit issued by the Minister, or another exemption applies. Other exemptions include actions under a management plan for, or regime for managing,

a fishery that has been accredited for the purposes of Part 13. Actions affecting species protected under Part 13 that are not an offence, and not being done under a permit issued by the Minister, must be reported to the Secretary of the Department.

As also noted in Section 2.4, Part 3 of the EPBC Act protects certain matters of national environmental significance, including listed threatened and migratory species and the marine environment, from significant impacts. Part 10 of the EPBC Act provides for the Minister to assess the impacts of all fisheries managed under the *Fisheries Management Act 1991* on the matters protected by Part 3 of the EPBC Act. These assessments can lead to endorsement of a management plan for, or regime for managing, a fishery, and a declaration under s.33 accrediting the plan or regime for the purposes of Part 3 of the Act. Actions under a plan or regime accredited under s.33 are also exempt from prohibitions in Part 13 of the Act.

Part 13A of the EPBC Act regulates the export and import of wildlife, except cetaceans (regulated by Part 13). Assessment of a fishery under Part 10 of the Act is a matter that is relevant to the Minister's consideration whether operations in a fishery should be declared an approved wildlife trade operation, enabling the export of specimens taken in the fishery to be authorised by a permit under Part 13A. At the time of preparing this Plan operations in a number of the fisheries operating in the Park were approved wildlife trade operations. Further information is on the Department's website (www.deh.gov.au/biodiversity/trade-use/sources/operations/index.html).

Section 6.1 of this Management Plan controls the way people can enter and use the Park generally.

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#### Box 1. Fisheries operating in the Park (2005)

#### Commonwealth fisheries

- Gillnet Hook and Trap Fishery (part of the Southern and Eastern Scalefish and Shark Fishery)
- Small Pelagic Fishery Zone B only operators who also hold concessions in the Great Australian Bight Trawl Fishery (part of the Southern and Eastern Scalefish and Shark Fishery)
- Southern Bluefin Tuna Fishery
- Southern and Western Tuna and Billfish Fishery
- Skipjack Tuna Fishery
- Southern Squid Jig Fishery

#### State fisheries

- Northern Zone Rock Lobster Fishery
- Giant Crab Fishery
- Western Zone Abalone Fishery
- Marine Scalefish Fishery

#### **Prescriptions**

- 6.4.1 Subject to Section 6.1 and the following prescriptions, commercial fishing may be carried on in the Park in accordance with:
  - a. a permit issued by the Director under the EPBC Regulations;
     and
  - b. a fishing concession granted by the Australian or South Australian governments; and
  - c. any determination made by the Director under r.12.34 of the Regulations.

Note: Commercial fishing includes incidental activities such as exploring for fish; setting and retrieving fishing equipment; taking, processing and transporting fish; disposing of unwanted fish and fish by-products into the sea; and removing fish from the Park.

- 6.4.2 The Director will issue a permit only to the holder of a fishing concession for:
- a. a fishery listed in Box 1 in this Management Plan; or
- b. another fishery approved by the Director based on advice from the relevant fisheries management authority.
- 6.4.3 The Director will issue a permit only after assessing an application in accordance with Part 17 of the EPBC Regulations, and only if the proposed commercial fishing activity:
- a. is consistent with the applicable Australian IUCN reserve management principles; and
- b. is not likely to compromise the protection of biological diversity or the Park's conservation values, whether by itself or in combination with other natural or human influences; and
- c. contributes to:
  - i. regional or national development; or
  - ii. understanding the marine environment and how human activities impact on it; or
  - iii. effective management of the Park.
- 6.4.4 No demersal trawling is allowed in the Park.
- 6.4.5 A person holding a permit to carry on commercial mid-water trawl fishing in the Park must ensure that no net or associated equipment being used for trawling comes into contact with the seabed or the associated bottom-dwelling fauna and flora.
- 6.4.6 The Director will monitor and assess compliance with Sections 6.4.4 and 6.4.5, including by consulting with stakeholders. If the Director is not satisfied that compliance can be demonstrated, the Director may cancel some or all commercial trawl fishing permits.
- 6.4.7 The Director will monitor and assess whether commercial fishing is having a negative impact on the Park's conservation values, in particular the risk of damage due to wildlife becoming entangled in lost fishing gear, especially demersal

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- gillnets. If a negative impact is identified, the Director will consider making a determination under r.12.34 to address the impact. Before making such a determination, the Director will consult with stakeholders.
- 6.4.8 Permits issued by the Director may include a condition requiring the permit holder to provide data on the commercial fishing activities carried out under the permit. Before issuing permits that include a condition about providing data, the Director will consult with the fishing industry about the data to be provided.
- 6.4.9 The Director may develop agreements with commercial fishers to assist in monitoring threats to Park values.
- 6.4.10 The Director will consider, and may enter into, agreements with fisheries management authorities to obtain the information needed for Park management (see Section 6.4.8).
- 6.4.11 During the life of the Plan the Director may investigate the impacts of disposing of unwanted fish by-products into the sea on Australian Sea-lions and other species.

#### 6.5 Mining operations

Aim: To allow mining operations only if they are consistent with protecting the conservation values of the Park

#### Performance indicators

- Number and severity of environmental and safety incidents that impact on the values of the Park.
- Marine mammal behaviour during operations.
- Benthic community composition before, during and after operations.
- Estimated total seabed area disturbed by structures.

#### Background

Section 355 of the EPBC Act prohibits mining operations in the Park except with the approval of the Governor-General and carried

out in accordance with this Management Plan (see Section 2.3). The definition of 'mining operations' in s.355 is broad. It covers all operations or activities connected with, or incidental to, the mining or recovery of minerals or the production of material from minerals, and includes exploration. 'Minerals' is also given a broad meaning by s.355, 'a naturally occurring substance or mixture of substances'.

The EPBC Act does not specify any time limits or consultation requirements in relation to the Governor-General's approval. The Governor-General acts on the advice of the Minister given through the Executive Council. In addition to managing the Park, the Director's functions under the EPBC Act (s.514B) include to make recommendations to the Minister in relation to the management of the Park. The Director endeavours to assess applications and provide advice to the Governor-General as expeditiously as possible (see flowchart summarising the mining approval process at Appendix G).

The environment assessment and approval provisions of the Act, and provisions of Part 13, outlined in Section 2.4 of this Management Plan, may apply to mining operations in the Park.

This section of the Management Plan sets out how mining operations may be carried on in the Park. It is consistent with the findings of the review of the previous Management Plan as well as an independent report on threats to southern right whales and Australian Sea-lions in the Park and the important habitat present in the Great Australian Bight. The report recommended continuing the moratorium on exploration and extraction in the Marine Mammal Protection Zone due to the lack of certainty about impacts (Pidcock *et al.* 2003).

The mineral most likely to be sought in the Park is petroleum, in the forms of oil and gas. The *Petroleum (Submerged Lands) Act 1967* controls petroleum exploration and extraction activities on the continental shelf beyond three nautical miles from Australia's territorial sea baselines. This area includes the Park. A person carrying on activities under the Act must do so in accordance with an environment plan that has been accepted by the 'Designated Authority' under the Petroleum (Submerged Lands) (Management of Environment) Regulations 1999. The Designated Authority for areas adjacent to South Australia, including the Park, is the relevant State Minister. An environment plan will only be accepted by a designated

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authority if there are reasonable grounds for believing that the plan:

- is appropriate for the nature and scale of the activity
- demonstrates that the environmental effects and risks of the activity will be reduced to as low as reasonably practicable
- demonstrates that the environmental effects and risks of the activity will be of an acceptable level
- provides for appropriate environmental performance objectives, environmental performance standards and measurement criteria
- includes an appropriate implementation strategy and monitoring, recording and reporting arrangements
- complies with the EPBC Act and the EPBC Regulations.

The Petroleum (Submerged Lands) Act also includes specific requirements for preventing the escape of petroleum and waste and maintaining insurance against expenses of complying with directions with respect to the clean-up or other remedying of the effects of the escape of petroleum.

The Offshore Minerals Act 1994 controls exploration for, and the extraction of, minerals other than petroleum in the same area that the Petroleum (Submerged Lands) Act applies to.

The Sea Installations Act 1987 regulates the installation of structures in sea areas that include the Park. A person who wishes to install structures may require a permit or an exemption certificate from the Minister.

The Environment Protection (Sea Dumping) Act 1981 regulates the disposal of material at sea. It does not regulate material generated through mining. However, a person who wishes to dispose of a vessel or platform at sea may require a permit from the Minister.

Mining operations should also be undertaken in accordance with the *Guidelines on the Application of the EPBC Act to Interactions between Offshore Seismic Operations and Larger Cetaceans* (Department of the Environment and Heritage 2004).

Additional legislation relevant to marine pollution is listed in Section 6.1 of this Management Plan.

Section 6.1 controls the way people can enter and pass through the Park.

Note: The prescriptions that follow prohibit mining operations in the Marine Mammal Protection Zone and set out requirements for the assessment and approval of proposed mining operations in the Benthic Protection Zone. Proposals may also be subject to the environmental assessment and approval provisions of the EPBC Act. In order to streamline this assessment and approval process:

- The assessment of proposals required under the following prescriptions will run concurrently with that required under Part 8 of the EPBC Act for mining operations that are controlled actions to reduce any delay (see flowchart at Appendix G).
- For mining operations that are not controlled actions under the EPBC Act assessment will be carried out under the prescriptions of this Plan only.
- To reduce duplication the Director will accept a copy of an environment plan required under the *Petroleum and Submerged Lands Act 1967* and any referral/assessment documents under Part 7 and Part 8 of the EPBC Act for the purposes of assessment and approval, providing they contain the necessary information required under Section 6.5.4 of this Plan.

#### Prescriptions

- 6.5.1 All mining operations are prohibited in the Marine Mammal Protection Zone.
- 6.5.2 Subject to the following prescriptions, mining operations may be carried on in the Benthic Protection Zone in accordance with approval from the Governor-General, applicable provisions of other Parts of the EPBC Act, the Petroleum (Submerged Lands) Act 1967 and Offshore Minerals Act 1994, and other applicable laws.

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Note: This does not authorise mining operations in the area of overlap with the Marine Mammal Protection Zone. Section 6.5.1 applies.

- 6.5.3 The environmental impacts of proposed mining operations in the Benthic Protection Zone must be assessed before consideration by the Minister whether to recommend to the Governor-General that the operations be approved. This assessment must include determining if the operations are likely to compromise the protection of biological diversity or the Park's conservation values, whether alone or in combination with other natural or human influences.
- 6.5.4 A person who proposes to carry on a mining operation in the Park ('the proponent') must provide the Director with a written proposal for the operation which must include the following information:
- a. the nature and objectives of the proposed operation; and
- b. the method and means to be used, including the name, tonnage, type and class of any vessels to be used, and a description of any other equipment to be used in the Park; and
- c. the precise geographical areas in which the operation is proposed to be carried on; and
- d. the expected dates of first entrance to the Park and final departure from the Park of the vessels, or deployment of equipment in the Park and its removal from the Park, as appropriate; and
- e. whether the proposed operation has been referred to the Minister under s.68 of the EPBC Act for a decision whether or not the operation is a controlled action for the purposes of the Act; and
- f. if the proposed operation has been referred, the outcome of that process; and
- g. an explanation of why the proposed action cannot be carried on outside the Park; and
- h. measures proposed to be taken to protect the values of the Park; and

- the potential for the proposed operation, whether by itself or in combination with other human or natural influences, to damage the conservation values of the Park or interfere with other users of the Park; and
- j. whether the proposed operation has any potential environmental impacts on the State waters and coastline adjacent to the Park;
   and
- k. how the impacts of the operation on the values of the Park will be monitored; and
- the circumstances in which the operation would be suspended or ceased, and any other measures that person will take, in order to protect the values of the Park; and
- m. the environmental record of the proponent, particularly in relation to activities similar to the proposed operation; and
- n. any additional information requested by the Director for the purposes of advising the Minister about the proposal.
- 6.5.5 If a proposed mining operation has not been referred to the Minister by the proponent under s.68 of the EPBC Act for a decision whether or not the operation is a controlled action for the purposes of the Act, the Director will consider and decide whether to refer the operation under s.71 of the Act.

#### 6.5.6 The Director will, after receiving the proponent's proposal:

- a. consult with the Steering and Consultative Committees, referred to in Sections 7.2 and 7.3 of this Plan, about the proposed operation;
   and
- b. if considered necessary by the Director, establish an Assessment Panel including:
  - representatives of Australian Government agencies with administrative responsibilities relevant to assessing the proposal; and
  - ii. if considered necessary by the Director, an independent adviser with relevant technical expertise; and

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Note: In establishing the Assessment Panel, the Director will consult with the Steering Committee referred to in Section 7.2 of this Management Plan and other relevant Australian Government agencies.

- c. assess the proposal with the assistance of any Assessment Panel established under paragraph b; and
- d. provide advice to the Minister on the proposal including:
  - i. the likely impacts of the proposed operation on biological diversity or the Park's conservation values; and
  - ii. whether the proposed operation should be approved; and
- e. take into account in developing advice for the Minister the outcomes of any referral and any assessment of the proposed operation under Part 7 and Part 8 of the EPBC Act.
- 6.5.7 The Director will notify the proponent whether the Governor-General has approved the proposed operation.

#### 7. Stakeholders and partnerships (KRA5)

# 7.1 Service Level Agreement between Australian and South Australian governments

#### Performance indicator

 Annual Business Agreement signed each financial year and operates effectively.

The Australian and South Australian governments have a Service Level Agreement that facilitates cooperation in managing complementary marine protected areas. Under this agreement, each year the Australian Government provides funding to the South Australian Government in return for management services. The vehicle for providing the funding is called an Annual Business Agreement.

#### Prescription

7.1.1 The Director will continue to cooperate with the South Australian Government and other stakeholders in managing the Park.

#### 7.2 Steering Committee

At the time of preparation of this Plan, a Steering Committee of Australian and South Australian government agencies guides the day-to-day management of the Great Australian Bight Marine Park. However, the Director retains direct control of the Great Australian Bight Marine Park (Commonwealth Waters).

At the time of preparation of this Plan, the committee consists of representatives from the following agencies:

- Australian Government Department of the Environment and Heritage
- South Australian Department for Environment and Heritage
- Primary Industries and Resources South Australia
- District Council of Ceduna
- South Australian Tourism Commission
- Australian Fisheries Management Authority

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#### 7.3 Consultative Committee

At the time of preparation of this Plan, a non-government Consultative Committee advises the Australian and South Australian governments about management of the Great Australian Bight Marine Park. The Consultative Committee represents general community interests, Indigenous interests, commercial interests and scientific interests in the Park and the State Park. It is intended to broaden the Consultative Committee to include representatives of the petroleum industry.

#### 7.4 Other stakeholders

At the time of preparation of this Plan, the Director consults a range of other stakeholders whose interests are affected by Park management. The Director is committed to maintaining effective working relationships with representatives of coastal Indigenous communities of the far west of South Australia. The Director has ongoing relationships with the following specialist service providers:

- Eubalaena Pty Ltd has carried out research on southern right whales at the Head of Bight since 1991.
- CSIRO Marine Research, Geoscience Australia and the South Australian Research and Development Institute have provided advice, surveys and analyses relevant to protecting the benthic habitats in the Park.
- The Department of Defence and the National Marine Unit of the Australian Customs Service have provided aerial and surface surveillance in the Park through Coastwatch.
- The South Australian Museum has provided advice and data on species of conservation significance found in the Park.

#### 8. Business management (KRA6)

#### 8.1 Implementation of this Management Plan

Aim: To ensure management of the Park is in accordance with the Management Plan and relevant Australian Government policies

#### Performance indicator

• Level of implementation of prescriptions in this Management Plan.

#### Background

It is the function of the Director under the EPBC Act (s.514B) to 'administer, manage and control' Commonwealth reserves. Personnel of the Department assist the Director in the performance of the Director's functions. The Director has delegated functions and powers under the EPBC Act and the EPBC Regulations to some of these people. Among other things, the Director requires that any risks to the values and effective management of a Commonwealth reserve be assessed regularly.

#### Prescription

8.1.1 The Director will regularly assess risks to the values and effective management of the Park.

#### 8.2 Communicating Park values

Aim: To enhance public and user awareness of the Park's values

#### Performance indicators

- Range, type and quantity of interpretive material made publicly available.
- Effective promotion of the Park through relevant public fora.

#### Prescriptions

8.2.1 The Director will update and disseminate interpretive material about the Park.

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8.2.2 The Director will present information about the Park to Park users and other interested people in appropriate fora, including showcasing the Park as an example of a sustainable use marine protected area.

#### 8.3 Compliance and enforcement

Aim: To encourage users and visitors to comply with the EPBC Act, EPBC Regulations and this Management Plan

#### Performance indicators

- Proportion of reported incidents that are investigated.
- Trends in reports of non-compliance.

#### **Background**

The Director requires Park management staff to assess and manage compliance risks with the aim of achieving compliance using education and an escalating range of enforcement sanctions. This compliance regime will be based on the Department's Compliance and Enforcement Policy and Strategy, and the Parks Australia Compliance and Enforcement Manual, and will use the Park's Compliance and Enforcement Plan.

Civil and criminal penalties apply to breaches of the EPBC Act and EPBC Regulations. Of particular relevance to the Park, civil penalties apply to contraventions of s.354 of the EPBC Act, including actions that contravene this Management Plan, and criminal penalties apply to contraventions of Part 12 of the EPBC Regulations and to contravening a permit condition.

Under the EPBC Regulations the Director can vary permit conditions. If permit conditions are breached the Director may suspend or cancel a permit.

The Minister can appoint rangers, wardens and inspectors under the Act. People who can be appointed include staff of the Department, and officers or employees of other Commonwealth, State or Territory agencies. Inspectors and wardens have wide powers for enforcing the Act and Regulations relevant to managing the Park. All members and special members of the Australian Federal Police are *ex officio* 

wardens. South Australian officers have been appointed as wardens under the EPBC Act.

The Department has agreements with Coastwatch and the National Marine Unit (both part of the Australian Customs Service) for the provision of surveillance services in marine protected areas.

#### **Prescriptions**

- 8.3.1 The Director will regularly assess compliance risks.
- 8.3.2 The Director will provide Park users with information about the restrictions on activities in the Park focussing on identified compliance risks.
- 8.3.3 The Director will plan and carry out surveillance of the Park focussing on identified risks, and where possible, in cooperation with other agencies.
- 8.3.4 The Department will organise training and appointment of wardens in adequate numbers to support compliance and enforcement activities.
- 8.3.5 The Director will regularly review the Park's Compliance and Enforcement Plan.

#### 8.4 Performance assessment

Aim: To monitor progress in implementing this Management Plan in a way that contributes to an assessment of the effectiveness of Park management

#### Performance indicator

 Assessment of this Management Plan to contribute to the development of the next Management Plan.

#### **Background**

Parks Australia has developed a park management performance assessment framework that identifies clear outcomes for the agency and, consequently, for individual parks and reserves (see Section 1.4).

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#### Prescriptions

- 8.4.1 The Director will monitor the performance indicators in this Management Plan and other performance indicators that the Director may identify.
- 8.4.2 The Director will assess the effectiveness of this Management Plan in sufficient time to contribute to the development of the next Management Plan.



### Further reading and appendices

The following publications are referred to in this Management Plan:

Department of the Environment and Heritage (2004). Guidelines on the Application of the Environment Protection and Biodiversity Conservation Act to Interactions Between Offshore Seismic Operations and Larger Cetaceans. Commonwealth of Australia. www.deh.gov.au/epbc/assessmentsapprovals/guidelines/seismic/index.html.

Pidcock S., Burton C. and Lunney M. (2003). The potential sensitivity of marine mammals to mining and exploration in the Great Australian Bight Marine Park Marine Mammal Protection Zone. An independent review and risk assessment report to Environment Australia. Commonwealth of Australia. www.deh.gov.au/coasts/mpa/gab/sensitivity/index.html.

Further information including a description of the values and uses of both the Commonwealth and South Australian State components of the Great Australian Bight Marine Park can be found at www.deh.gov. au/coasts/mpa/gab.

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# Appendix A. Australian IUCN reserve management principles (extract)

## Environment Protection and Biodiversity Conservation Regulations 2000

Schedule 8. Australian IUCN reserve management principles (EPBC r.10.04)

#### Part 1. General administrative principles

#### 1 Community participation

Management arrangements should, to the extent practicable, provide for broad and meaningful participation by the community, public organisations and private interests in designing and carrying out the functions of the reserve or zone.

#### 2 Effective and adaptive management

Management arrangements should be effective and appropriate to the biodiversity objectives and the socio-economic context of the reserve or zone. They should be adaptive in character to ensure a capacity to respond to uncertainty and change.

#### 3 Precautionary principle

A lack of full scientific certainty should not be used as a reason for postponing measures to prevent degradation of the natural and cultural heritage of a reserve or zone where there is a threat of serious or irreversible damage.

#### 4 Minimum impact

The integrity of a reserve or zone is best conserved by protecting it from disturbance and threatening processes. Potential adverse impacts on the natural, cultural and social environment and surrounding communities should be minimised as far as practicable.

#### 5 Ecologically sustainable use

If resource use is consistent with the management principles that apply to a reserve or zone, it should (if it is carried out) be based on the principle (of *ecologically sustainable use*) that:

- (a) natural resources should only be used within their capacity to sustain natural processes while maintaining the life-support systems of nature; and
- (b) the benefit of the use to the present generation should not diminish the potential of the reserve or zone to meet the needs and aspirations of future generations.

#### 6 Transparency of decision-making

The framework and processes for decision-making for management of the reserve or zone should be transparent. The reasons for making decisions should be publicly available, except to the extent that information, including information that is culturally sensitive or commercial-in-confidence, needs to be treated as confidential.

#### 7 Joint management

If the reserve or zone is wholly or partly owned by Aboriginal people, continuing traditional use of the reserve or zone by resident Indigenous people, including the protection and maintenance of cultural heritage, should be recognised.

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#### Part 2. Principles for each IUCN category

Note: Items one to six of Part 2 are not reproduced here.

#### 7 Managed resource protected area

Note This category corresponds to the IUCN protected area management category VI.

- 7.01 The reserve or zone should be managed mainly for the sustainable use of natural ecosystems based on the following principles.
- 7.02 The biological diversity and other natural values of the reserve or zone should be protected and maintained in the long term.
- 7.03 Management practices should be applied to ensure ecologically sustainable use of the reserve or zone.
- 7.04 Management of the reserve or zone should contribute to regional and national development to the extent that this is consistent with these principles.

# Appendix B. Parks Australia Planning and Performance Assessment Framework (extract)

The following outcomes developed by the Director of National Parks under the framework are relevant to the Great Australian Bight Marine Park (Commonwealth Waters).

#### KRA1: Natural heritage management

- 1.1 Natural values for which Commonwealth reserves were declared and/or recognised have been maintained.
- 1.2 Populations of EPBC listed threatened species and their habitats have been conserved.

#### KRA4: Visitor management and park use

- 4.1 Visitors to Commonwealth reserves enjoy inspirational, satisfying and safe experiences.
- 4.2 Visitor impacts (on reserve management, values, the environment and other visitors) are within acceptable levels.
- 4.3 Public awareness and appreciation of the values of Commonwealth reserves have been enhanced.
- 4.4 Commercial operators provide a high quality service to park visitors.

#### KRA5: Stakeholders and partnerships

- 5.1 Volunteers contribute to area management based on clearly defined roles.
- 5.2 Stakeholders, e.g. neighbours, State agencies and park user groups, are involved in, and contribute effectively to, park management activities.
- 5.3 Commercial partnership opportunities are encouraged and evaluated.

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#### KRA6: Business management

- 6.1 Planning and decision-making are based on best available information, legislative obligations, Parks Australia policy and social justice principles.
- 6.2 Financial and business management are based on best practice and Government requirements.
- 6.3 High levels of staff expertise and performance are recognised and valued.
- 6.4 Obligations under the EPBC Act and Regulations relating to management of Commonwealth reserves are complied with.

## Appendix C. Species of conservation significance in the Park

## Table 1. Protected species known to occur in the Park

Table 1 lists species protected under international agreements and the EPBC Act (at time of preparation of this Plan) that are frequently observed or have been reported in the Park or its vicinity.

				Trea	ities			EPBC Act				
Genus	Species	Common name	CMS	ACAP	CAMBA	JAMBA	Threatened	Cetacean	Marine	Migratory		
Arctocephalus	forsteri	New Zealand fur seal							~			
Carcharodon	carcharias	great white shark	~				V			✓		
Balaenoptera	musculus	blue whale	~				E	<b>✓</b>		✓		
Balaenoptera	physalus	fin whale	~				٧	✓		✓		
Delphinus	delphis	common short-beaked dolphin						✓				
Diomedea	spp.	See also <i>Thalassarche</i> spp. for synonyms										
Diomedea	epomophora	southern royal albatross	~	~			٧			✓		
Diomedea	exulans	wandering albatross	1			<b>✓</b>	٧		✓	✓		
Eubalaena	australis	southern right whale	1				Е	<b>√</b>		✓		
Globicephala	melas	long-fined pilot whale						✓				
Globicephala	sp.*	pilot whale						<b>√</b>				
Grampus	griseus	Risso's dolphin, grampus						✓				
Hyperoodon	planifrons	southern bottlenose whale						✓				
Kogia	breviceps	pygmy sperm whale						<b>√</b>				
Megaptera	novaeangliae	humpback whale					٧	<b>√</b>		✓		
Mesoplodon	sp.*	beaked whale						<b>√</b>				
Morus	serrator	Australasian gannet							<b>✓</b>			
Neophoca	cinerea	Australian Sea-lion					٧		<b>✓</b>			

				Trea	ities			EPBC Act				
Genus	Species	Common name	CMS	ACAP	CAMBA	JAMBA	Threatened	Cetacean	Marine	Migratory		
Orcinus	orca	killer whale, orca						✓		✓		
Phoebetria	fusca	sooty albatross	~	<b>✓</b>			V		~	✓		
Procellaria	aequinoctialis	white-chinned petrel	~	<b>✓</b>								
Pseudorca	crassidens*	false killer whale						✓				
Physeter	macrocephalus	sperm whale						✓		✓		
Puffinus	carneipes	fleshy-footed shearwater				<b>✓</b>						
Puffinus	griseus	sooty shearwater			✓	✓						
Puffinus	tenuirostris	short-tailed shearwater				<b>✓</b>						
Thalassarche	spp.	See also <i>Diomedea</i> spp. for synonyms										
Thalassarche	cauta	shy albatross	~	<b>✓</b>			V		~	✓		
Thalassarche	chlororhynchos	yellow-nosed albatross	~	✓					✓			
Thalassarche	melanophris	black-browed albatross	<b>✓</b>	<b>√</b>					~	✓		
Turisops	aduncus*	Indo-Pacfic bottlenose dolphin						✓				
Tursiops	truncatus	common bottlenose dolphin						✓				
Total	30		11	6	1	4	10	16	8	12		

For EPBC Act threatened species listings: E = Endangered V = Vulnerable \* These species found dead in the region of the Park.

## Table 2. Other protected species predicted to occur in the Park

Table 2 lists species protected under international agreements and the EPBC Act (at time of preparation of this Plan) that are reasonably expected to occur within the Park, based on the Department's data holdings and conservation plans and South Australian Museum records.

				Trea	ties		EPBC Act				
Genus	Species Common name	CMS	ACAP	CAMBA	JAMBA	Threatened	Cetacean	Marine	Migratory		
Acentronura	australe⁺	southern pygmy pipehorse							✓		
Arctocephalus	pusillus	fur seal							✓		
Balaenoptera	acutorostrata	minke whale						✓			
Balaenoptera	borealis	sei whale	~				٧	✓		<b>✓</b>	
Balaenoptera	bonaerensis	Antarctic minke whale, dark-shoulder minke whale						✓		<b>✓</b>	
Balaenoptera	edeni	Bryde's whale						<b>~</b>		✓	
Balaenoptera	omurai	Omuras whale						✓			
Berardius	arnuxii	Arnoux's beaked whale						✓			
Campichthys	galei <sup>†</sup>	Gale's pipefish							✓		
Catharacta	skua	great skua							✓		
Dermochelys	coriacea*	leatherback turtle	~				٧		✓	<b>✓</b>	
Diomedea	spp.	See also <i>Thalassarche</i> spp. for synonyms									
Diomedea	amsterdamensis	Amsterdam albatross					Е		✓	<b>✓</b>	
Diomedea	chrysostoma	grey-headed albatross		<b>✓</b>					✓	<b>✓</b>	
Diomedea	gibsoni	Gibson's albatross					٧		✓	<b>✓</b>	
Diomedea	dabbenena	Tristan albatross					Е		✓	<b>✓</b>	
Diomedea	sanfordi	northern royal albatross		<b>✓</b>			Е			<b>✓</b>	
Filicampus	tigris†	tiger pipefish							✓		
Globicephala	macrorhynchus	short-finned pilot whale						✓			
Haliaeetus	leucogaster	white-bellied sea-eagle								<b>√</b>	
Halobaena	caerulea	blue petrel					٧		✓		

	Species Common name		Treaties				EPBC Act					
Genus		Common name	CMS	ACAP	CAMBA	JAMBA	Threatened	Cetacean	Marine	Migratory		
Heraldia	nocturna <sup>†</sup>	upside-down pipefish							<b>✓</b>			
Hippocampus	abdominalis†	eastern potbelly seahorse, New Zealand potbelly seahorse, bigbelly seahorse							<b>√</b>			
Hippocampus	breviceps <sup>†</sup>	short-head seahorse, short-snouted seahorse							<b>✓</b>			
Histiogamphelus	cristatus†	rhino pipefish, Macleay's crested pipefish							~			
Hypselognathus	horridus†	shaggy pipefish, prickly pipefish							<b>✓</b>			
Hypselognathus	rostratus†	knife-snouted pipefish							<b>✓</b>			
Kaupus	costatus†	deep-bodied pipefish							1			
Kogia	sima	dwarf sperm whale						1				
Lagenorhynchus	obscurus	dusky dolphin						1				
Leptoichthys	fistularius†	brushtail pipefish							<b>✓</b>			
Lissocampus	caudalis†	Australian smooth pipefish, smooth pipefish							1			
Lissocampus	runa <sup>†</sup>	javelin pipefish							<b>√</b>			
Lissodelphis	peronii	southern right whale dolphin						<b>√</b>				
Macronectus	giganteus	southern giant petrel		✓			Е		<b>√</b>	<b>√</b>		
Macronectus	halli	northern giant petrel		✓			٧		<b>√</b>	<b>√</b>		
Maroubra	perserrata <sup>†</sup>	sawtooth pipefish							<b>√</b>			
Mesoplodon	bowdoini*	Andrew's beaked whale						<b>√</b>				
Mesoplodon	grayi	Gray's beaked whale, Scamperdown whale						<b>√</b>				
Mesoplodon	hectori	Hector's beaked whale						<b>✓</b>				
Mesoplodon	layardii	strap-toothed beaked whale, strap- toothed whale, Layard's beaked whale						<b>✓</b>				
Mesoplodon	mirus	True's beaked whale						✓				
Nannocampus	subosseus†	bony-headed pipefish							<b>√</b>			
Notiocampus	ruber <sup>†</sup>	red pipefish							<b>√</b>			
Peponocephala	electra	melon-headed whale						<b>√</b>				

Genus				Trea	ities		EPBC Act				
	Species Common name	CMS	ACAP	CAMBA	JAMBA	Threatened	Cetacean	Marine	Migratory		
Phoebetria	palpebrata	light-mantled albatross		<b>✓</b>							
Phycodurus	eques <sup>†</sup>	leafy seadragon							<b>✓</b>		
Phyllopteryx	taeniolatus†	weedy seadragon, common seadragon							<b>✓</b>		
Pterodroma	mollis	soft-plumaged petrel					٧		<b>✓</b>		
Pugnaso	curtirostris†	pug-nosed pipefish							~		
Solegnathus	robustus⁺	robust spiny pipehorse, robust pipehorse							<b>✓</b>		
Stigmatopora	argus†	spotted pipefish							<b>✓</b>		
Stigmatopora	nigra⁺	wide-bodied pipefish, black pipefish							<b>✓</b>		
Stipecampus	cristatus†	ring-backed pipefish							✓		
Tasmacetus	shepherdi	Shepherd's beaked whale, Tasman beaked whale						~			
Thalassarche	spp.	See also <i>Diomedea</i> spp. for synonyms									
Thalassarche	impavida	Campbell albatross					٧		~	<b>✓</b>	
Urocampus	carinirostris†	hairy pipefish							<b>✓</b>		
Vanacampus	margaritifer <sup>†</sup>	mother-of-pearl pipefish							<b>✓</b>		
Vanacampus	phillipi	Port Phillip pipefish							~		
Vanacampus	poecilolaemus†	Australian long-snout pipefish, long- snouted pipefish							<b>~</b>		
Vanacampus	vercoi <sup>†</sup>	Verco's pipefish							✓		
Ziphius	cavirostris	Cuvier's beaked whale, goose-beaked whale						~			
Total	61		2	5	0	0	11	18	40	13	

For EPBC Act threatened species listings:

E = Endangered

V = Vulnerable

## Notes

<sup>&</sup>lt;sup>†</sup> No sygnathids were collected in the Great Australian Bight during the 2002 survey by the South Australian Research and Development Institute, which used a benthic sled to collect seabed specimens.

<sup>\*</sup> There are press reports of members of these species being washed up on Eyre Peninsula beaches.

## Appendix D. Proclamation of the Park



### PROCLAMATION

Expironment Protection and Biodinersity Conservation Act 1999

I, PHILIP MICHAEL REFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, and under subsection 350(1) of the Environment Protection and Biodiversity Conservation Act 2599, amend the Proclamation made under subsection 7(2) of the National Parks and Wildlife Conservation Act 1975 and published in the Geartte No. S 172 of 22 April 1998 establishing the Great Australian Bight Marine Park (Commonwealth Waters) by omitting the schedule to that Proclamation and substituting the schedule to this Proclamation.



Signed and sealed with the Great Seel of Australia

4 NOV 2004 2004

PM Jeffery Governor-General

By His Excellency's Command

Ian Campbell

Minister for the Environment and Heritage

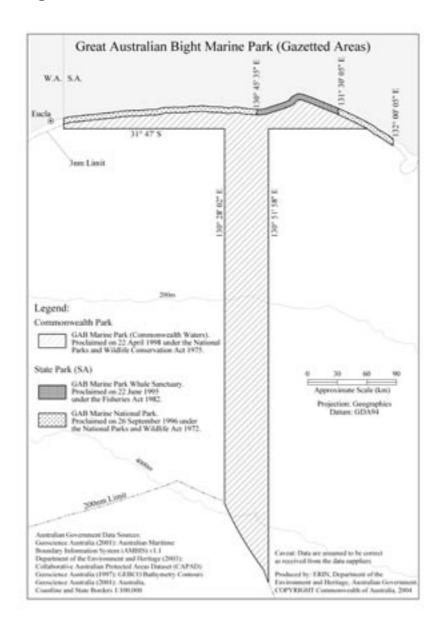
### **SCHEDULE**

## Great Australian Bight Marine Park (Commonwealth Waters)

All of that area within the Southern Ocean contained within and bounded as follows\*:

- commencing at the intersection of the parallel of latitude 31 degrees 47 minutes south and the adjacent area\*\* boundary between Western Australia and South Australia;
- then generally north along that adjacent area boundary to its intersection with the outer limit of the coastal waters\*\*\* of South Australia;
- (iii) then generally east along the outer limit of the coastal waters of South Australia to its intersection with the parallel of latitude 31 degrees 47 minutes south;
- then west along the parallel of latitude 31 degrees 47 minutes south to its intersection with the meridian of longitude 130 degrees 51 minutes 58 seconds east;
- (v) then south along the meridian of longitude 130 degrees 51 minutes 58 seconds east to its intersection with the outer limit of the exclusive economic zone\*\*\*\*;
- (vi) then generally northwest along the outer limit of the exclusive economic zone to its intersection with the meridian of longitude 130 degrees 28 minutes 2 seconds east:
- (vii) then north along the meridian of longitude 130 degrees 28 minutes 2 seconds east to its intersection with the parallel of latitude 31 degrees 47 minutes south; and
- (viii) then west along the parallel of latitude 31 degrees 47 minutes to the point of commencement.
- \* All geographic coordinates are expressed in terms of the Geocentric Datum of Australia 1994 (GDA94) as described in the *Commonwealth of Australia Gazette* GN35 of 6 September 1995.
- \*\* The adjacent area in relation to each State and the Northern Territory is the area the boundary of which is described under the headings referring to that State and the Northern Territory in Schedule 2 to the Petroleum (Submerged Lands) Act 1967 immediately before the commencement of the Coastal Waters (State Powers) Act 1980 and Coastal Waters (Northern Territory Powers) Act 1980.
- \*\*\* The coastal waters are defined in relation to each State and the Northern Territory by the Coastal Waters (State Powers) Act 1980 and Coastal Waters (Northern Territory Powers) Act 1980.
- \*\*\*\* The exclusive economic zone in relation to Australia and its external territories has been declared under the *Seas and Submerged Lands Act 1973* in accordance with the United Nations Convention on the Law of the Sea (Proclamation dated 26 July 1994 published in the *Commonwealth of Australia Gazette* No. S 290 of 29 July 1994).

## Appendix E. Great Australian Bight Marine Park (gazetted areas)



# Appendix F. Prohibition of use of vessels in part of the Park

Communication of Assiration Constitu-No. GN 15. 14 April 2004

Gregorian Departments

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## Environment and Heritage



## COMMONWEALTH OF AUSTRALIA

Environment Projection and Biodiversity Conservation Regulations 2000

Subregulation 12.56(2)

## GREAT AUSTRALIAN BIGHT MARINE PARK (COMMONWEALTH WATERS)

## PROHIBITION OF USE OF VESSELS IN PART OF THE PARK

1. CON BOEKEL, Assistant Secretary, Perks Australia South, Department of the Environment and Heritage, delegate of the power of the Director of National Parks under subregulation 12:56(2) of the Environment Protection and Biodiversity Conservation Regulations for the Great Australian Hight Marine Park (Commonwealth Waters) and that the Director is required by the Environment Protection and Biodiversity Conservation Act 1990 to give effect to the Management Plan, HERERY DETERMINE that the area of water in the Park known as the Marine Mansmal Protection Zone, being the area specified in the Sobedule hereto and more or less shown on the map in the Sobadele, is an area where the use of vessels is prohibited during the period from 1 May to 31 Outsber inclusive each year.

Dones this 26 cay of March 2004

Con Bookel

Delegate of the Director of National Parks

Communicable of Assirable Gazette No. GS 18, 14 April 2008

## SCHEDULE

## PROHIBITED AREA

The area bounded by a line beginning at latitude 31°47° south, longitude 129° nast and running

- from there north along the meridian to its intersection with the parallel of listitude 31°44'34" south;
- from there generally easterly along the line, every point on which is three national miles servered of the baseline from which the territorial set of Australia is measured, to its intersection with the parallel of latitude 31°47' south; and
- · from there west along that parallel to the point where the line began.

Coordinates are referred to the Ococentric Datum of Australia 1994 (GDA94)

## GENERAL MAP OF PROHIBITED AREA



Requests for flather information or any inquiry regarding the probabilists may be made to the Park Manager, Mr. Simon Clark (ed. 04 668 3305).

# Appendix G. Mining/petroleum application, assessment and approval process for activities in the Benthic Protection Zone under the EPBC Act

