



Australian Government

Guide to Australian
Maritime Security
Arrangements

GAMSA

The GAMSA is issued by Australian Border Force on behalf of all Australian Government Lead Agencies.
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Disclaimer

This document was produced as a guide for the Australian Government and stakeholder agencies.

The next edition of GAMSAs will be updated following the implementation of the National Civil Maritime Security Strategy.

Commercial decisions should not be based on the content of this work.

Operational decisions made by maritime stakeholders may vary from the broad guidelines enunciated in the GAMSAs.

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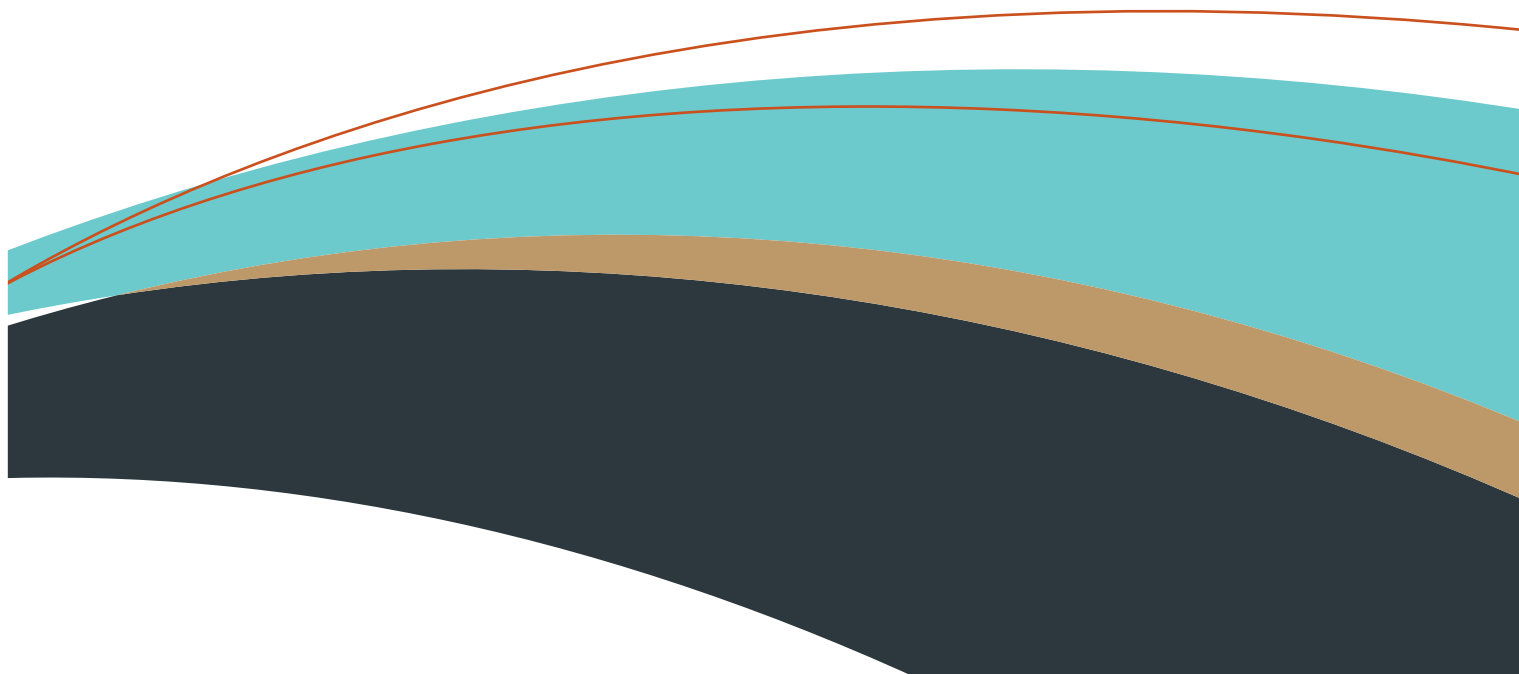
AAD	Australian Antarctic Division
ABF	Australian Border Force
ACMA	Australian Communications and Media Authority
ACT	Australian Capital Territory
ADF	Australian Defence Force
AFMA	Australian Fisheries Management Authority
AFP	Australian Federal Police
AFZ	Australian Fishing Zone
AGD	Attorney-General's Department
HM Branch	Hydrographic and METOC Branch
AMSA	Australian Maritime Safety Authority
ARPANSA	Australian Radiation Protection and Nuclear Safety Agency
ASIO	Australian Security Intelligence Organisation
ASIS	Australian Secret Intelligence Service
MBC	Maritime Border Command
BPT	Border Protection Taskforce
CAMLR Convention	Convention on the Conservation of Antarctic Marine Living Resources
CCAMLR	Commission for the Conservation of Antarctic Marine Living Resources
CCC	Crisis Coordination Centre
CEO	Chief Executive Officer
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
Home Affairs	Department of Home Affairs
DAWE	Department of Agriculture, Water and the Environment
DCA	Department of Communications and the Arts
DFAT	Department of Foreign Affairs and Trade
DAWE	Department of Agriculture, Water and Environment
AGO	Australian Geospatial - Intelligence Organisation
DIO	Defence Intelligence Organisation
Health	Department of Health
ASD	Australian Signals Directorate
EEZ	Exclusive economic zone
EMA	Emergency Management Australia
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
GAMSA	Guide to Australian maritime security arrangements
GBRMPA	Great Barrier Reef Marine Park Authority
HIMI	Heard Island and McDonald Islands

IMO	International Maritime Organization
Infrastructure	The Department of Infrastructure, Transport, Regional Development and Communications
IUCN	International Union for Conservation of Nature
IUU	Illegal, unreported and unregulated
JAMAG	Joint Agencies Maritime Advisory Group
MOU	Memorandum of understanding
MTOFSA	<i>Maritime Transport and Offshore Facilities Security Act 2003</i>
NOPSEMA	National Offshore Petroleum Safety and Environmental Management Authority
NSC	National Security Committee
NSCDD	National Security Capability Development Division
NSLPD	National Security Law and Policy Division
NSPCG	National Security Policy Coordination Group
NSU	National Security Unit
NT	Northern Territory
NTAC	National Threat Assessment Centre
OCS	Offshore Constitutional Settlement
OGI	Oil and gas industry
ONI	Office of National Intelligence
OPGGSA	<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>
AMS	Aviation and Maritime Security Division - Department of Home Affairs
PM&C	Department of the Prime Minister and Cabinet
RAN	Royal Australian Navy
RCC	Rescue Coordination Centre
SFA	Security Forces Authority
SFAA	Security Forces Authority Area
SIEV	Suspected irregular entry vessel
SOLAS	Safety of Life at Sea
TSB	Territorial Sea Baseline
UNCLOS	United Nations Convention on the Law of the Sea
WA	Western Australia
WMD	Weapons of mass destruction

1

INTRODUCTION

This chapter discusses the basic roles of all government and non-government stakeholders, including stakeholder involvement related to specific civil threats in Australia's maritime jurisdiction.



The background image shows a serene sunset or sunrise over a calm body of water. The sun is a bright, glowing orb at the top center, casting a long, shimmering path of light across the water's surface. The sky transitions from a deep blue at the top to a lighter, hazy blue near the horizon. The water reflects the colors of the sky and the sun's path. On the left side, there is a dark blue vertical rectangular overlay that serves as a background for the text.

In terms of
tonnes of cargo
shipped and
kilometres
travelled,
Australia is the
world's fifth
largest shipping
nation.

The need for a guide to Australian civil maritime security arrangements

Australia's national objective for civil maritime security is to deter or prevent illegal activity from occurring in Australia's maritime jurisdiction¹ and where necessary to interdict and enforce Australian laws. In terms of tonnes of cargo shipped and kilometres travelled, Australia is the world's fifth largest shipping nation. Australian and foreign ships carry Australian passengers, crew and cargo within and beyond Australian waters. Australia therefore has strong economic and national interests in maintaining civil maritime security within and beyond Australian waters. It is understood that agencies have finite resources and therefore, that it is necessary to work together in an effective and efficient way to manage those threats that pose the highest risk. The Australian government recognises, however, that not all illegal activity can be deterred or prevented and that appropriate response and recovery measures are required to manage the risks posed by civil maritime security threats.

Legitimate maritime activity is a significant contributor to the Australian economy. Interruption of or interference with international shipping operating in Australia's maritime jurisdiction would have an immediate and detrimental effect on Australia's economy and its export competitiveness, and other consequences for lawful activity within Australia's maritime jurisdiction. Substantial environmental impact to an ecosystem may have flow-on consequences in another area. For example, significant environmental damage to the Great Barrier Reef, through marine pollution, would have a detrimental effect on tourism and fisheries.

There is a clear requirement for a common reference point on the existing civil maritime security management arrangements. Such arrangements are complex and involve relationships between overseas partners and a broad range of domestic organisations at the federal, state and territory levels, as well as relationships with industry and the public. The *Guide to Australian Maritime Security Arrangements* (GAMSA) is a multi-agency document designed to reinforce the endorsed civil maritime security framework and arrangements by facilitating awareness of those arrangements and of existing stakeholder arrangements relating to the eight civil maritime security threats.

¹ See Chapter 3 for the definition of Australia's maritime jurisdiction.

This edition of GAMSA is an update to the 2013 edition. Reflecting current federal government agencies and stakeholders, plus other factual updates, up to Annex B. A more comprehensive review will be undertaken as part of the National Civil Maritime Security Strategy 2020 implementation.

Each of the GAMSA chapters has reference to a lead, primary and secondary stakeholders for each of the eight civil maritime threats. Where 'threat' is stated in GAMSA, it is in reference to civil maritime security threats only, and should be read as such throughout this document.

Lead agencies have significant responsibility for the management of a maritime threat, including prevention, preparedness, response and recovery for a threat event. While there may be several lead agencies for each specific threat, the lead agencies are responsible for an aspect of the threat, rather than for the entire prevention, preparedness, response and recovery aspects. Primary stakeholders have some responsibility for the management of a maritime threat, as providing support for a lead agency or for a specific, specialised aspect to the threat. Secondary stakeholders have limited responsibility for the management of a threat and may provide aspects such as high-level policy advice for threat management.

Chapters 4 to 11 describe the maritime security threats, including stakeholder responsibilities and the coordination arrangements and possible consequences associated with each threat.

Prevention, preparedness, response and recovery

Threat management consists of a number of broad responsibilities. These are broken into prevention, preparedness, response and recovery. Key aspects of threat management are legislation and public information management. Legislation relevant to maritime security can be found in annexes B to I. Public information management can be found in chapters 4 to 11.

Prevention and preparedness

Prevention and preparedness are the risk mitigation measures that government agencies and other stakeholders take to deter, disrupt, or prevent security threats in Australia's maritime jurisdiction, or to minimise adverse consequences should prevention be unsuccessful.

The means by which prevention and preparedness **could** be achieved, in the context of management of maritime security threats, are:

- » situational awareness
- » surveillance
- » intelligence collection and analysis, and
- » deterrence.

Response

Response is the action taken within the stakeholder's jurisdiction to mitigate, or eliminate, the risk posed by detected maritime security threats. The functions of individual response agencies are detailed in chapters 4 to 11 for specific threats. The means by which a response could be achieved are aerial or land based reconnaissance supporting maritime response vessels.

Recovery

Recovery is the coordinated process of supporting individuals and communities affected by the consequences of a realised threat. Recovery involves a range of government-provided services to individuals, including health, and social and financial assistance. Public works and infrastructure renewal are also components of recovery plans.

The means by which recovery can be achieved, in the context of management of maritime security threats, are:

- » government recovery programs
- » industry-led recovery programs
- » state-of-emergency declaration, and
- » criminal prosecution and punishment.

Scope

The GAMSA addresses stakeholder roles and responsibilities in relation to eight civil maritime security threats, including education and enforcement regarding these threats. The eight civil maritime security threats are as follows:

- » unauthorised maritime arrivals
- » maritime terrorism
- » prohibited imports and exports
- » illegal exploitation of natural resources
- » piracy, robbery or violence at sea
- » illegal activity in protected areas
- » compromise to biosecurity
- » marine pollution.

Chapters 1 to 3 provide an overview of Australia's maritime security arrangements and stakeholders involved in maritime security. Chapters 4 to 11 address the specific Australian government arrangements relating to each maritime security threat. Issues outside of the eight maritime security threats are not considered in this document, however, it is acknowledged that focusing on these threats limits this document's consideration of evolving maritime security issues. The GAMSA deals solely with **security** in Australia's maritime jurisdiction and does not address maritime **safety** issues, including the Safety of Life at Sea (SOLAS) Convention. The Australian Maritime Safety Authority (AMSA) is the lead agency for safety, search and rescue (SAR) and regulation in Australia's maritime jurisdiction.

The GAMSA contains a list of abbreviations and a glossary of terms used in managing maritime security. There are also a number of annexes that contain additional information relating to the international, Australian and state and territory management of the eight maritime security threats.

Stakeholders in Australian maritime security

The importance of Australia's maritime jurisdiction to our economy and way of life means that there are many interested government, industry and public stakeholders. Australia's multi-jurisdictional approach requires that our arrangements for the protection of Australia's borders and approaches, offshore oil and gas platforms and the offshore interdiction of vessels in the Exclusive Economic Zone (EEZ) include mechanisms to engage state and territory governments and other stakeholders who have relevant jurisdictional responsibilities and interests. A description of government stakeholders can be found in Chapter 2.

Cooperative involvement of the state and territory government agencies, particularly law enforcement, health and correctional services authorities, is important as they frequently provide facilities and services to support the federal government's maritime security activities.

The significant private sector investment in oil and gas exploration and production, fishing and shipping means that industry engagement in maritime security matters is also important to the government. In recent years, the Australian public has displayed a high level of interest in threats to Australia's sovereignty, resources and borders.



Current national maritime security arrangements

National Security Statements are delivered periodically by the Prime Minister to the Australian Parliament. These Statements outline the national security challenges facing Australia and how Australia's policies and capabilities are positioned to meet these challenges. Their periodic delivery ensures Australia's national security settings are regularly reviewed and adjusted to ensure the right tools, balance of capabilities and targeted policies are available to meet future needs.

The first Statement was delivered in 2008 and outlined Australia's national security interests, principles and government priorities. Since this statement, the amalgamation of a number of border agency functions amalgamated to form the Australian Border Force on 1st July 2015. The Australian Border Force is Australia's front line border law enforcement agency and customs service. It is an operationally independent body within the Home Affairs portfolio with a mission to protect Australia's border and enable legitimate travel and trade.

The border as a continuum

The border is not considered to be a purely physical barrier separating nation states, but a complex continuum stretching offshore (pre-border) and onshore (at and post-border), including the international, maritime, physical border and domestic dimensions of the border. This is known as the *border continuum*. Maintaining the border to enable legitimate trade, travel and migration is a core responsibility of the Australian Government. In an environment of increasing growth in trade and travel, border protection is continuously challenged by the increasing volume and complexity of border interactions. A whole-of-government approach works across the *border continuum* to facilitate, regulate and apply law enforcement approaches to support legitimate trade and travel, while managing activities in the maritime domain and throughout the immigration detention network. All government departments must work effectively across each dimension of the *border continuum*.

The National Security Committee (NSC) considers matters related to Australia's domestic and international security. Ministers who are members of the committee are:

- » Prime Minister (Chair)
- » Deputy Prime Minister
- » Treasurer
- » Minister for Finance
- » Minister for Foreign Affairs
- » Attorney-General
- » Minister for Home Affairs
- » Minister for Defence

The NSC is supported by senior officials who normally attend NSC meetings.

The Australian Government Crisis Management Framework outlines the arrangements enabling the Australian Government's 'all hazards' crisis management approach. This approach is a continuum of prevention, preparedness, response and recovery. The Crisis Framework provides ministers and senior level whole-of-government to undertake coordination and sets out the arrangements that link ministers and the work of key officials committees and facilities

The Australian Government Crisis Committee (AGCC) is the national co-ordination body composed of Ministers and senior officials from Australian Government agencies convened by the Department of the Prime Minister and Cabinet and supported by the Crisis Coordination Centre of Emergency Management Australia. The purpose of the AGCC is to ensure effective co-ordination of information, intelligence and response options to support the NSC.

The National Crisis Committee (NCC) is a national intergovernmental body for crisis co-ordination composed of senior officials from Commonwealth, State and Territory governments. It would be convened in the event of a terrorist act to co-ordinate information exchange regarding response and recovery within the Commonwealth Government and with the States and Territories. It is chaired by the Department of the Prime Minister and Cabinet.

There are specific arrangements for action in crisis situations, which are articulated in a number of manuals and guides; for example, the National Counter-Terrorism Plan is owned by the Australia-New Zealand Counter-Terrorism Committee.

Government agencies with a role in civil maritime security are members of the Joint Agencies Maritime Advisory Group (JAMAG). JAMAG is an interagency committee chaired by the Commander Maritime Border Command, an ADF officer within the Australian Border Force, that meets regularly to consider civil maritime security issues, including the provision of policy advice to the Commissioner of the Australian Border Force and Secretary of the Department of Home Affairs.

Physical aspect to Australia's maritime jurisdiction

Australia's maritime jurisdiction is vast. The Australian Security Forces Authority Area (SFAA) (also known as the Australian Search and Rescue Region) stretches from the mid-Indian Ocean, north to near the equator, to the east of continental Australia and then south and along the Antarctic coast. Pictorial representation of Australia's SFAA is shown at Figure 2.

Australia has a number of remote external territories, including Heard Island and McDonald Islands (HIMI) (2200 nautical miles south west of Perth), Cocos (Keeling) Islands (1600 nautical miles north west of Perth), Christmas Island (1400 nautical miles north of Perth), Ashmore and Cartier Islands (450 nautical miles west of Darwin), the Coral Sea Islands (off the Queensland

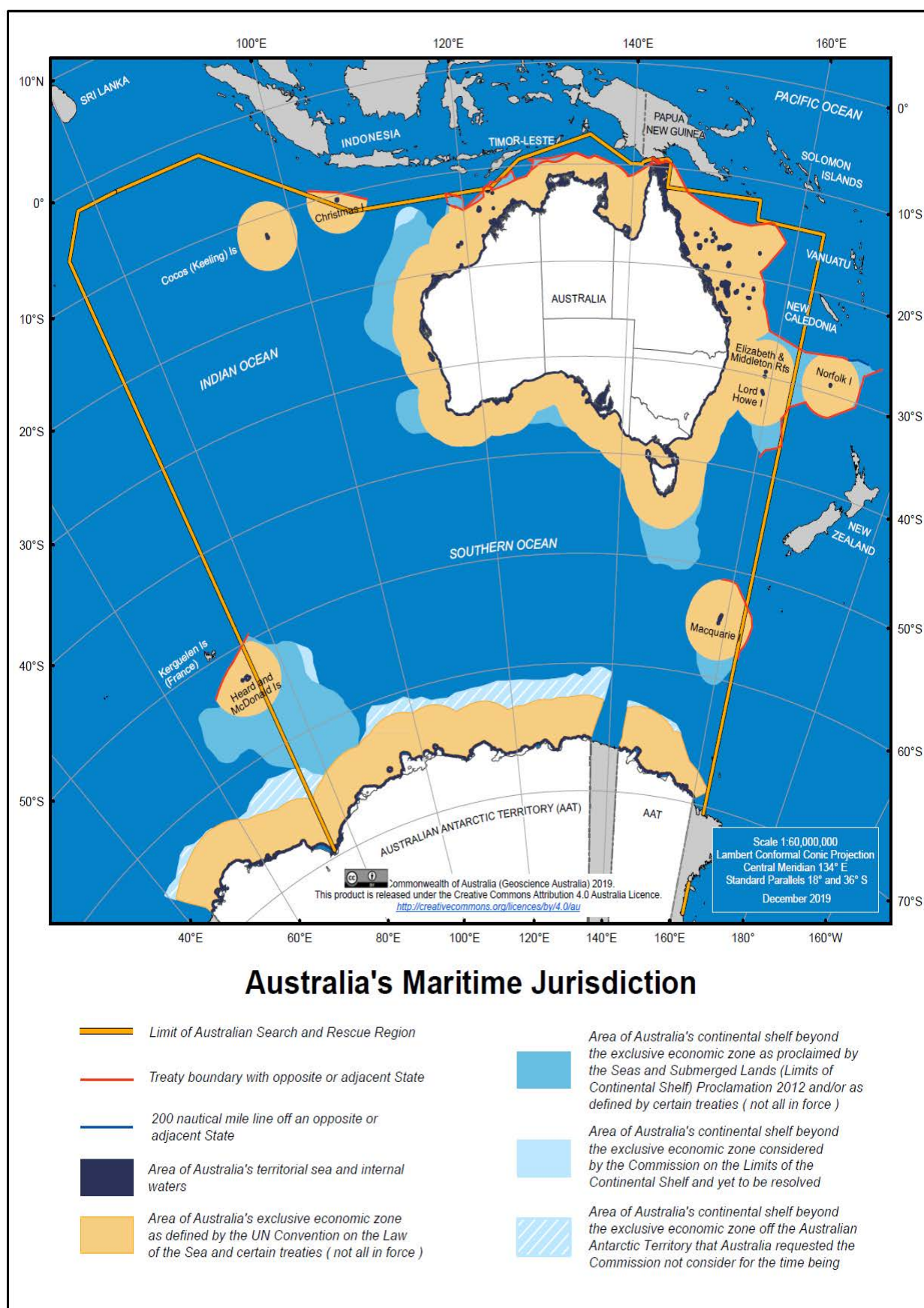


Figure 2 Australia's Maritime Jurisdiction

© Commonwealth of Australia (Geoscience Australia) 2019.

eastern coast and including Elizabeth and Middleton Reefs), and Norfolk Island (860 nautical miles east of Sydney and outside the Australian SFAA). The Australian Antarctic Territory is also an external territory of Australia and comprises 42 per cent of the Antarctic mainland continent, as well as the adjacent maritime zones. Lord Howe Island and Balls Pyramid, although not an external territory, are part of New South Wales (NSW) and are relatively remote at 300 nautical miles east of the NSW coast. Similarly, Macquarie Island and the small island groups in its vicinity (800 nautical miles south east of Tasmania) are part of Tasmania and not an external territory. Chapter 3 contains more information about regional arrangements.

The SFAA includes regions of the Southern, Indian and Pacific oceans along with the Timor, Arafura, Coral and Tasman seas. Maritime environmental conditions vary considerably. Water temperatures vary from freezing in southern latitudes, to 30 degrees Celsius in northern waters. Sea states vary from calm to dangerous conditions. Tidal conditions vary from conventional tidal variation along most of Australia's coastline to 11 metre variations in north-western Australia.

Maritime weather conditions vary widely within Australia's maritime jurisdiction from storm force winds and dangerous, inhospitable conditions in Antarctic regions, to much more benign conditions in tropical and subtropical regions. Northern waters are, however, affected by monsoonal conditions and tropical cyclones during the summer months, and south-east trade winds during the cooler months.

Resources are spread widely throughout Australia's maritime jurisdiction. Commercially viable oil and gas deposits are concentrated off the Victorian coast in Bass Strait and off the coast of north-western Australia and northern Australia, and more offshore fields are expected to be identified and exploited in the future. Commercial fishing grounds can be found throughout the EEZ. Some important fisheries include the southern bluefin tuna fishery (within the Great Australian Bight and Southern Ocean), the northern prawn fishery in Australia's tropical north, and the Patagonian toothfish fishery (surrounding HIMI).

Protected areas have been established throughout Australia's maritime jurisdiction and are discussed in

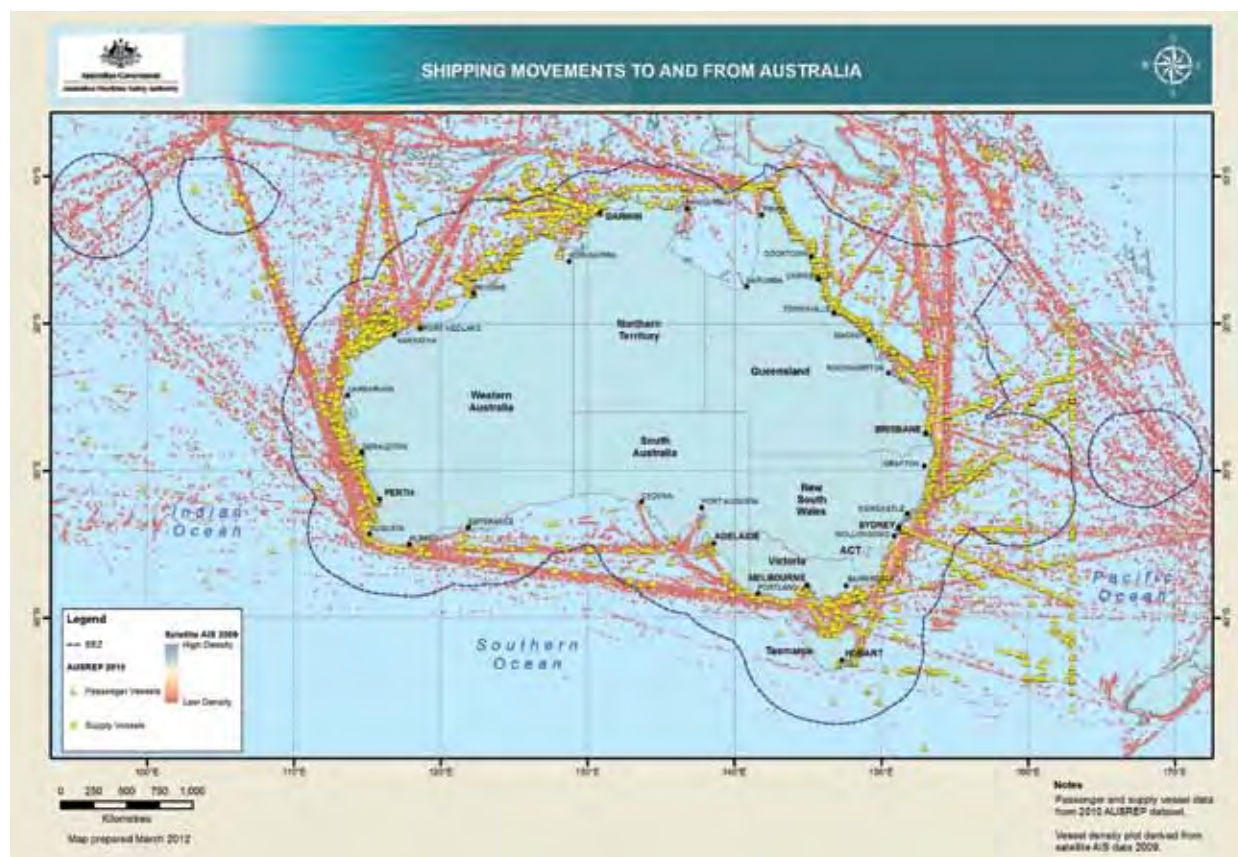


Figure 3 Shipping movements to and from Australia
Map courtesy of the Australian Maritime Safety Authority 2012.

Chapter 4. The protected areas have been established to protect marine life and the environment (Figure 8), historic shipwrecks (Figure 9), oil and gas infrastructure including submarine pipelines (Figure 10) and submarine telecommunications cables (Figure 11). Not shown graphically are the protected areas surrounding all oil and gas installations within the SFAA.

International shipping routes traverse the SFAA. Due to port destinations (in Australia and overseas) and Australia's geography, the shipping routes to and from Australia are most concentrated near the south-eastern Australian coast from Bundaberg QLD to Portland VIC, and along the west coast from Dampier to Albany in WA. Shipping routes are depicted in Figure 3.

Civil Maritime Security threat aspect to Australia's maritime jurisdiction

This guide uses the term 'security threats' widely. A security threat is an action that has potential to cause consequences adverse to Australia's interests. Security threats to Australia could result in outcomes adverse to Australia's national interests and are likely to result in criminal prosecution of the perpetrators.

Civil maritime security threats to Australia's national interests within its maritime jurisdiction are diverse. To assist in understanding and responding to these threats, they have been framed in the eight categories used in chapters 4 to 11 of the GAMSA. Of note, response to conflict, or state-based security threats against Australia in its maritime jurisdiction, is the responsibility of the Australian Defence Force, and is not directly addressed in this document.

Our waters will continue to attract entities that will illegally exploit natural resources, such as foreign fishers operating illegally in Australia's waters. Unauthorised Maritime Arrivals have been driven by political unrest or poverty in other countries, the limited places available internationally in migrant-receiving countries and the safety and economic opportunity Australia offers. Australia's affluent society will continue to be a target for people engaged in prohibited imports and exports and activities to avoid customs revenue collection.

Australia remains a potential target for extremist terrorist groups, including through maritime terrorism, because of our Western values, liberal society or our alliance with the United States.

Illegal incursions by vessels also pose a compromise to biosecurity through the introduction of pests and diseases that can affect humans or our ecosystems. This poses an economic threat through potential losses in the resource and agricultural sectors, and costs to the health system and lost productivity. High levels of illegal fishing may reduce the productivity of fisheries, or even threaten their commercial viability. Sensitive marine habitats, such as reefs, could be under pressure if destructive fishing, trawling, or anchoring practices occur. Marine pollution, such as major bio-hazards, can threaten the viability of marine industries and the health of marine ecosystems. Trafficking of illegal or restricted items carries social impacts and costs. Piracy, robbery or violence at sea, including the hijacking of ships, the theft of cargo and cash, crew possessions and any other portable ship's equipment, is prevalent in South-East Asia the Indian Ocean and the Middle East. The practice may conceivably extend to yachts and small craft in the Arafura Sea if a culture of unlawful operations becomes entrenched among maritime communities within or near Australia. Australia's offshore oil and gas infrastructure could also be targeted by a range of threats, including terrorist groups.

Threats to security may arise from outside Australia's maritime jurisdiction due to geopolitical, environmental, or resource issues. Consequently, management of the threats to Australia's security must include considerations way beyond its EEZ, including close cooperation with our international partners and allies.

Security threats occurring in Australia's maritime jurisdiction may have detrimental flow-on effects to the Australian mainland; for example, a biosecurity threat introduced through the maritime environment to the Australian mainland.

The nature and level of maritime threats will change and evolve over time as new threats emerge and dissipate. Consequently, maritime security arrangements must be adaptable and able to reflect changes to security threats, security threat levels and government priorities.

Responsibilities under the Security Forces Authority

In recognising the threat posed by acts of piracy and violence at sea, the International Maritime Organization (IMO) established a network of Security Forces Authority (SFA) organisations to better coordinate the response to these threats. Under the framework, the SFA has responsibility for response preparedness and is the central point of contact for piracy and violence at sea reporting within its assigned SFA Area (SFAA).

An SFA is a national agency which provides the coordination for any response to civil maritime security incidents. In Australia this role is undertaken by Maritime Border Command (MBC), a multi-agency task force within the ABF. The response to a civil maritime security incident may involve numerous agencies and/or foreign parties. It is the responsibility of the SFA to coordinate these parties.

A maritime safety framework exists that is complementary to the SFA framework under IMO. Within the Australian context of this framework, the Joint Rescue Coordination Centre (JRCC) within AMSA is responsible for the national coordination of maritime and aviation search and rescue activities within Search and Rescue Region 10. This is the area allocated to Australia under the **Convention on International Aviation 1944**, the **International Convention for the Safety of Life at Sea 1974** and the **International Convention on Maritime Search and Rescue 1979** and is the same area as the SFAA.

Under the Australian arrangements, the JRCC is informed of both maritime safety and maritime security incidents. The JRCC coordinates search and rescue operations with maritime users, other Commonwealth agencies and state and territory authorities. Where an incident is maritime related and of a civil security nature, the JRCC will inform MBC as the SFA. MBC will then assume responsibility for coordinating security related issues. Chapter 10 provides more information about the Piracy, Robbery or Violence at Sea security threat and the coordination mechanisms. AMSA retains the authority to coordinate SAR issues.

The roles and responsibilities of agencies for deterring, preventing, responding to and recovering from the eight civil maritime security threats in the Australian maritime jurisdiction, including MBC's, are discussed in more detail at Chapter 2.

Coordination is a wide ranging activity, which can involve a number of different courses of action. This may include the convening of an Interdepartmental Emergency Task Force by DFAT, an Augmented Multi-Agency Task Force by MBC, cooperation with the Flag State of the vessels that may be involved in the incident, other vessels that may be located near to the incident, nearby SFAs, or with nations which have citizens involved in the incident.

International engagement

DFAT is responsible for advancing the interests of Australia and Australians internationally. DFAT is involved in civil maritime security issues where an international aspect may exist.

Foreign states have jurisdiction over crimes committed within their own territories, including crimes committed in the territorial sea. Where criminal activity associated with maritime security threats is of a transnational nature, foreign governments should cooperate with other states that may be affected by such crime.

KEY POINT

Australia is a party to or supports a number of conventions, treaties and plans. Australia has undertaken obligations under a number of international treaties as well as signed a number of instruments of less than treaty status, such as memorandums of understanding (MOUs), with other nations. Australia hosts, funds, participates in or observes a number of multinational operations and exercises. All of these arrangements contribute to the management of security threats in Australia's maritime jurisdiction, globally, regionally and domestically.

Where security threats occur on the high seas, it may be appropriate for law enforcement, or military agencies of foreign nations, to assist directly with the response to maritime security threats (in particular responding to piracy, robbery, violence at sea, or maritime terrorism).

Some security threats may transition from Australia's maritime jurisdiction to that of another country, or vice versa. In those cases cooperation between nations is highly desirable to achieve effective resolution of the consequences of maritime security threats (especially for prosecution of illegal activity). In the context of potential sanctions-related activity, DFAT has a key role in the whole-of-government response to maritime interdiction of suspect cargoes in support of Proliferation Security Initiatives and United Nations Security Council Resolutions.

Where offences may have been committed on board foreign-flagged vessels, the relevant flag state will normally be involved in the criminal investigation. In these

circumstances, close cooperation is desirable between flag state law enforcement agencies and Australian law enforcement agencies, in addition to communication through diplomatic channels. Foreign interests in an offshore incident need to be handled with sensitivity, noting in particular that foreign governments have jurisdiction to investigate offences that have occurred on their flagged vessels.

For transnational crime, foreign law enforcement agencies can work with the Australian authorities through cooperative programs for the investigation and prosecution of the perpetrators. In this case it is the responsibility of all relevant Australian stakeholders to assist with these cooperative arrangements. Australian input to this type of assistance is normally coordinated through the Australian Federal Police (AFP) and DFAT.

Australian Government agencies have a responsibility to forge effective working relationships with similar foreign government bodies in order to combat transnational crime, and maritime security threats that affect both countries, including illegal foreign fishing and drug smuggling. Australian Government agencies involved in such arrangements include: ABF; the Australian Fisheries Management Authority (AFMA); the AFP; the Department of Agriculture, Water and the Environment; the Department of Industry, Science, Energy and Resources; and, DFAT. Of particular note is the coordinated patrols Australia conducts with Indonesia, Timor Leste and PNG, and education campaigns to combat illegal fishing in Australian waters.

International engagement is important to combating people smuggling. The Commander Joint Agency Task Force Operation Sovereign Borders (CJATF OSB) is responsible for high-level advocacy of Australia's interests in promoting effective and practical international cooperation to combat people smuggling and trafficking in persons, particularly in the Indo-Pacific region.

Australian arrangements

Delineation of government responsibilities

Australia has a number of national security plans and domestic operations and exercises that focus on security. A number of Australian committees and working groups focus on maritime security. A list of these can be found in Annex B. There are a number of memorandum of agreements and understanding between various Australian Government agencies related to civil maritime security. These domestic arrangements assist with the ongoing management of security threats in Australia's offshore maritime jurisdiction.

In some circumstances the responsibility for managing particular civil maritime security threats may be shared between the Australian Commonwealth and state governments. Furthermore, in some cases the responsibility for managing maritime security threats may rest with the state or territory governments (such as for the management of the environment of protected areas that lie in state or territory waters).

KEY POINT

Given the complex nature of the security threats in the Australian maritime jurisdiction, a large number of stakeholders may be involved in the various phases of security threat management. This is particularly the case for unusual or complex threats, and threats with political or international implications.

Responsibility for the management of maritime security threats between the Australian Commonwealth Government and the states and territories varies in each jurisdiction due to a number of factors, such as geography, capability, maritime activity and specific regional arrangements. Specific delineation arrangements for the waters surrounding each state and territory are depicted in annexes C to I—specific state and territory arrangements, but note that due to the scope of this GAMSAs review.

State and territory government coordination

State and territory agencies may have a primary role in certain situations (particularly from a human health perspective) in cases of illegal activity in protected areas, illegal exploitation of natural resources, marine pollution, and compromise to biosecurity. Such situations would arise when the security threat occurs within state or territory maritime jurisdiction (within the coastal or territorial internal waters of that state or territory), and the state or territory has a legislative basis on which to act (appropriate legislative instruments), sufficient resources and capability to respond.

State and territory agencies (particularly law enforcement agencies) may be called on to assist with all types of maritime security threats, under appropriate circumstances, particularly when the Australian Government has limited assets to respond, and where the state and territory agencies have the capability to respond.

Coordination with non-government stakeholders

Non-government stakeholders have a responsibility to support the actions of government agencies that manage maritime security threats. In particular, critical infrastructure owners and operators have roles and responsibilities for their own security under the Home Affairs' Critical Infrastructure Resilience Strategy. In most cases, maritime and offshore industry participants have primary responsibility for preventative security and will be the first responders to a range of maritime security incidents. Commercial entities also have a responsibility to follow legislated requirements.

- » Non-government stakeholders can provide a variety of measures to government stakeholders in managing maritime security threats, including:
- » notification of activity that may be linked to maritime security threats
- » information on personnel affected by or involved in the maritime security threat
- » specialist advice on the local environment
- » provision of evidence to investigating agencies in the case of criminal activity.

Commercial entities, industry representative bodies, or specialist non-government organisations may be able to provide further assistance in the form of:

- » technical information regarding infrastructure, shipping, or facilities affected by the maritime security threat
- » other specialist information
- » logistical support.

Assistance is generally voluntary except in specified circumstances such as providing assistance in a safety of life situation. Members of the public (non-commercial stakeholders) may assist with maritime security, primarily through (but not limited to) reporting of suspicious or illegal activity.

Public information management

The National Security Public Information Guidelines provide a framework for the Australian Government and state and territory agencies responsible for public information and media activities that relate to national security issues and incidents. The core principles of the guidelines are:

- » Public safety is the highest priority.
- » Information should be provided regularly to keep the public informed and should only be restricted in the interests of safety and/or operational security.
- » Public information and media responses must be cleared by relevant agency leads prior to release.
- » Agencies must coordinate messages to ensure consistency of information being provided.
- » Agencies must not make unapproved comment on, or speak on behalf of, another agency's area of responsibility.
- » All agencies have a responsibility to ensure adequate training and resources to respond to any incident.

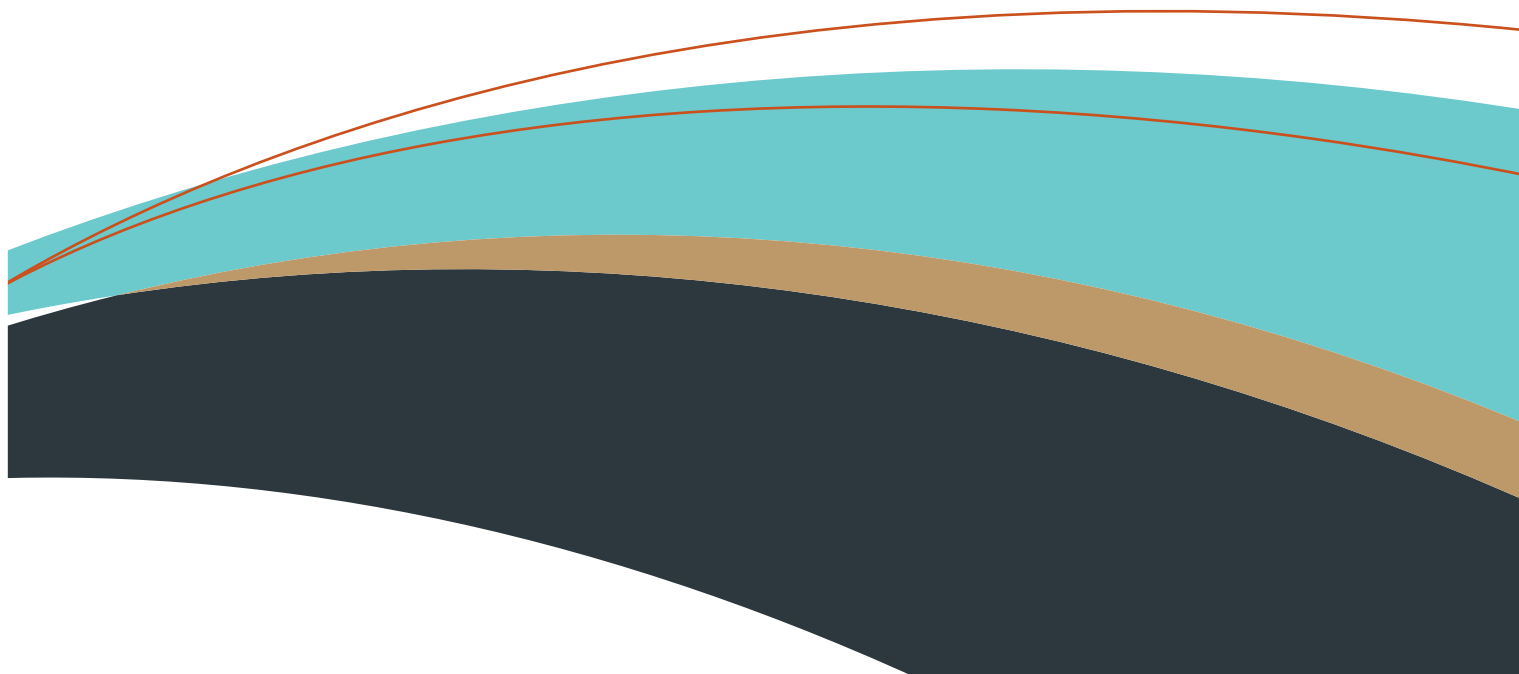
Public information responsibilities

A summary of the protocols for public information management for specific threats are listed in the specific threat chapters (chapters 4 to 11).

2

STAKEHOLDERS AND ROLES

This chapter discusses the basic roles of all government and non-government stakeholders, including stakeholder involvement related to specific threats in Australia's maritime jurisdiction.





Legitimate
maritime activity
is a significant
contributor to
the Australian
economy.

Key Commonwealth Government agency roles

Australian Border Force

The Australian Border Force (ABF) is Australia's front line border law enforcement agency and customs service. It is an operationally independent body within the Home Affairs portfolio with a mission to protect Australia's border and enable legitimate travel and trade. The ABF includes Maritime Border Command. A function of the ABF is to protect Australia's national interests by generating awareness of activity in Australia's maritime jurisdiction and responding to mitigate, or eliminate, the risks posed by civil security threats.

The ABF Commissioner commands and tasks Maritime Border Command across all eight civil maritime security threats.

The Australian Border Force, enables MBC by providing HQ personnel, intelligence, surveillance and surface response capabilities. The ABF has four core Operational Commands, divided into: Port Operations Command, Border Patrol and Coordination Command, Enforcement Command and Maritime Border Command.

Department of Defence

The Department of Defence (Defence) as part of a whole-of-government effort principally fulfils its role of providing for the defence of Australia and its vital national security interests through the ADF. Australia contributes defence personnel and equipment to various operations within the region and further abroad. The ADF includes the Royal Australian Navy (RAN), the Australian Regular Army and the Royal Australian Air Force.

The ADF provides: maritime surveillance; transportation; maritime surface response; maritime industry advice and liaison; intelligence collection and fusion; security; tactical response forces; and command and control functions. The provision of these capabilities contribute to the detection, prevention and response to all eight civil maritime security threats as captured in GAMSA.

ADF capabilities assigned to assist with the management of maritime security threats in the SFA are normally under the operational control of MBC, however, specific threat response capabilities provided by the ADF may remain under the command of the ADF.

The ADF maintains capabilities to assist civilian authorities in emergencies. Additionally, the ADF has developed concept plans to deal with terrorism, consequence management, including chemical, biological, radiological and nuclear (CBRN) and for dealing with incidents involving air threats and maritime incidents.

The ADF's traditional war-fighting and regional security role is continually evolving. This evolution encompasses its ability to deal with a wide range of domestic 'non-traditional security threats' such as pandemics, natural disasters and threats to national sovereignty in the form of illegal immigration and illegal fishing and other illegal activity in Australia's maritime jurisdiction.

The **Australian Hydrographic Office (AHO)** formerly part of the RAN, transferred to Defence's Strategic Policy and Intelligence Group in 2016 to form Hydrography and METOC Branch. HM Branch is the Commonwealth Government's authority responsible for the publication of nautical charts and maritime information required for the safety of ships navigation. The AHO produces nautical products to contribute to the continued maintenance of Australian sovereignty, maritime trade, maritime safety and environmental protection.

The AHO is also responsible for the provision of military geospatial information for ADF operations. These products are carried and used by maritime surveillance agencies and assets.

Maritime Border Command

Maritime Border Command (MBC), formerly known as Border Protection Command was established by the Australian Government in July 2015. MBC is commanded by an ADF officer (Rear Admiral), who is also a sworn ABF officer. MBC is policy led by Home Affairs and is commanded and tasked by the ABF Commissioner, but enabled and supported with capabilities from both Defence and ABF in order to undertake the assigned role as convening authority for maritime security. COMMBBC is the task force commander for OP RESOLUTE (JTF639) and assigned Navy, Army and Air Force assets to support civil maritime security, including Regional Force Surveillance Group, linguists, medical and logistic support elements. MBC has the lead role for ensuring maritime domain awareness and coordinates national awareness and response efforts to protect Australia's interests in its maritime jurisdiction.



» Artists image of the AAD nuship RSV Nuyina. RSV Nuyina will make its maiden voyage to Antarctica in 2020-21.

MBC is a multi-agency task force which utilises assets assigned from the ABF and ADF to conduct civil maritime security operations. Assets assigned to MBC conduct law enforcement activities on behalf of other Australian government agencies by exercising powers under the ***Maritime Powers Act 2013***, primarily to enforce the ***Customs Act 1901***, ***Migration Act 1958***, and ***Fisheries Management Act 1991***.

MBC is not a search and rescue organisation but its assigned assets are capable of responding to incidents in accordance with international obligations and in support of search and rescue agencies, particularly AMSA.

Attorney-General's Department

The Attorney-General's Department (AGD) delivers programs and policies to maintain and improve Australia's law and justice framework. The AGD leads a portfolio that provides advice and services on a range of law and justice issues to the Attorney-General. AGD administers a range of legislation relevant to maritime activities.

AGD provides legal and policy advice to government, including on counter-terrorism and national security, as well as criminal law issues.

The Office of International Law provides advice to the Australian government. This includes legal and policy advice across government on issues involving public international law, including aspects relevant to maritime security, such as the law of the sea and piracy.

Australian Antarctic Division

The AAD, a division of the Department of Agriculture, Water and the Environment, is responsible for leading, coordinating and delivering the Australian Antarctic program and administering the Australian Antarctic Territory and, in the subantarctic, the Territory of Heard Island and McDonald Islands. The program is focused on conducting world-class science of critical national importance and global significance that delivers on Australian Antarctic policy and operational priorities AAD contributes to the management (through presence, prevention, preparedness, response and recovery) of all maritime security threats that occur within its geographical area of responsibility.

The division is the Commonwealth agency responsible for implementing Australia's obligations under the Antarctic Treaty system, and leading Australia's engagement in the **Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR)**

» The AAD is responsible for administering the following legislation:

- » *Antarctic Marine Living Resources Conservation Act 1981*
- » *Antarctic Treaty (Environment Protection) Act 1980*
- » *Australian Antarctic Territory Act 1954*
- » *Heard Island and McDonald Islands Act 1953.*

Australian Federal Police

AFP is responsible for enforcing Commonwealth criminal law and protecting Commonwealth and national interests from crime in Australia and overseas. The AFP is Australia's international law enforcement and policing representative, and the government's chief source of advice on policing issues.

AFP contributes to the management of security in Australia's maritime jurisdiction via investigation and prosecution of security threats. The main role is to keep the peace, preserve safety, and investigate crimes against the Commonwealth and the laws of the Australian Capital Territory (ACT), Jervis Bay Territory and the External Territories. AFP's commitment to international relations, which drives inter-agency collaboration, enables the fight against trans-national crime to be taken to its source. At a national level, the AFP continues to work successfully with the Australian government and key agencies on a range of counter-terrorism, crime fighting and capacity building initiatives.

Of primary importance for the AFP is the fight against terrorism and trans-national crime, illicit drug trafficking, serious fraud, organised people smuggling, serious and organised crime and money laundering. AFP is given special references from the government, including providing assistance with United Nations (UN) peacekeeping roles and other forms of direct international policing and training. The AFP works closely with a range of other law enforcement bodies at state, territory, Commonwealth and international levels, enhancing national security and contributing to a stable regional and global environment. AFP may not be involved when threats are managed by a single agency with powers of prosecution for a particular threat (such as AFMA, Agriculture, ABF and the Great Barrier Reef Marine Park Authority (GBRMPA)).

Australian Fisheries Management Authority

The Australian Fisheries Management Authority (AFMA), (within DAWE) is the lead agency for the maritime security threat 'illegal exploitation of natural resources', as it relates to the regulation of fishing activities and deterrence of illegal fishing activity within the Australian Fishing Zone (AFZ). It is responsible for the disposal of illegal foreign fishing vessels, and also unauthorised maritime arrival vessels when they are brought to the mainland.

AFMA is responsible for the regulation and enforcement of Commonwealth fisheries management arrangements and the conduct of Australian fishing vessels and Australian nationals on foreign fishing vessels operating in the AFZ and on the high seas. AFMA, together with other agencies, link internationally to inform our maritime domain awareness and work collectively to counter IUU fishing.

AFMA manages Commonwealth fisheries resources on behalf of the Australian community and key stakeholders.

In conjunction with other relevant Commonwealth agencies, AFMA enforces the provisions of the **Fisheries Management Act 1991** and the **Torres Strait Fisheries Act 1984** through the detection and investigation of illegal fishing activity by both domestic and foreign fishing boats in the AFZ and Torres Strait Protected Zone and Commonwealth fisheries. AFMA provides professional observer services to domestic fishing vessels operating within the AFZ, including sub-antarctic territories and areas managed by the CCAMLR Convention.

Australian Maritime Safety Authority

The Australian Maritime Safety Authority (AMSA) is the lead agency for the maritime safety threat 'marine pollution'. State and territory governments also have lead agency responsibilities for marine pollution events in their waters.

AMSA has statutory responsibilities, assets and powers that enable and require it to coordinate civil maritime search and rescue, intervene in a maritime incident that could significantly pollute the sea, and coordinate environmental protection measures relevant to pollution of the sea.

AMSA's primary role is in maritime safety, protection of the marine environment and the provision of maritime and aeronautical search and rescue services.

AMSA's areas of responsibility include the following:

- » participation in the development and implementation of national and international maritime safety and environment protection standards
- » enforcing operational standards for ships in Australian waters to promote their seaworthiness, safety and pollution prevention
- » managing the national plan that coordinates the strategy for preparedness and response coordination to marine pollution incidents and protection of the marine environment from oil and chemical pollution

- » Operating the Australian Joint Rescue Coordination Centre (JRCC) within the AMSA Response Centre as its hub to coordinate the location and rescue of persons in maritime and aviation distress situations throughout the internationally agreed Australian Search and Rescue Region
- » maintaining maritime distress and safety communications services to discharge Australia's responsibility under the Global Maritime Distress and Safety System
- » administering the Australian Ship Reporting system identifying and tracking ships at sea as a safety measure and to provide a database of ships that may be in a position to respond to an emergency.

Where any threat within Australia's maritime jurisdiction includes a Safety of Life at Sea (SOLAS) dimension, AMSA is the agency responsible for coordinating the SOLAS response.



RAAF P-8A Poseidon maritime patrol aircraft

Australian Radiation Protection and Nuclear Safety Agency

The Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) is the Australian government agency within the Department of Health charged with responsibility for protecting the health and safety of people, and the environment, from the harmful effects of ionising and non-ionising radiation. ARPANSA offers specialist advice with respect to the effects on the human population of radiological and nuclear exposure.



AMSA Challenger patrolling the Australian Coastline conducting Search and Rescue

Department of Agriculture, Water and the Environment

The role of the Department of Agriculture, Water and the Environment (DAWE) is to develop and implement policies and programs to ensure Australia's agricultural, fisheries, food and forestry industries remain competitive, profitable and sustainable, and to protect and conserve the environment, water and heritage, and promote climate action.

DAWE contributes to maritime security through initiatives for combating illegal foreign fishing and measures to protect Australia's biosecurity. Key areas of focus are the AFZ and work with other countries in the region to encourage sustainable management of fisheries and related ecosystems and measures to mitigate threats to Australia's biosecurity.

Fisheries Branch provides fisheries policy and program directions in conjunction with the operations of AFMA. With regard to maritime security DAWE contributes policy and strategic direction for:

- » managing Commonwealth fisheries
- » legislative reforms and reviews
- » representing Australia's fisheries interests in international fisheries forums
- » bilateral and multilateral engagement on fisheries issues
- » promoting improved fisheries management and addressing illegal, unreported and unregulated fishing, particularly in adjacent oceans and seas.
- » internationally to develop and improve biosecurity standards
- » offshore to build the capabilities of our neighbours and the systems of the countries we import from to reduce risks reaching our border
- » in partnership with importers before they bring animal and plant products to Australia to ensure they are aware of their responsibilities and can comply
- » with the Australian export supply chain, including farmers, to ensure that exports are free from pests and diseases
- » in partnership to manage the outbreaks of pests and diseases when they occur to prevent or reduce their spread within Australia and minimise their harm and damage.

The Australian Antarctic Division within the Department is responsible for Australia's presence and activities in the Australian Antarctic Territory and the Southern Ocean.

In Australia's maritime jurisdiction, the Department is responsible for the management and protection of Commonwealth Marine Reserves, the Commonwealth marine environment, threatened species and ecological communities, species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), hazardous materials and ozone-depleting substances and synthetic greenhouse gases and related equipment and provisions relating to sea dumping.

Department of Finance

The Department of Finance provides high-quality strategic policy, deregulation reform and financial advice to support government decision-making and improved Australian Government financial management. The department also delivers professional support services to ministers, parliamentarians and their staff, and the government as a whole.

Finance contributes to the management (through policy advice on prevention, preparedness, response and recovery) of all types of security threats within Australia's maritime jurisdiction.

Department of Foreign Affairs and Trade

The role of the Department of Foreign Affairs and Trade (DFAT) is to protect and advance the interests of Australia through management of Australia's relationships with other countries and international organisations and Australians internationally. DFAT ensures that Australia's international strategic, security and economic interests are protected and advanced, including through Australian Government foreign and trade policy priorities, contributions to international peace and security, promoting expansion of Australia's international trade and economic linkages, and by assisting with the protection and welfare of Australians abroad.

DFAT contributes to the management of *all* types of security threats within Australia's maritime jurisdiction where there are international aspects involved.

DFAT's goals are:

- » the advancement of Australia's international strategic, security and economic interests, including through bilateral, regional and multilateral engagement on Australian Government foreign and trade policy priorities
- » the protection and welfare of Australians abroad and access to secure international travel documentation through timely and responsive travel advice and consular and passport services
- » a secure Australian Government presence overseas through the provision of security services and information and communications technology infrastructure, and the management of the Commonwealth's overseas-owned estate.

DFAT's contribution to Australian maritime security is primarily through the management and fostering of cooperation arrangements and agreements with foreign governments. DFAT also provides advice to government on matters of public international law, including aspects relevant to maritime security, such as the law of the sea and piracy.

The High Commissioner of Australia to the United Kingdom acts as DFAT's Permanent Representative to the International Maritime Organization. AMSA will represent Australia on maritime, aviation and search and rescue issues.

Department of Health (DoH)

The Department of Health (DoH) is a lead agency for the maritime security threat 'compromise to biosecurity', in particular, threats to public health.

Australia's health system has coordinated arrangements to respond effectively to national health emergencies, including infectious disease outbreaks, terrorism and natural disasters. DoH also jointly administers the ***Biosecurity Act 2015*** in relation to human biosecurity.

In any maritime mass casualty event, DoH will monitor the capacity of the affected state to deal with casualties. Where necessary, it will make arrangements for the supplementation of resources through transfer of personnel and equipment from other jurisdictions, or deployment of medicines and protective equipment from the National Medical Stockpile. If required, it will also coordinate the movement of the injured to other jurisdictions.

Department of the Prime Minister and Cabinet

The role of the Department of the Prime Minister and Cabinet (PM&C) is to provide high-quality policy and implementation advice and support to the Prime Minister, the Cabinet, Cabinet committee chairs, our PM&C portfolio ministers and parliamentary secretaries and the government as a whole. PM&C's advice seeks to drive principles-based, strategic and coordinated policy solutions to Australia's national challenges and to support the implementation of the government's priorities.

PM&C's role includes:

- » supporting progress on the policy priorities that matter to the Prime Minister now and in the future
- » supporting Cabinet processes, and providing support to the rest of the Australian Public Service in Cabinet matters, as well as helping to coordinate the government's legislative program
- » helping departments and agencies develop policy proposals that are coherent, informed and coordinated, and that take account of issues beyond their portfolio
- » supporting collaborative policy development, both internally and externally
- » providing central coordination when this is needed to achieve a good outcome, or when the issue is about to come to Cabinet.

Department of Home Affairs

The Department of Home Affairs was established in 2017. It brings together Australia's federal law enforcement, national and transport security, criminal justice, emergency management, multicultural affairs, settlement services and immigration and border-related functions, and the policy lead for Civil Maritime Security. The AFP, ABF and ASIO all fall within this Department. MBC, and Aviation and Maritime Security Division also are located within Home Affairs.

The Aviation and Maritime Security Division is the preventive security regulator for the Australian aviation, maritime and offshore oil and gas industries.

The Division administers the *Maritime Transport and Offshore Facilities Security Act 2003 (MTOFSA)* and associated regulations. The MTOFSA implements Australia's international commitments under the *SOLAS Convention Chapter XI-2* and the *International Ship and Port Facility Security (ISPS) Code*.

The **MTOFSA** establishes a regulatory framework to safeguard against unlawful interference with maritime transport, centred around the development of security plans for ships, other maritime transport operations such as ports and port facilities, and offshore oil and gas facilities.

The **MTOFSA** requires maritime industry participants to conduct security assessments to identify risks and vulnerabilities, and to develop security plans outlining and implementing security measures to address those risks and vulnerabilities. These security plans must demonstrably make an appropriate contribution to the achievement of maritime security outcomes.

These plans are subject to regulatory approval and ongoing enforcement, and are supported by legislative measures such as control of zones, MSIC requirements, powers of officials and private security personnel, and criminal offence provisions.

Emergency Management Australia (EMA) (a division of Home Affairs is the Australian Government's central crisis coordination resource and primary source of information and situational awareness in domestic emergencies and crises. It is also responsible for administering a range of financial assistance programs and coordination of protective security arrangements (physical and personal) for Australian high office holders, visiting foreign dignitaries, at-risk foreign missions in Australia as well as security arrangements for special events in Australia or overseas.

EMA is also responsible for the operation of the National Security Hotline and receives and disseminates reports from the public on possible terrorist activity.

The Crisis Coordination Centre (CCC) managed by EMA coordinates a whole-of-government approach to crisis management in support of response and recovery in accordance with the Australian Government Crisis Management Framework. The CCC provides 24/7 monitoring and reporting of domestic and international crises, whole-of-government situational awareness for domestic crises and manages the provision of Australian Government assistance to jurisdictions.

Department of Industry, Science, Energy and Resources (DISER)

DISER drives growth and job creation for a more prosperous Australia, by facilitating economic transformation and boosting business competitiveness. DISER develops policy and provides advice on safety, environment and resource management impacts of offshore petroleum and greenhouse gas operations, and administers and has policy responsibility for the *Offshore Petroleum and Greenhouse Gas Storage Act 2006 (OPGGGS Act)*. DISER provides coordination across the Australian Government in the event of an offshore petroleum incident.

National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA)

NOPSEMA is a Commonwealth statutory agency within the DISER portfolio. NOPSEMA has regulatory responsibility for occupational health and safety, structural and well integrity, and environmental management of offshore petroleum activities in Commonwealth waters, and in coastal waters where state and Northern Territory (NT) powers have been conferred.

NOPSEMA's regulatory powers are derived from the **OPGGS Act**. This includes powers to ensure titleholders reduce the risk of their activities to human health and safety and the environment to as low as reasonably practicable. NOPSEMA also has powers to establish and regulate petroleum safety zones.

Department of the Treasury

The Department of the Treasury (Treasury) is a central policy agency within the Australian Public Service. Its mission is to improve the wellbeing of the Australian people by providing sound and timely advice to the government, based on objective and thorough analysis of options, and by assisting the Treasury ministers in the administration of their responsibilities and the implementation of government decisions.

The Treasury is engaged in a wide range of issues that affect the lives of Australians, from macroeconomic policy settings to microeconomic reform, climate change to social policy, as well as tax policy and international agreements and forums.

Treasury's work broadly covers the following areas:

- » sound macroeconomic environment
- » effective government spending and taxation arrangements
- » effective taxation and retirement income arrangements
- » well-functioning markets.

The National Security Unit (NSU) within Treasury provides advice on a broad range of national security policy issues, including maritime security. The NSU's role includes supporting the Deputy Prime Minister and Treasurer in their role as the Deputy Chair of the NSC, and supporting the Secretary to the Treasury as a member of the Secretaries' Committee on National Security. The Treasury does not have an operational role in maritime security.

Great Barrier Reef Marine Park Authority

The Great Barrier Reef Marine Park Authority was established under the ***Great Barrier Reef Marine Park Act 1975*** and is responsible for protecting and managing the environment, biodiversity and heritage values of the Great Barrier Reef Region. Field management, including compliance activities, is delivered principally through the Reef Joint Field Management Program (RJFMP) in partnership with the Queensland Parks and Wildlife Service. Surveillance and enforcement activities are conducted by Inspectors appointed from the RJFMP and partner agencies to ensure compliance with Great Barrier Reef Marine Park and complementary State legislation

Intelligence agencies

Collection of intelligence is conducted by a number of agencies such as the **Australian Secret Intelligence Service (ASIS)**, **Australia's Geospatial-Intelligence Organisation (AGO)** and **Australian Signals Directorate (ASD)**. Analysis of intelligence information is conducted by the Defence Intelligence Organisation (DIO) and Office of National Assessments (ONA). The Australian Security Intelligence Organisation (ASIO) conducts both collection and analysis of intelligence information.

Intelligence agencies contribute to the management of illegal exploitation of natural resources; prohibited imports and exports; unauthorised maritime arrivals; compromise to biosecurity; piracy, robbery, or violence at sea; and maritime terrorism.

Australian Secret Intelligence Service (ASIS)

ASIS's function is stated in the ***Intelligence Services Act 2001***. Its role is to:

- » collect foreign intelligence, not available by other means, which may impact on Australian interests
- » distribute that intelligence to the government, including key policy departments and agencies
- » undertake counter-intelligence activities which protect Australian interests and initiatives
- » engage other intelligence and security services overseas in Australia's national interests.

The government expects ASIS to be adaptable, and to be able to respond effectively to the diverse threats and opportunities confronting our nation. ASIS work can involve collection of intelligence in relation to national defence, international relations and economic issues. ASIS is also expected to contribute to Australia's coordinated national efforts against terrorism, proliferation of weapons and other transnational concerns.

ASIS works within the ***Intelligence Services Act 2001***.

Australian Security Intelligence Organisation (ASIO)

ASIO's role is to identify and investigate threats to security, both in Australia and overseas, and to provide advice to protect Australia, its people and its interests. ASIO's functions are defined in the ***Australian Security Intelligence Organisation Act 1979***. ASIO operates

under the control of the Director-General of Security, who is responsible to the Attorney-General.

Security is defined in the ***ASIO Act 1979*** as protection from espionage, sabotage, politically motivated violence, the promotion of communal violence, attacks on Australia's defence system, acts of foreign interference and serious threats to Australia's territorial and border integrity. It also includes the carrying out of Australia's responsibilities to any foreign country in relation to security.

ASIO is the only Australian intelligence agency which both collects and assesses security intelligence. ASIO collects information using intelligence methods (such as human sources, special powers authorised by warrant, and through its liaison relationships) as well as from published sources.

On territorial and border integrity, ASIO works closely with partner agencies through a range of interdepartmental bodies.

Within ASIO, the National Threat Assessment Centre (NTAC) prepares assessments on the terrorist and violent protest threat to Australia, Australians and Australian interests, including such threats to the interests of foreign countries in Australia. NTAC assessments cover threats to people, places and events. Some threat assessments are produced in response to specific intelligence, events or issues, while others are published periodically. ASIO's Protective Security Branch provides assessments on the threat from terrorism to Australia's critical infrastructure sectors, including the maritime sector.

Australian Geospatial-Intelligence Organisation

AGO is the lead imagery and geospatial intelligence organisation within the Department of Defence. AGO's mission is to provide geospatial intelligence, from imagery and other sources, in support of Australia's defence and national interests. Geospatial intelligence is intelligence derived from the exploitation and analysis of imagery and geospatial information about features and events, with reference to space and time. AGO's geospatial information is a core enabler for the ADF's war-fighting capability, including targeting, intelligence, surveillance

and reconnaissance and air/space/surface integration. AGO has offices in both Canberra and Bendigo.

AGO works within the *Intelligence Services Act 2001* (on behalf of Defence).

Defence Intelligence Organisation

DIO is a strategic-level, all-source intelligence assessment agency that provides services and advice at the national level. Its mandate is to support Defence and government decision-making and assist with the planning and conduct of ADF operations. DIO is located in Canberra within the Strategic Policy and Intelligence Group in the Department of Defence. DIO is responsible for independent intelligence advice, services and assessment on global security activity, terrorism, defence economics, military capabilities, and science and technology that has military applications. DIO's intelligence product and services help inform its customers on military activities at home and abroad, defence acquisition processes, force readiness decisions, strategic policy, foreign relations and defence scientific developments.

DIO works within the *Intelligence Services Act 2001* (on behalf of Defence).

Australian Signals Directorate

The ASD supports Australian Government decision-makers and the ADF with high-quality foreign signals intelligence products and services. ASD makes government and Defence policy more certain and more effective by providing the policy departments and assessment agencies with important information that is not available from open sources. ASD also directly contributes to the military effectiveness of the ADF, and provides a range of information security services to ensure that sensitive electronic information systems are not susceptible to unauthorised access, compromise or disruption.

ASD works within the *Intelligence Services Act 2001* (on behalf of Defence).

Office of National Intelligence

ONI created in 2018, provides all-source assessments on international political, strategic and economic developments to the Prime Minister and senior ministers in the NSC. The Director-General of ONI is an independent statutory officer who is not subject to external direction on the content of ONI assessments. Previously Office of National Assessments.

ONI is responsible for enterprise level management of Australia's new National Intelligence Community (NIC) and ensures a single point of accountability to the Prime Minister and National Security Committee of Cabinet.

The *Office of National Assessments Act 1977*, subsumed into the *Office of National Intelligence Act 2018* charges ONI with responsibility for coordinating Australia's foreign intelligence activities and issues of common interest among Australia's foreign intelligence agencies. ONI is also responsible for evaluating the effectiveness of Australia's foreign intelligence effort.

Reporting to the Prime Minister, ONI is an agency within the PM&C portfolio.

State and territory government agency roles

The names and responsibilities for these agencies are generic and not specific to any particular state or territory. Further specific explanation of state and territory government agency roles is listed in each of the annexes C to I. Note that due to the scope of this GAMS update, Annexes C onward were not in scope for review and as such were not updated.

State and territory areas of responsibility are normally limited to within the coastal waters (out to three nautical miles from the low water mark). A major exception is fisheries where, under the Offshore Constitutional Settlement, state and territory governments manage many agreed fisheries well beyond their state waters. Similarly, other designated fisheries are managed by the Commonwealth up to the high water mark (these arrangements were implemented to reduce complexities associated with fish stock management across jurisdictional boundaries).

Environment / environmental protection agencies

The state and territory environment departments have the responsibility for environmental protection and management. The types of threats managed include illegal activity in protected areas, illegal exploitation of natural resources, marine pollution and compromise to biosecurity.

Departments of premier and cabinet/departments of the chief minister

Each state department of premier and cabinet and territory department of the chief minister is responsible for coordinating the response to a threat to their security, including a threat within their maritime jurisdiction.

Health

The state and territory health departments have the responsibility for protection and management of disease and health threats to the human population. State and territory health agencies work closely with border agencies and DoH to minimise human health threats caused by illegal activities in the marine environment.

Police and attorney-general or justice

The state and territory police departments have the responsibility for combating all crime types within their maritime jurisdiction and within their capability, by way of law enforcement (where within state or territory responsibility), criminal investigation and support to prosecution except for those offences that can be

managed by other agencies (such as fisheries, customs and biosecurity offences).

The state and territory attorney-general or justice departments will also be involved in the management of all types of maritime security threats by means of provision of policy advice to other agencies.

Primary industries and/or fisheries

The state and territory primary industries and/or fisheries departments have responsibility for the management of maritime security threats within their jurisdictions relating to commercial or recreational fisheries. The types of maritime security threats managed include illegal activity in protected areas, illegal exploitation of natural resources and compromise to biosecurity.

Selected state fisheries officers are dual accredited as AFMA officers, and therefore hold enforcement powers within the internal and coastal waters (under state legislation), or outside the state coastal waters but within the AFZ (under Commonwealth fisheries legislation).

Transport

The state and territory transport departments are responsible for the management, security and regulation of ports and transport infrastructure. Government-owned ports are all commercial business entities and are grouped with privately owned ports as non-governmental stakeholders in the GAMSAs. The types of security threats managed include illegal activity in protected areas, compromise to biosecurity, piracy, robbery, or violence at sea, and maritime terrorism.

Non-government stakeholder roles and responsibilities

Non-government stakeholders can be defined as either commercial or non-commercial stakeholders.

In general, non-government stakeholders have the following responsibilities:

- » reporting maritime security threats
- » reporting suspicious activity that may indicate potential maritime security threats
- » protecting the maritime environment and resources through responsible use within the maritime jurisdiction
- » complying with government imposed regulation to operate in the maritime environment
- » taking reasonable, and obeying mandated, measures for safety and security of personnel, vessels and infrastructure against maritime security threats and the possible consequences of those security threats
- » assisting government agencies with their efforts to manage maritime security threats (such as by means of exercises, data exchange and liaison).

Commercial stakeholders

Commercial stakeholders are those entities with business interests within the Australian maritime jurisdiction.

Industry sectors

Commercial stakeholders are generally grouped into the following industry sectors:

- » Australian ship owners and operators
- » cargo handlers and providers
- » port operators
- » shipping pilots and crew associations
- » commercial fishers
- » tourism and cruise ship operators
- » oil and gas industry
- » oil and gas affiliated groups
- » submarine cable owners.

Legislative operational arrangements

Commercial stakeholders are required to comply with government legislative requirements. This is particularly important for those who operate valuable and or nationally important infrastructure (such as large commercial shipping, oil and gas production facilities fuel pipeline and telecommunications cables). Legislative requirements include:

- » licensing and security vetting of employees
- » seaworthiness and safety of vessels and maritime fixed infrastructure
- » occupational health, safety and welfare of employees
- » employment conditions for employees
- » insurance and disaster response obligations
- » sustainable and environmentally responsible operations.

Cooperative law enforcement and security obligations

Commercial operations operating outside the territorial sea are subject to international law and, to some extent, Commonwealth law and the laws of the adjacent state or territory. For example, employees working on offshore infrastructure are still subject to state law for common law offences such as theft and assault. Should crimes of this nature occur, companies that own or operate the infrastructure or vessel would make arrangements with the state or territory police to appropriately deal with the matter.

Non-commercial stakeholders

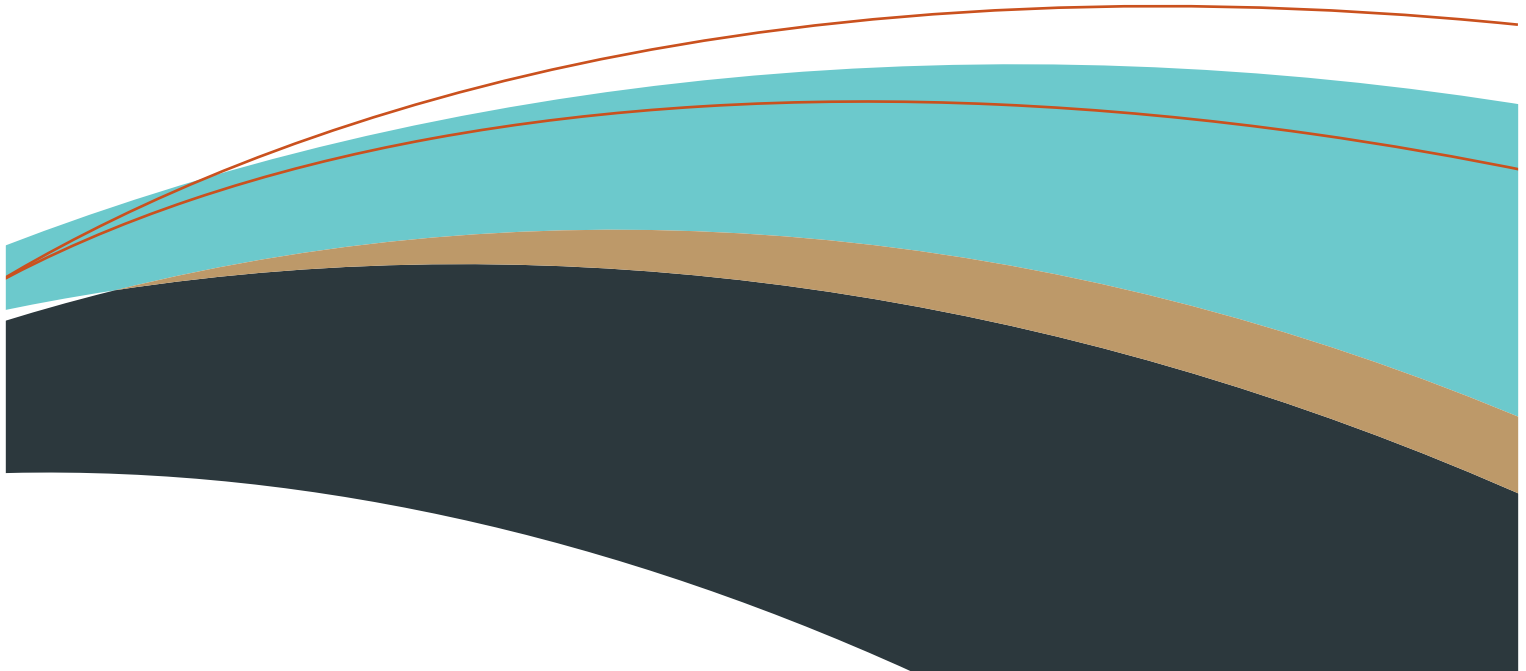
Non-commercial users within Australia's maritime jurisdiction include the general public. In general non-commercial users within Australia's maritime jurisdiction are recreational and include fishermen, divers, boat owners and a host of other users within Australia's maritime jurisdiction. Non-commercial stakeholders also include special interest groups such as the Australian Volunteer Coast Guard.

Non-commercial stakeholders are required to comply with applicable legislation and have a moral obligation to assist with maritime security, primarily through (but not limited to) reporting of suspicious or illegal activity.

3

LEGAL AND ADMINISTRATIVE ASPECTS TO AUSTRALIA'S MARITIME JURISDICTION

There are a number of legal and administrative aspects to managing security threats in Australia's maritime jurisdiction. This chapter summarises these aspects.





Maritime
operations
in Australian
waters and
beyond must
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international as
well as domestic
law.

International obligations and responsibilities

Australia is party to a range of international instruments that give rise to rights and obligations that are relevant to maritime security. In addition, Australia has various obligations under customary international law and has a role to fulfil as the Security Forces Authority for the purposes of coordinating the response to acts of violence against ships within the Australian Security Forces Authority Area (SFAA).

Australia gives effect to its international obligations through a combination of legislation, policy and practice. Maritime operations in Australian waters and beyond must be carried out consistently with international as well as domestic law.

Australia's maritime zones

The *1982 United Nations Convention on the Law of the Sea (UNCLOS)* provides a comprehensive international legal regime for use of the sea and its resources. UNCLOS establishes a legal order of the seas that seeks to balance the rights and responsibilities of coastal states against the rights and responsibilities of other sea users in areas such as navigation, conservation and management of living resources and the study, protection and preservation of the marine environment. It also clearly establishes and delineates the various maritime zones over which states may exercise different degrees of jurisdiction. Consistent with UNCLOS and pursuant to proclamations under the *Seas and Submerged Lands Act 1973 (Cth)* Australia's territorial sea extends out to a maximum of 12 nautical miles from the Australian territorial sea baseline, its contiguous zone extends from the limits of the territorial sea out to 24 nautical miles, and its exclusive economic zone (EEZ) extends from the outer limits of the territorial sea out to 200 nautical miles. These zones are subject to delimitation with neighbouring states and may therefore be narrower, for example, in Australia's northern waters. In addition, consistent with the OCS and as a matter of domestic law, the first three nautical miles of the territorial sea are known as 'coastal waters'.

Coastal waters, its water column and the seabed is vested in the jurisdiction of the adjacent state or territory as if the area formed part of that State or Territory. **Territorial sea baseline:** Territorial sea baseline (TSB) is the line from which the seaward limits of Australia's maritime zones are measured. The TSB normally corresponds with the low water line (measured from the lowest astronomical tide) along the coast and includes the coasts of islands. There are exceptions to the 'normal baselines', including straight baselines, used where the coastline is deeply indented or there is a fringe of islands, and bay closing lines.

Internal waters: Internal waters are those waters that lie landward of the TSB and typically comprise bays, estuaries and ports. Internal waters are also considered to be coastal waters under the OCS.

Coastal waters: Australia's coastal waters are those waters internal to the state or territory and include a three nautical mile stretch of water extending from the TSB into the territorial sea, which by domestic arrangement is attributed to the control of the adjacent state or territory. By virtue of the OCS, which is set out in the Commonwealth, state and territory Acts which implement it, each state and territory has the same right and title in the adjacent three nautical mile band of territorial sea (including the seabed) as it would have if the waters were within the limits of the state or territory. It is noted that these rights are subject to the right of the Commonwealth to apply laws in the territorial sea in relation to navigation, biosecurity, communications and defence. They are also subject to the duties of the Commonwealth in relation to ensuring the observance of international law and, in particular, the right of innocent passage of foreign ships through the territorial sea. The status of the territorial sea under international law is expressly preserved. The coastal waters regime has no effect at international law, but rather reflects a formal arrangement between the Commonwealth and states and territories on dividing management of resources and responsibilities in the territorial sea.

Territorial sea: Australia's territorial sea extends up to 12 nautical miles from the TSB. Due to the proximity of Papua New Guinea, the territorial sea around certain Torres Strait islands is only three nautical miles wide, in accordance with the *Torres Strait Treaty* entered into with Papua New Guinea. Australia exercises full sovereignty over its territorial sea, its seabed and subsoil, and over the airspace above it, subject only to the international

law right of innocent passage of foreign flagged vessels through the territorial sea and transit through the Torres Strait.

Contiguous zone: The contiguous zone is an area adjacent to the territorial sea, which extends up to 24 nautical miles from the TSB. Within this zone, as a matter of international law, Australia may exercise control necessary to prevent and punish infringement of its customs, fiscal, immigration and sanitary laws and regulations within its territory or territorial sea.

EEZ: The EEZ extends from the outer edge of its territorial sea up to 200 nautical miles from the TSB. It should be noted that the EEZ is less than 200 nautical miles in certain areas in accordance with agreements with neighbouring countries. Within the EEZ, Australia exercises sovereign rights for the purpose of exploring and exploiting, conserving and managing all natural resources of the waters, seabed and subsoil, together with other activities such as the management of ballast water and production of energy from water, currents and wind.

Australia’s maritime jurisdiction also extends to the establishment and use of artificial islands, installations and structures, marine scientific research and the production and preservation of the marine environment.

Continental shelf: The continental shelf is the area of the seabed and subsoil which extends beyond the territorial sea throughout the natural prolongation of Australia’s land territory and up to a distance as permitted in UNCLOS. The *Seas and Submerged Lands (Limits of Continental Shelf) Proclamation 2012* was made on 24 May 2012, which confirmed the outer limits of much of Australia’s continental shelf.

Within this area, Australia has sovereign rights over the continental shelf for the purposes of exploring and exploiting the mineral and other non-living resources of the seabed and subsoil, as well as to sedentary organisms. Australia also has jurisdiction with regard to marine scientific research as well as other rights and responsibilities.

Australia’s rights over the continental shelf do not affect the legal status of the water column or airspace above it.

Australia’s Maritime Zones are depicted conceptually in Figure 4 and geographically in Figure 2.

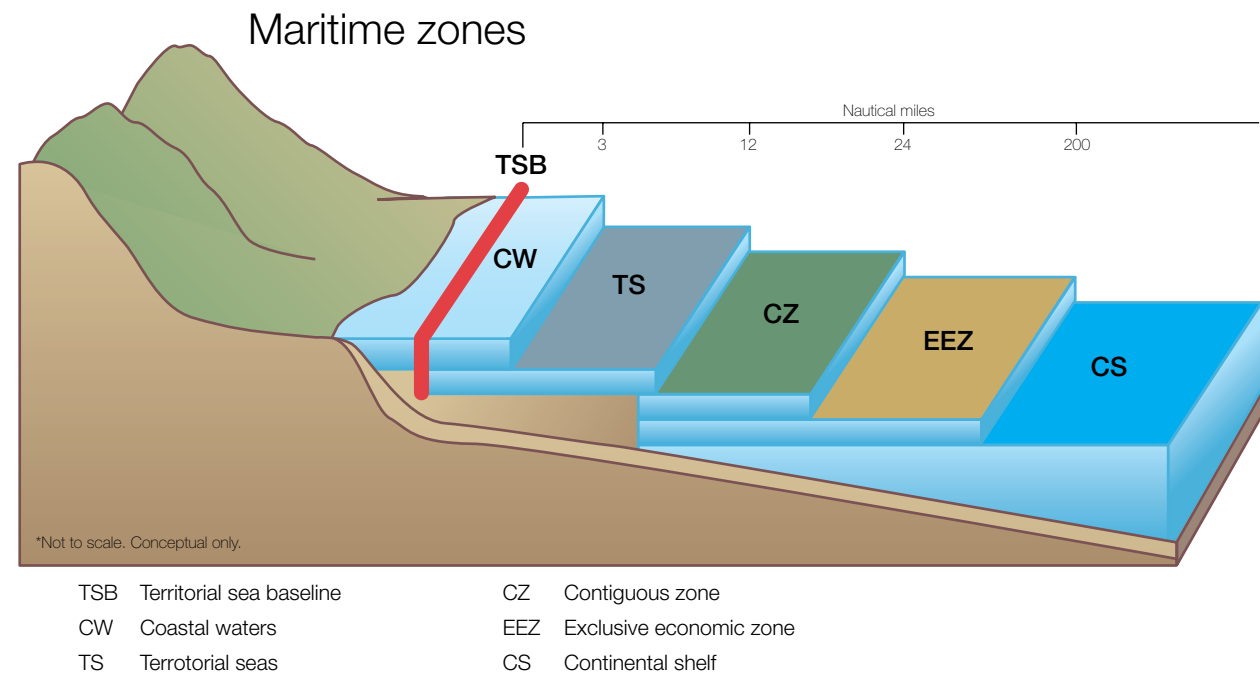


Figure 4 Australia’s maritime zones—conceptual

Legislation

The **Maritime Powers Act 2013** contains a comprehensive suite of powers for enforcing Australia's laws, as well as international agreements and arrangements, at sea. The Act addressed the operational, legal and policy risks associated with the former legal framework for maritime enforcement by removing inconsistencies between like powers in different Acts and providing a single standard framework for authorising and exercising enforcement powers at sea. However, the Act is not intended to change operational roles, functions or responsibilities, nor reallocate existing resources, between agencies. Maritime officers from a range of agencies, such as ABF, ADF, AFP and AFMA, may exercise powers under the Act.

Maritime Powers Act

The **Maritime Powers Act 2013** provides the enforcement provisions for all maritime law enforcement matters. It also establishes a range of appropriate safeguards for the exercise of maritime powers. It provides for:

- An authorisation regime, which requires an authorisation to be granted before maritime powers are exercised, other than in very limited circumstances.

The purposes for which the maritime powers can be exercised, include:

- investigate a contravention of any Australian law
- administer or ensure compliance with fisheries, customs and migration laws
- administer or ensure compliance with an international agreement designated in the regulations or by the Minister.

»



Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Act 2013

In the report of the Expert Panel on Asylum Seekers, which was presented to the Prime Minister on 13 August 2012, the Expert Panel recommended that the *Migration Act 1958* be amended so that arrival anywhere on Australia by irregular maritime means would not provide individuals with a different lawful status than those who arrive at an excised offshore place (Recommendation 14). To give effect to this recommendation, the government passed the **Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Act 2013**.

Other legislation

Part IIIAAA of the **Defence Act 1903** provides for the call out of the ADF to respond to a threat in the Australian offshore area² to Commonwealth interests in the Australian offshore area, or within Australia. The types of threats envisaged include terrorist attacks, hostage situations or widespread and significant violence.

The **Maritime Transport and Offshore Facilities Security Act 2003 (Cth) (MTOFSA)** and associated Regulations implement Australia's international commitments under the SOLAS Convention Chapter XI-2 and the International Ship and Port Security Code. The MTOFSA regulates maritime industry participants

² 'Australian offshore area' is defined in the **Defence Act 1903** as: (a) Australian waters; or (b) the exclusive economic zone of Australia (including its external Territories); or (c) the sea over the continental shelf of Australia (including its external Territories); or (d) an area prescribed by the regulations; and includes the airspace over an area covered by paragraph (a), (b), (c) or (d).

including ship operators, port operators, port facility operators, offshore facility operators, and others, and imposes other obligations in Australian waters, the EEZ and the sea over the continental shelf of Australia (including its external territories).

Australian maritime jurisdiction

The Commonwealth has jurisdiction offshore, pursuant to the external affairs power under the Constitution, as well as other heads of constitutional power. As a matter of international law, such jurisdiction must be exercised pursuant to UNCLOS. By virtue of the OCS, the Commonwealth granted to the states and territories responsibility for areas within their internal waters and up to three nautical miles from the TSB.³ The Commonwealth retains jurisdiction within these waters over matters within its constitutional competence, and also has varying elements of jurisdiction over the remainder of the territorial sea, which extends out to 12 nautical miles; the contiguous zone, which extends out to 24 nautical miles; and in the EEZ, which extends up to 200 nautical miles from the TSB.⁴

The states, territories and the Australian Government possess jurisdiction in respect of acts occurring within their territory and territorial sea and may, subject to certain qualifications considered below, exercise that jurisdiction over foreign nationals and foreign flagged vessels.

Australia may also exercise its sovereign rights in the relevant maritime zones (beyond the territorial sea) in respect of the matters that UNCLOS sets out for each maritime zone.

Australia shares its SFAA boundaries with ten other nations. As a result, Australia has entered into a number of arrangements and agreements to avoid disputes over sovereignty.

Regional arrangements

Some areas within Australia's maritime jurisdiction are not considered to be the responsibility of any of the states or the Northern Territory (NT). In these circumstances, the Commonwealth is responsible for the management of all aspects of these areas and their separate maritime zones.

The Department of Infrastructure, Transport, Regional Development and Communications manages the external territories of:

- » Cocos (Keeling) Islands
- » Christmas Island
- » Ashmore and Cartier Islands
- » Coral Sea Islands
- » Jervis Bay Territory
- » Norfolk Island.

The Australian Antarctic Division (AAD) manages:

- » the Australian Antarctic Territory
- » the Territory of Heard Island and McDonald Islands (HIMI)
- » the primary Australian Government presence on Macquarie Island (a part of Tasmania).

Other regional-specific arrangements include:

- » compulsory pilotage through the Torres Strait and for regulated ships in certain sections of the Great Barrier Reef Marine Park
- » special arrangements for the movements of traditional peoples within the Torres Strait
- » arrangements for traditional fishing in the Torres Strait and in a specific area of the Territory of Ashmore and Cartier Islands
- » compulsory reporting of ships travelling through the Great Barrier Reef, in REEF centre compliance with the automatic identification system
- » special arrangements in the Greater Sunrise Special Regime

Greater Sunrise Special Regime Area

The Treaty between Australia and the Democratic Republic of Timor-Leste Establishing Their Maritime Boundaries in the Timor Sea entered into force on 30 August 2019. This agreement establishes permanent maritime boundaries between Australia and Timor-Leste and establishes the regulatory framework for the Greater Sunrise Special Regime for the joint development, exploitation and management of the Sunrise and Troubadour (Greater Sunrise) petroleum deposits for the benefit of both States.

³ Section 4 *Coastal Waters (State Title) Act 1980* (Cth); section 5 *Coastal Waters (State Powers) Act 1980* (Cth).

⁴ Section 6 *Seas and Submerged Lands Act 1973* (Cth). On 20 November 1990, the territorial sea was extended to 12 nautical miles by proclamation under section 7 of that Act.

Current Commonwealth specific regional arrangements

Cocos (Keeling) Islands

Cocos (Keeling) Islands became an Australian territory in 1955. The *Cocos (Keeling) Islands Act 1955 (Cth)*, provides the legislative basis for the territory's administrative, legislative and judicial systems. An administrator appointed by the Governor-General is the most senior Australian Government representative, and is responsible for the law, order and good governance of the territory.

Christmas Island

The *Christmas Island Act 1958 (Cth)* provides the legislative basis for the territory's administrative, legislative and judicial system. The Minister for Regional Australia, Regional Development and Local Government is responsible for the state-level services in the territory. An administrator appointed by the Governor-General is the most senior Australian Government representative in the territory and resides on Christmas Island (CI). Other Australian Government agencies have responsibility for matters within their portfolios.

The provision of Australian Government services to the Indian Ocean Territories is the responsibility of the relevant Australian Government agency within their portfolios (e.g. customs, biosecurity and taxation).

State agencies provide a broad range of services to the Commonwealth for Christmas Island and the Cocos (Keeling) Islands under service delivery arrangements.

Ashmore and Cartier Islands

The uninhabited external territory of Ashmore and Cartier Islands lies to the north of Western Australia (WA). The traditional fishing practices of Indonesian fishers were recognised in a memorandum of understanding (MOU) between Australia and Indonesia (see Chapter 5). This MOU allows fishing of a specified area by Indonesian fishers using traditional means (using sail powered craft, nets, hand-lines and traditional traps) for specific species.

Coral Sea Islands Territory

The laws of the Australian Capital Territory (ACT) (so far as they are applicable) apply in the territory and the Supreme Court of Norfolk Island (which consists of judges of the Federal Court) exercises criminal jurisdiction in the territory.

Commonwealth laws only apply when they are expressed to extend to the territory. Any Commonwealth or ACT Act that extends to the territory applies to the islands and the 12 nautical mile territorial sea around each island.

The Governor-General may make Coral Sea Islands Territory Ordinances for the peace, order and good government of the territory where additional legislation for the territory is specifically required.

Norfolk Island

The Territories Branch of the Department of Infrastructure, Transport, Regional Development and Communications supports the Office of the Norfolk Island Administrator, in particular the Official Secretary to the Administrator. The Australian Government has responsibility for funding and delivering national and state level services to Norfolk Island. An elected Norfolk Island Regional Council was also established on 1 July 2016.

Jervis Bay Territory

The Jervis Bay Territory is a non-self-governing territory on the Australian mainland's east coast. It is located less than 200 kilometres south of Sydney. The territory consists of a marine area of 998 hectares (at the southern end of Jervis Bay) and approximately 6600 hectares of land area.

The marine area forms part of the Booderee National Park and contains several different zonings: special purpose, sanctuary and habitat protection.

Land in the territory is either Aboriginal-owned or crown land. The Aboriginal-owned land comprises the majority of the territory. Freehold title is held over the Wreck Bay Village. The Booderee National Park and Botanic Gardens are Aboriginal-owned and leased back to the

Australian Government, through the Director of National Parks, to be managed as a national park. Land owned by the Australian Government is either managed by the Department of Defence—Navy (HMAS *Creswell*), Department of Finance or the Department of Infrastructure, Transport, Regional Development and Communications.

Regional Development Australia is the agency responsible for the administration of the territory. Regional Development Australia also facilitates the provision of a range of state and local government-type services to the territory. Services are either provided directly by the department, or procured from other governments (ACT, New South Wales, Shoalhaven City Council), the Wreck Bay Aboriginal Community Council or private/commercial contractors.

Commonwealth law applies in the territory; particularly relevant are the ***Environment Protection and Biodiversity Conservation Act 1999(Cth)*** and related regulations, ***Jervis Bay Territory Acceptance Act 1915 (Cth)*** and the ***Australian Federal Police Act 1979 (Cth)***. For state and local government-level legislation the territory operates under an applied law regime: the laws of the ACT apply, in so far as they are applicable and providing they are not inconsistent with an Ordinance of the territory.

Territory of Heard Island and McDonald Islands

The subantarctic Heard Island and McDonald Islands (HIMI) is an external Australian territory and, as such, has a designated EEZ and a continental shelf beyond that which is recognised internationally. Due to its remote location, surveillance and enforcement activities by the Australian government presents huge challenges. The HIMI Marine Reserve covers an area of approximately 71,200 square kilometres within the EEZ and seeks to protect the conservation values of HIMI and the adjacent unique and vulnerable marine ecosystems.

The HIMI Marine Reserve is administered and managed by the AAD (DAWE) on behalf of the Director of National Parks, who is responsible for managing all of Australia's Commonwealth -managed parks and reserves. This delegation reflects the AAD's historic administrative responsibilities for the HIMI (including the HIMI World Heritage area) on behalf of the Australian Government, and the AAD's involvement in the conservation and research of subantarctic environments.

To help manage the geographically isolated HIMI region, the AAD maintains close relationships with all visitors and other agencies with an operational presence and responsibilities in the HIMI region. Such entities include:

- » Australian Border Force (ABF)—border protection and security
- » Australian Fisheries Management Authority—management of the Australian commercial fishery in the HIMI EEZ and responsible for regulating fishing activities and deterring illegal fishing activity.
- » Australian Maritime Safety Authority (AMSA)—maritime safety
- » Department of Agriculture, Water and the Environment
- » tourism operators.

Antarctica

The Australian Antarctic Territory (AAT), which comprises 42% of the Antarctic continent (an area of 5 896 500 km²), and its associated maritime jurisdiction, is an external territory of Australia, is administered as such, and is subject to Australia's legal regime. The *Australian Antarctic Territory Act 1954 (Cth)* provides a legal regime for the territory, being:

- » Commonwealth laws that expressly apply to the territory and Commonwealth laws specific to the territory;
- » Ordinances made specifically for the territory;
- » the laws, other than criminal laws, in force from time to time in the ACT in so far as they are applicable and not inconsistent with an Ordinance in force in the territory; and
- » the criminal laws in force from time to time in the Jervis Bay Territory and not inconsistent with an Ordinance in force in the territory.

The AAD (within DAWE) is the Australian Government agency responsible for administering the territory and the day-to-day management of and Australia's presence in Antarctica.

Australia's international obligations under Antarctic Treaty system agreements are implemented domestically through legislation, including the *Australian Antarctic Territory Acceptance*

Act 1933, the Australian Antarctic Territory

Act 1954, the Antarctic Treaty Act 1960 and the

Antarctic Treaty (Environment Protection) Act 1980. All

Australian activities in Antarctica must be authorised and undertaken in accordance with this legislation and other relevant Acts. Because of the unique legal status of Antarctica, it is longstanding practice that each party to the treaty takes responsibility for the activities of its own nationals in Antarctica.

The Convention on the Conservation of Antarctic Marine Living Resources came into force in 1982 and forms an important part of the Antarctic Treaty system.

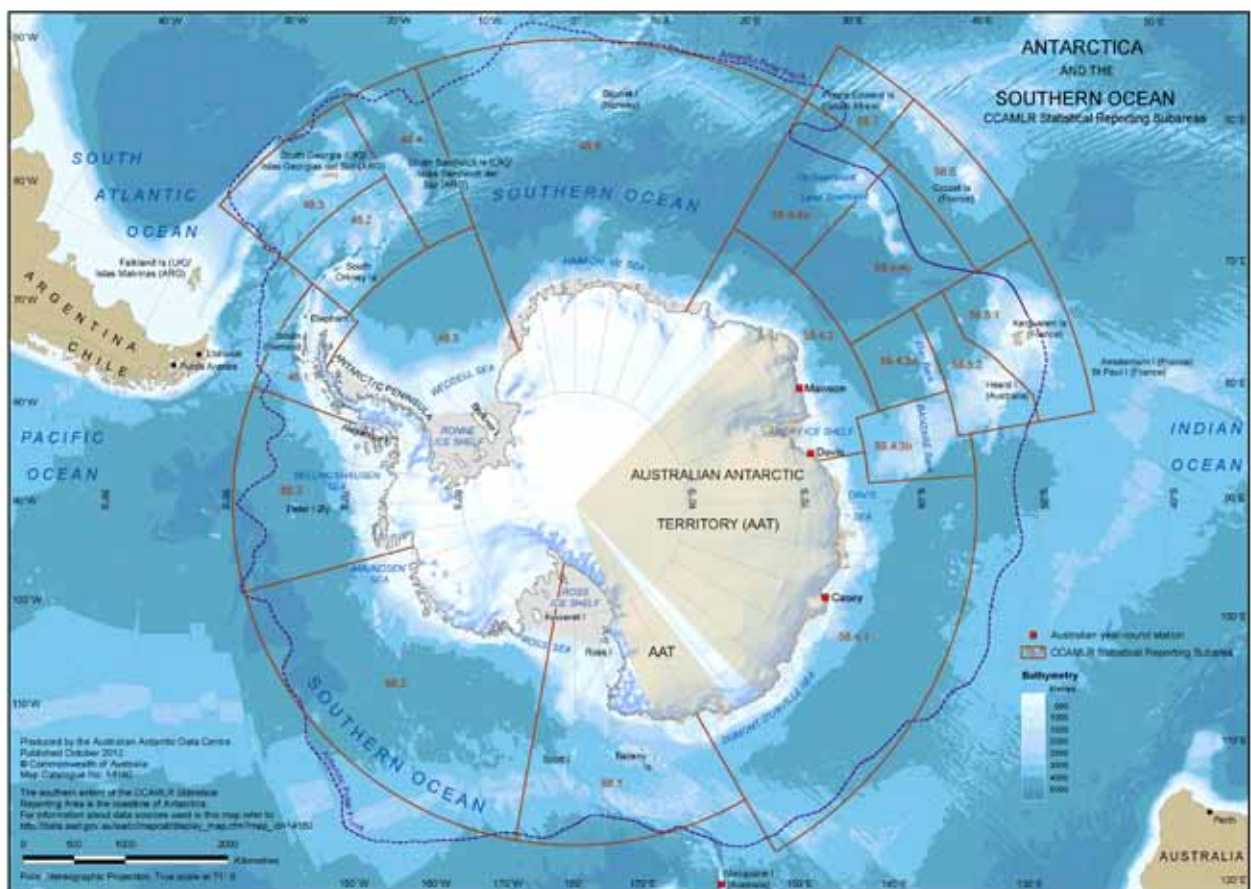


Figure 5 Antarctica and Southern Ocean—the CCAMLR area and the Australian Antarctic Territory

Map Courtesy of the Australian Antarctic Division.

The Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) was established under the Convention and it manages living marine resources in the Convention Area.

The Convention's objective is the 'conservation of Antarctic marine living resources' where conservation includes rational use. Importantly the Convention requires that decisions about rational use must be based on an ecosystem approach. CCAMLR requires that consideration is given to all species in the ecosystem and to conserving ecological relationships.



Figure 6 Boundaries of the Southern Ocean and Indian Ocean sanctuaries

Map courtesy of the International Whaling Commission.

All parties to the Convention are entitled to be members of the Commission that oversees the implementation of the convention. The Commission sets policy on and regulates activities associated with the conservation, rational use and management of marine living resources in the Southern Ocean through consensus decision making. It receives advice from its Scientific Committee, which bases its advice on assessments undertaken by its working groups.

Southern Ocean Whale Sanctuary

At the 46th (1994) annual meeting, the International Whaling Commission adopted the Southern Ocean Whale Sanctuary as an area in which commercial whaling is prohibited. The northern boundary of this sanctuary follows the 40 degrees south parallel of latitude except in the Indian Ocean sector where it joins the southern boundary of that sanctuary at 55 degrees south, and around South America and into the South Pacific where the boundary is at 60 degrees south. This prohibition was **to be** reviewed ten years after its initial adoption and at succeeding ten-year intervals, and could be revised at such times by the commission.

Criminal jurisdiction

The **Crimes at Sea Act 2000** (Cth) establishes a cooperative scheme between the Commonwealth and states to apply the criminal law of the states extraterritorially in areas adjacent to the coast of Australia. The motivation for the legislation was to remedy the difficulties caused by the bulk of Australian criminal law being generated at a state and territory level, with limited extraterritorial application.

The **Crimes at Sea Act** provides that the criminal law of the various states and territories can be applied in the EEZ. It divides the EEZ into separate areas of jurisdiction, and mandates which state's or territory's criminal legislation will apply to acts taking place in those waters. These areas are shown in Figure 7 **Crimes at Sea Act** Cooperative Scheme Adjacent Areas.

This is accomplished through the use of 'adjacent areas', which were themselves first used in the offshore petroleum settlement in 1967. Each state and the NT

have a large area designated as adjacent to them.

Outside the adjacent area, the criminal law of the Jervis Bay Territory applies in certain situations where there is a link to Australia by virtue of section 6 of the Act.

For the first 12 nautical miles, state law applies by force of the law of the relevant state, and for the distance between 12 and 200 nautical miles, or the outer limit of the continental shelf (whichever is greater), state law applies by force of the law of the Commonwealth.⁵

The scheme applies the criminal law in force in the Jervis Bay Territory to the area beyond the adjacent area in respect of: (i) acts connected with Australian ships (ii) acts committed by Australian citizens connected with foreign ships (other than crew members), and (iii) acts connected with foreign ships where the first country at which the ship calls, or relevant person lands, after a criminal act occurs, is in Australia.⁶

The written consent of the Commonwealth Attorney-General is required prior to a matter proceeding to committal, or to hearing or determination in relation to certain prosecutions under the **Crimes at Sea Act**.⁷

For example, the Attorney-General's written consent is required in relation to prosecutions under the **Crimes at Sea Act** that involve offences committed **outside** the 'adjacent area'.⁸ Where an offence occurs within the 'adjacent area', the Attorney-General's written consent is required where the offence is alleged to have been committed on (or from) a foreign ship, the ship is registered under the law of a country other than Australia, and the country of registration has jurisdiction over the alleged offence under international law.⁹

In terms of the interaction of the **Crimes at Sea Act** with other criminal legislation, it is worth stressing that the **Crimes at Sea Act** was not intended to be the sole source of applicable criminal law at sea for Australia. The Act does not seek to displace other legislation. The purpose of the Act is to apply state criminal law in certain circumstances. It cannot operate to fetter the Commonwealth Parliament's ability to make laws under the enumerated heads of power under the Constitution.

⁵ Clause 2, Schedule 1 of the **Crimes at Sea Act 2000** (Cth).

⁶ Section 6 of the **Crimes at Sea Act**.

⁷ Subsection 6(4) and Clause 7, Schedule 1 of the **Crimes at Sea Act**.

⁸ Subsection 6(4) of the **Crimes at Sea Act**.

⁹ Clause 7, Schedule 1 of the **Crimes at Sea Act 2000** (Cth).

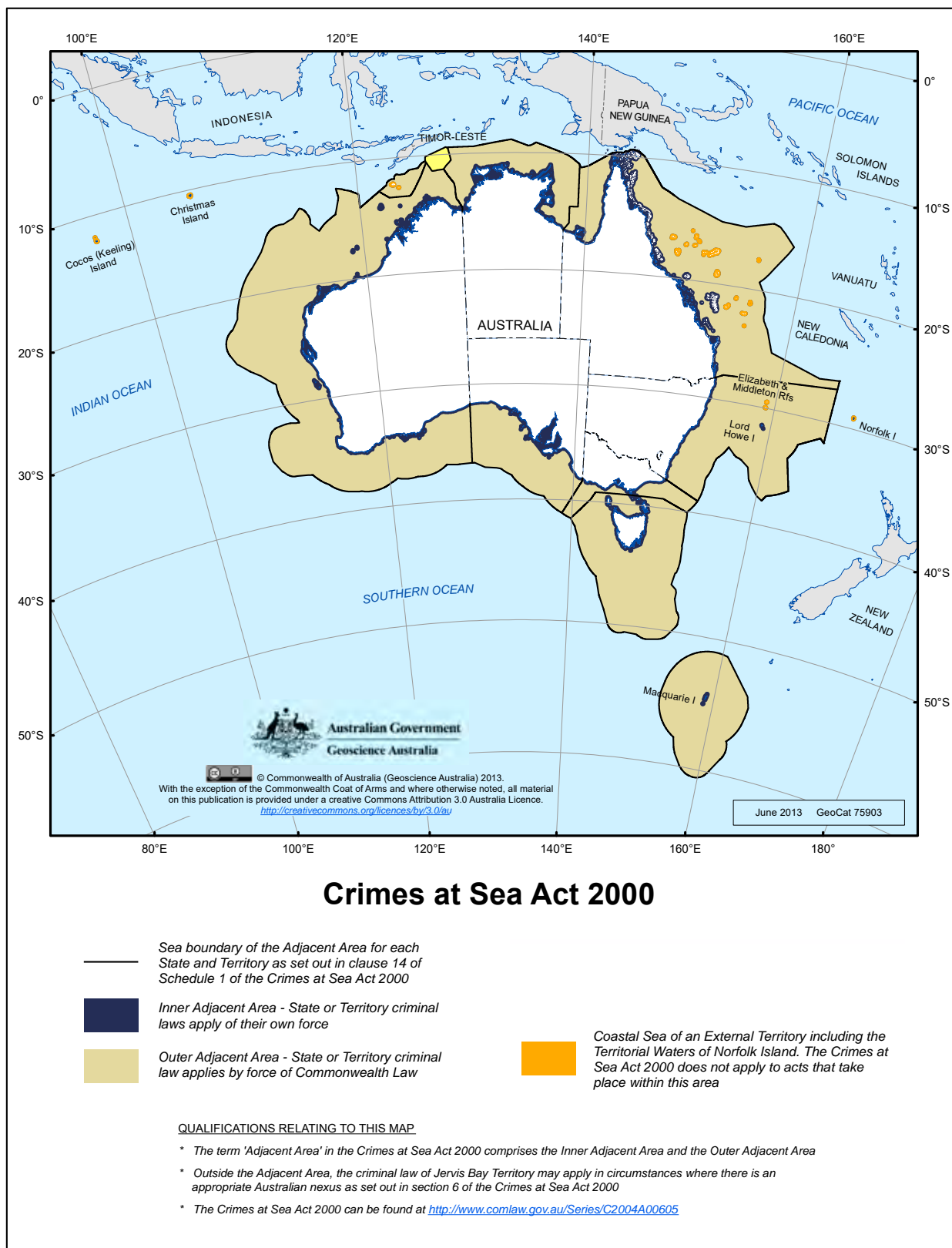


Figure 7 Crimes at Sea Act Cooperative Scheme Adjacent Areas

Map courtesy of Geoscience Australia © Commonwealth of Australia (Geoscience Australia) 2012.

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Law enforcement agencies and criminal investigation

Criminal investigation of maritime offences is the responsibility of specialised law enforcement agencies¹⁰ as mandated by relevant legislation. Such investigations will often be undertaken cooperatively, including through joint taskforces where appropriate. Law enforcement agencies will determine the investigative arrangements, while keeping relevant stakeholders informed. These arrangements will consider the contributions other Australian Government and state or territory law enforcement bodies may be able to make. The responding Australian agency will work closely with the investigators to ensure that the investigative requirements are identified early and met as far as operational circumstances permit when responding to incidents in the Australia's maritime jurisdiction. A significant component of criminal investigation is the gathering and utilisation of intelligence, which requires the cooperation of all agencies.

Many government stakeholder agencies (Australian Government, state and territory) have roles and responsibilities in relation to investigating criminal and illegal activity surrounding the security threats within Australia's maritime jurisdiction.

Coronial investigation and inquests

The conduct of coronial investigations and inquests is governed by state and territory legislation. However, the laws governing which deaths are reportable to, and examinable by, a coroner are similar throughout Australia.¹¹

While extraterritorial jurisdiction is conferred on almost all state and territory coroners in relation to people normally resident within that state or territory or if the body of the person is in that state or territory (irrespective of where the person died), some jurisdictions also confer extraterritorial jurisdiction where a person was on a journey to or from the state or territory.¹² Some states and territories also

give their coroners jurisdiction to investigate the cause of fires and explosions.¹³

There is also legislation covering coronial investigations and inquests relevant to Australia's external territories. If a death occurs at, or a body is taken to, Christmas Island or within the coastal sea, the Western Australia (WA) Coroner has jurisdiction.¹⁴ For example, in relation to the suspected irregular entry vessel (SIEV) 221 tragedy, given the deaths in that tragedy occurred at or close to the shore of Christmas Island, and resulted from injury or drowning, they were reportable deaths for the purposes of the **Coroners Act 1996** (WA) (CI). On 23 February 2012 the WA Coroner handed down his report on the inquest into the SIEV 221 tragedy.

If a death occurs at, or a body is taken to, the Ashmore and Cartier Islands, the NT Coroner has jurisdiction.¹⁵ Following the SIEV 36 explosion incident near Ashmore Reef on 16 April 2009 after its interception by a Royal Australian Navy patrol vessel, investigations into the cause of the explosion were conducted by the NT Police. The NT Coroner then conducted an inquest into the incident and concluded the inquest on 17 March 2010.

In relation to deaths in the other territories:

- » the Norfolk Island Coroner has jurisdiction in relation to deaths in and around Norfolk Island¹⁶
- » the WA Coroner has jurisdiction in relation to deaths in and around the Cocos (Keeling) Islands¹⁷
- » the ACT Coroner has jurisdiction in relation to deaths in the Jervis Bay Territory¹⁸
- » the ACT Coroner has jurisdiction in relation to deaths in and around the Coral Sea Islands Territory.¹⁹

¹⁰ In cases of foreign flagged vessels this may include foreign law enforcement agencies.

¹¹ **Coroners Act 2009** (NSW); **Coroners Act 2008** (Vic); **Coroners Act 2003** (Qld); **Coroners Act 1996** (WA); **Coroners Act 2003** (SA); **Coroners Act 1995** (Tas); **Coroners Act 1997** (ACT); **Coroners Act** (NT).

¹² Section 18, **Coroners Act 2009** (NSW); section 8, **Coroners Act 2003** (Qld); section 3, **Coroners Act 2003** (SA) (where the voyage was to a place of disembarkation in that state); and section 3, **Coroners Act 1995** (Tas).

¹³ Section 30, **Coroners Act 2009** (NSW); section 30 and 31, **Coroners Act 2008** (Vic) (fires only); section 21, **Coroners Act 2003** (SA) (fire or accidents that causes injury to a person or property); section 40, **Coroners Act 1995** (Tas); and section 18, **Coroners Act 1997** (ACT) (fires only).

¹⁴ See the **Coroners Act 1996** (WA) (CI), which comprises the **Coroners Act 1996** (WA) in its application to the Territory as amended and in force under section 8A of the **Christmas Island Act 1958** (Cth).

¹⁵ The NT Coroner was granted jurisdiction pursuant to the 19 September 2005 Deed of Agreement between the Commonwealth and NT, made under section 11A of the **Ashmore and Cartier Islands Acceptance Act 1933** (Cth).

¹⁶ See the **Coroners Act 1993** (NI).

¹⁷ See the **Coroners Act 1996** (WA) (CKI), which comprises the **Coroners Act 1996** (WA) in its application to the Territory as amended and in force under section 8A of the **Cocos (Keeling) Islands Act 1955** (Cth).

¹⁸ See section 4A of the **Jervis Bay Territory Acceptance Act 1915** (Cth), which states that the laws of the ACT apply to the Jervis Bay Territory. This would include the **Coroners Act 1997** (ACT).

¹⁹ See item 3 of the Application of Laws Ordinance 1973 (Coral Sea Islands Territory) made under the **Coral Sea Islands Act 1969** (Cth), which states that the laws of the ACT apply to the Coral Sea Territory. This would include the **Coroners Act 1997** (ACT).

The flag state of a vessel may also have jurisdiction for deaths that occur on board vessels flagged to its state. Coroners from the flag state can negotiate access to Australia through diplomatic channels.

Geographic and other arrangements

Charting and geographic information

The publication of nautical charts and publications and other information required for the safety of ships navigating in Australian and adjacent waters is the responsibility of the Hydrographic and METOC Branch.

Transportation arrangements

In all cases, agencies such as the Australian Defence Force, Australian Border Force, AMSA, or state and territory police, and in some instances state and territory agencies, may provide support in the form of maritime surface or air transportation, maritime surface response, aerial surveillance, location security, command and control platforms, communications equipment or other infrastructure.

Safety arrangements

When a SOLAS situation is engaged as a result of a relevant maritime threat AMSA provides services in accordance with the *International Convention for the Safety of Life at Sea 1974 (SOLAS)*, and specifically non-security related functions including Search and Rescue within the defined Australian SAR Region, consistent with the *International Convention on Maritime Search and Rescue 1979 (SAR)*, Maritime Assistance Services including Emergency Towing Capability and Vessels and more broadly, relevant shipping safety and more operational compliance functions in accordance with the SOLAS Convention.

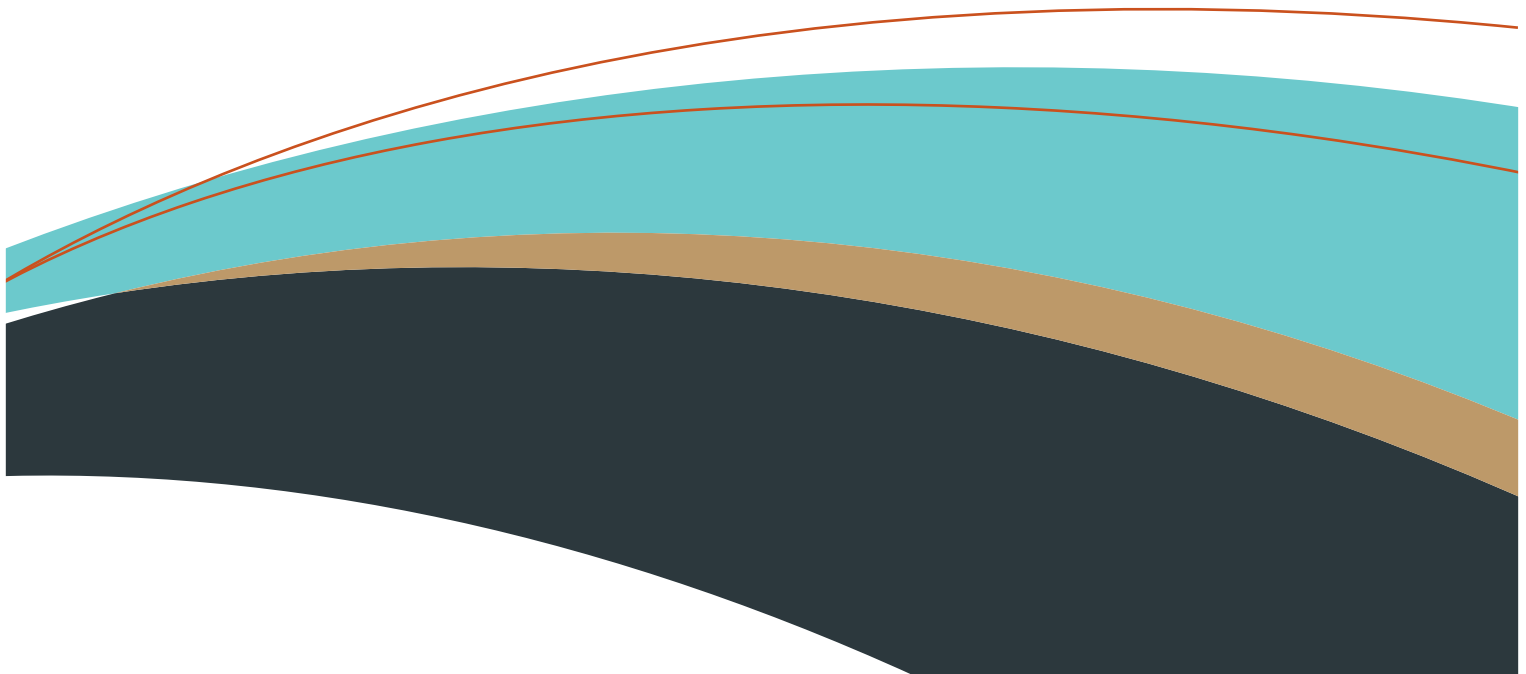
When a SOLAS situation is engaged as a result of a maritime security threat, AMSA will have a lead role in managing the SOLAS event, except where the states or territories have responsibility (normally when the event occurs in internal or coastal waters), including for public information management.



20 Where a person is the national of either Australia or Timor-Leste and a permanent resident of the other, the person shall be subject to the law of their nationality. Section 6A of the *Crimes at Sea Act 2000* provides that the criminal law of the Northern Territory applies in the JPDA.

4

ILLEGAL ACTIVITY IN PROTECTED AREAS



Australia's
national interests
are threatened
by illegal activity
in protected
areas within
the Australian
maritime
jurisdiction.



Illegal activity in protected areas

KEY POINTS

Protected areas include Commonwealth marine reserves; **Underwater Cultural Heritage** protected areas; **petroleum and greenhouse** safety zones; and submerged cable protected zones.

There are a number of Australian Government and state and territory stakeholders that are required to respond to illegal activity in protected areas. Response requires coordination between these stakeholders to provide an effective detection, deterrent presence and response in protected areas.

Prevention, preparedness, response and recovery

- » The Department of Agriculture, Water and the Environment (DAWE) is the lead agency responsible for the regulation and deterrence of illegal activity involving Commonwealth marine reserves, sea installations and Underwater Cultural Heritage protected areas.
- » The Great Barrier Reef Marine Park Authority (GBRMPA) is the lead agency for regulating activity within the Great Barrier Reef Marine Park and through the Reef Joint Field Management program, ensures user compliance in the Great Barrier Reef World Heritage Area.
- » State and territory governments provide local involvement as required, including regulation and deterrence of activity involving environmental and Underwater Cultural Heritage protected areas.

Prevention and preparedness

- » The Australian Communications and Media Authority (ACMA) is the lead agency for the prohibition and restriction of activities in protected zones surrounding submarine telecommunications cables.
- » The National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) can establish safety zones around petroleum facilities, and the responsible Commonwealth Minister can establish safety zones around greenhouse gas facilities. Vessels are prohibited from entering these zones, and infringement of a safety zone can be reported to “authorised persons” (Australian Federal Police, State or Territory Police, Defence Force, or MBC).

- » The Department of Industry, Science, Energy and Resources (DISER) is the lead agency for provision of policy advice in relation to safety zones established around oil and gas platforms and near submerged pipelines.

Description

Australia's national interests are threatened by illegal activity in protected areas within the Australian maritime jurisdiction. There are several different areas considered 'protected' under Australian law. They include protected areas within designated marine reserves, the Great Barrier Reef Marine Park, designated Underwater Cultural Heritage sites, safety zones declared around Australia's offshore oil and gas infrastructure, and protected zones declared around submerged pipelines/cables.

Potential security threat events in this category include:

- » **Illegal activity in Commonwealth marine reserves:** This encompasses illegal activities such as taking, killing, or damaging animal and plant species, along with damage to, or theft from, protected man-made, or natural structures within protected areas. Commonwealth marine reserves are shown in Figure 8. Please see the case study for an example of this security threat event.
- » **Illegal activity in Underwater Cultural Heritage protected areas:** This encompasses any prohibited activity conducted without a permit within areas declared as underwater cultural heritage protected zones. Australian historic shipwreck protected zones are shown in Figure 9. Examples include unauthorised research or personal diving in Australian **Underwater Cultural Heritage** protected zones and dredging or trawling in these zones that may lead to damage to the shipwreck.
- » **Unauthorised presence in petroleum and greenhouse gas safety zones:** This encompasses any unauthorised incursion into the 500 metres safety zones declared around **petroleum and greenhouse** and gas facilities (see Figure 10).
- » **Illegal or restricted activities in a submarine cable protection zone:** This encompasses the following actions that are prohibited within the declared protection zones, including use of, towing, operating or suspending from a ship, certain fishing equipment that comes into direct contact with the seabed, scuttling or attempting to scuttle a ship and establishing, maintaining or using a spoil ground or other ocean disposal point. Other activities such as

certain kinds of fishing, anchoring, using nets and other fishing apparatus, sand mining, exploring for, or exploiting natural resources and mining are also restricted in these protection zones. Carrying out restricted activities is permitted subject to compliance with specified conditions. Protection zones associated with submarine telecommunications cables located off Perth and Sydney are depicted in Figure 11.

Potential consequences for Australia

The potential consequences of illegal activity in protected areas may include environmental **and/or cultural** damage and economic or business downturn. There may also be detrimental impact to government business reputation and damage to Australian icons (such as the Great Barrier Reef). Telecommunications submarine cables that are laid in protection zones (declared under the **Telecommunications Act 1997**) are considered nationally significant critical infrastructure. Damage to these cables by illegal fishing or shipping activities (e.g. dragging an anchor) may have a significant impact on the Australian economy.

Illegal foreign fishers operating in Australia's waters also pose a significant threat in terms of illegal exploitation of natural resources (Chapter 5) and compromise to biosecurity (Chapter 9).

Potential judicial consequences for individuals undertaking illegal or criminal acts

The potential consequences to an individual related to illegal activity in protected areas include:

- » fine and/or imprisonment for the owner or master of the vessel involved
- » fine and/or imprisonment for other personnel involved in the illegal or criminal activity
- » confiscation of fishing catch and/or fishing equipment (in the case of illegal fishing)
- » seizure, confiscation, or destruction of the vessel involved.

Stakeholder coordination

Generic arrangements

Transportation of response teams may be a key component of response to illegal activity in protected areas. Agencies that may be able to provide air and maritime surface transportation and air surveillance are Maritime Border Command, the Australian Maritime Safety Authority and state and territory police.

The Australian Federal Police (AFP) or state and territory police are responsible for the criminal investigation and provide briefs of evidence for prosecution within their respective jurisdictions. However, DAWE may carry out investigations for criminal prosecution and civil action in relation to illegal activity in Commonwealth marine reserves. Investigators of the Australian and Queensland governments' Reef Joint Field Management Program investigate offences against the **Great Barrier Reef Marine Park Act 1975**, and complimentary State legislation, and provide briefs of evidence for prosecution. However, most domestic fisheries matters in the Great Barrier Reef World Heritage Area are managed through the Queensland government and legislation.

Lead agencies are responsible for conducting investigations and prosecutions in relation to their respective legislation. Agencies such as the Australian Fisheries Management Authority, the AFP, or state or territory police may provide operational support, and on a case-by-case basis, the lead for criminal prosecutions.

The ABF, AFP, ADF personnel, or other persons appointed under the **Maritime Powers Act** may act as authorised officers for the purpose of apprehension and preparation of evidence for prosecution in fisheries related matters. ABF and AFP officers are *ex officio* authorised officers under the **EPBC Act** for operations within Commonwealth marine reserves. Other government officers, including AFMA, ADF personnel and state fisheries officers, are authorised as Wardens under the **EPBC Act** by agreement.

THREAT SNAPSHOT

ILLEGAL FISHING IN THE ASHMORE REEF NATIONAL NATURE RESERVE

The Ashmore Reef National Marine Park is a Commonwealth marine reserve located on Australia's North-West Shelf, about 840 km west of Darwin, 610 km north of Broome and 110 km south of the Indonesian island of Roti.

The reserve was established to protect outstanding and representative marine ecosystems and to facilitate scientific research. DAWE manages the reserve consistent with management principles set out in the ***Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*** to conserve habitats, ecosystems and native species in as undisturbed state as possible. The reserve is also designated a Ramsar Wetland of International Importance because of its importance in providing a resting place for migratory shorebirds and in supporting large seabird breeding colonies.

The majority of the reserve is managed as an Australian Marine Park Sanctuary Zone. Access is not permitted and fishing is strictly prohibited except for a small area where access for non-commercial purposes is permitted. Taking of fish within this part is permitted for subsistence purposes only. Indonesian fishing vessels are also permitted in this part of the reserve under an MOU between Indonesia and Australia.

Pressures on the reserve are high and include illegal foreign fishing for shark, finfish, trepang and trochus. The reserve is also vulnerable to potential marine and terrestrial pollution, and introduced pests and diseases, being a destination of high numbers of unauthorised maritime arrival vessels and for vessels transiting the region.

Maritime Border Command has had a long history of providing support to DAWE and AFMA for compliance and enforcement activities relating to illegal foreign fishing in the Ashmore Reef Marine Park and surrounding waters.

As an example, on 24 August 2011 an illegal type III (motorised) Indonesian fishing vessel was sighted by a Border Protection Command (now Maritime Border Command) – assigned aerial asset within the reserve. The vessel was pursued and apprehended within the exclusive economic zone by HMAS *Pirie* with 250 kg of fresh trepang on board.

Six crew members were transferred to Darwin, detained and charged with offences under the ***EPBC Act*** and the ***Fisheries Management Act 1991***. Cooperative investigation by DAWE and Australian Fisheries Management Authority officers led to the successful prosecution and conviction of each crew member for each offence, with penalties ranging from three to nine months imprisonment.



Australia's network of Commonwealth marine reserves

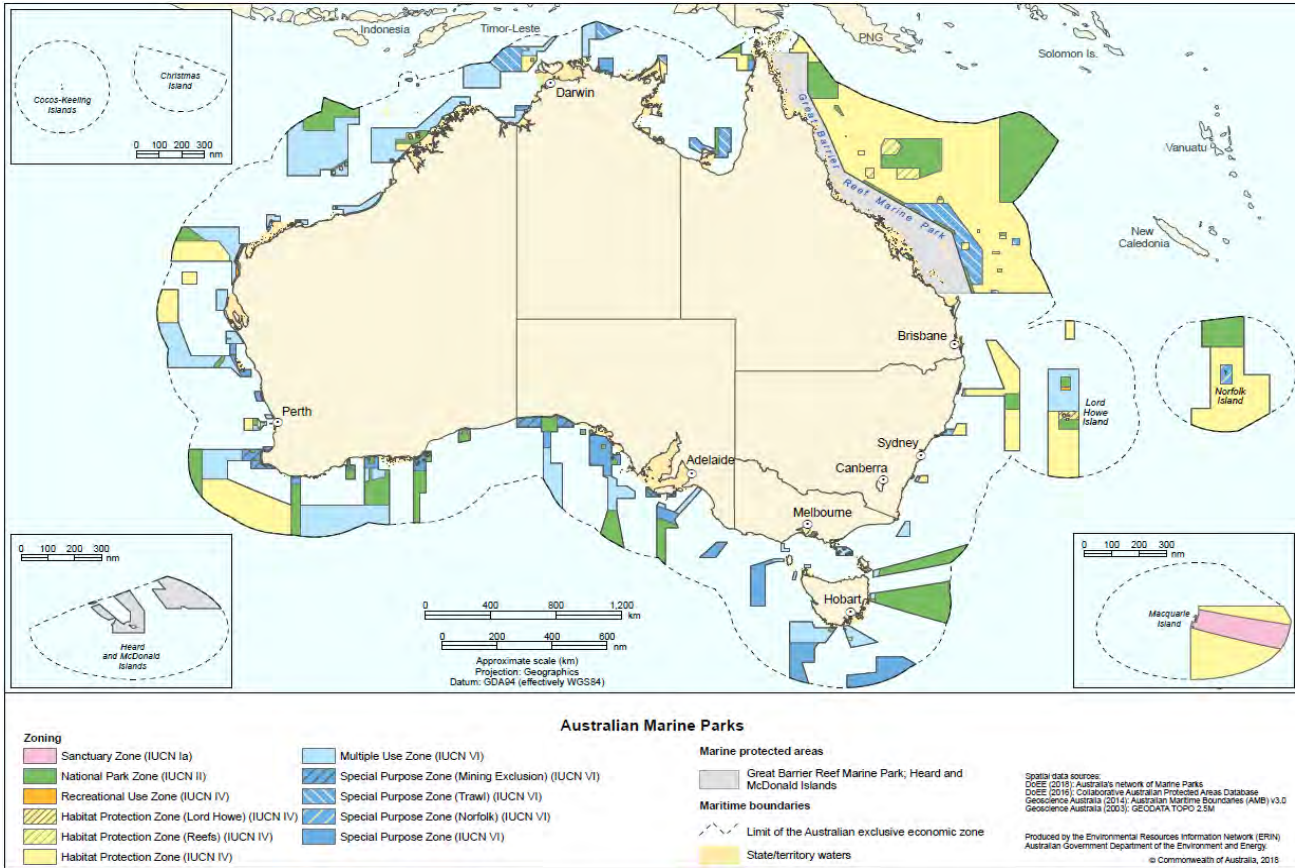


Figure 8 Commonwealth marine reserves

Map courtesy of the Department of Sustainability, Environment, Water, Population and Communities.

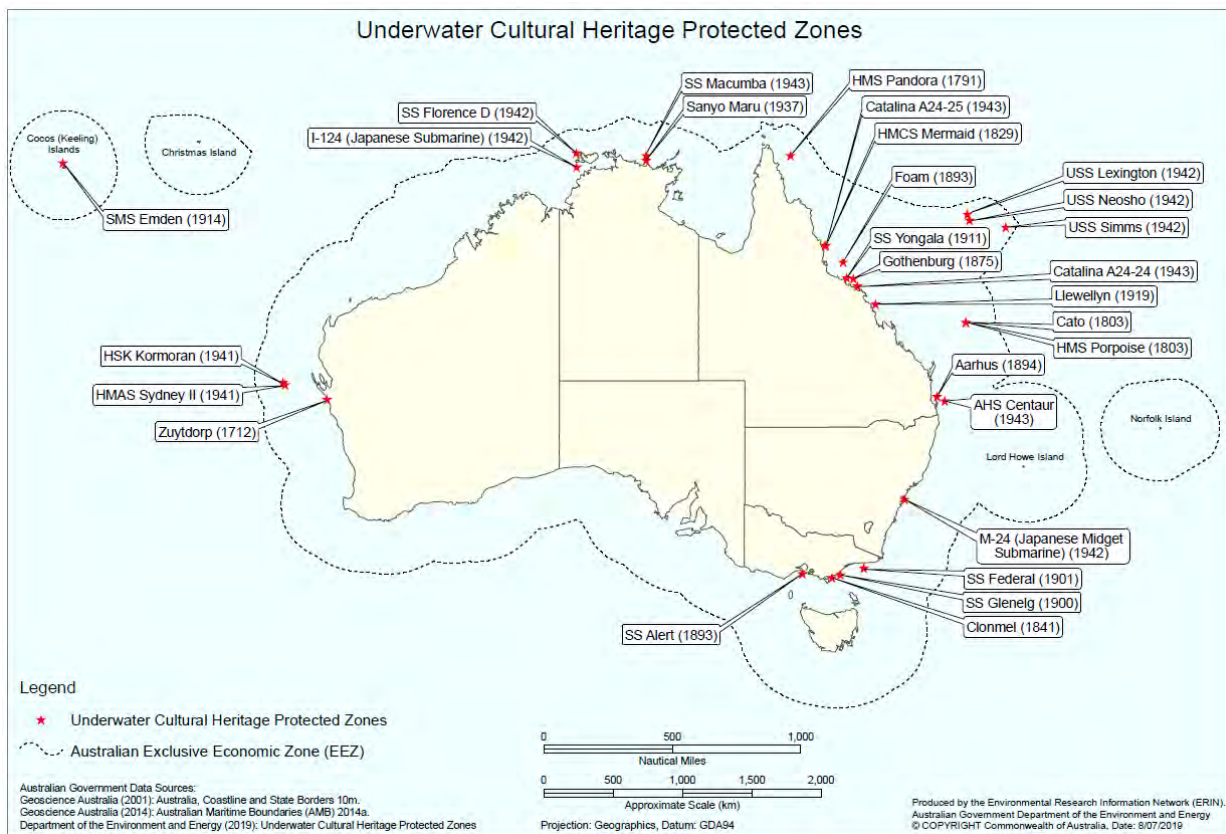


Figure 9 Australian Underwater Cultural Heritage Protected Zones

Map courtesy of the Department of Environment and Energy website (2019).

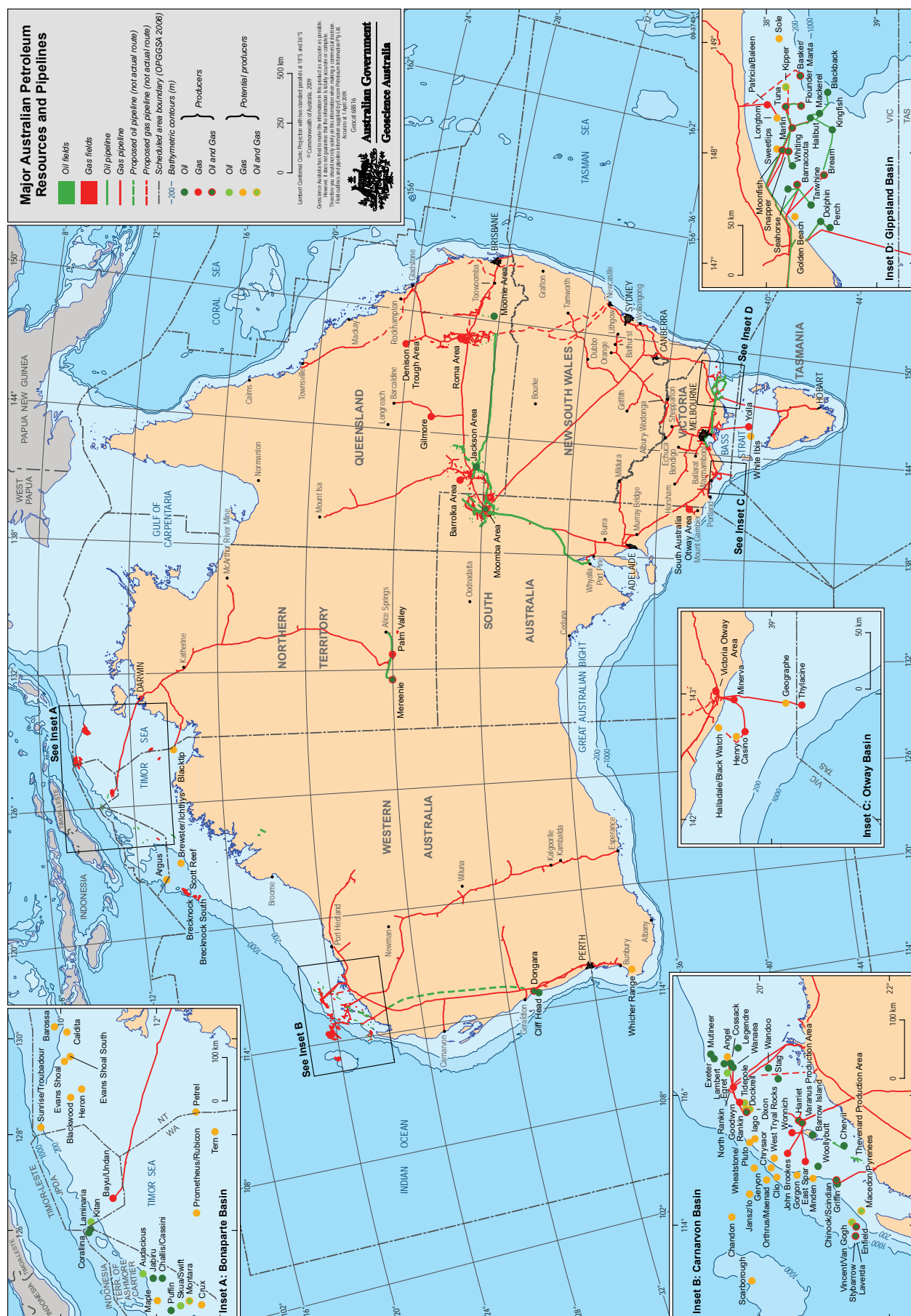


Figure 10 Safety zones associated with oil and gas installations

Map courtesy of Geoscience Australia © Commonwealth of Australia (Geoscience Australia) 2012.

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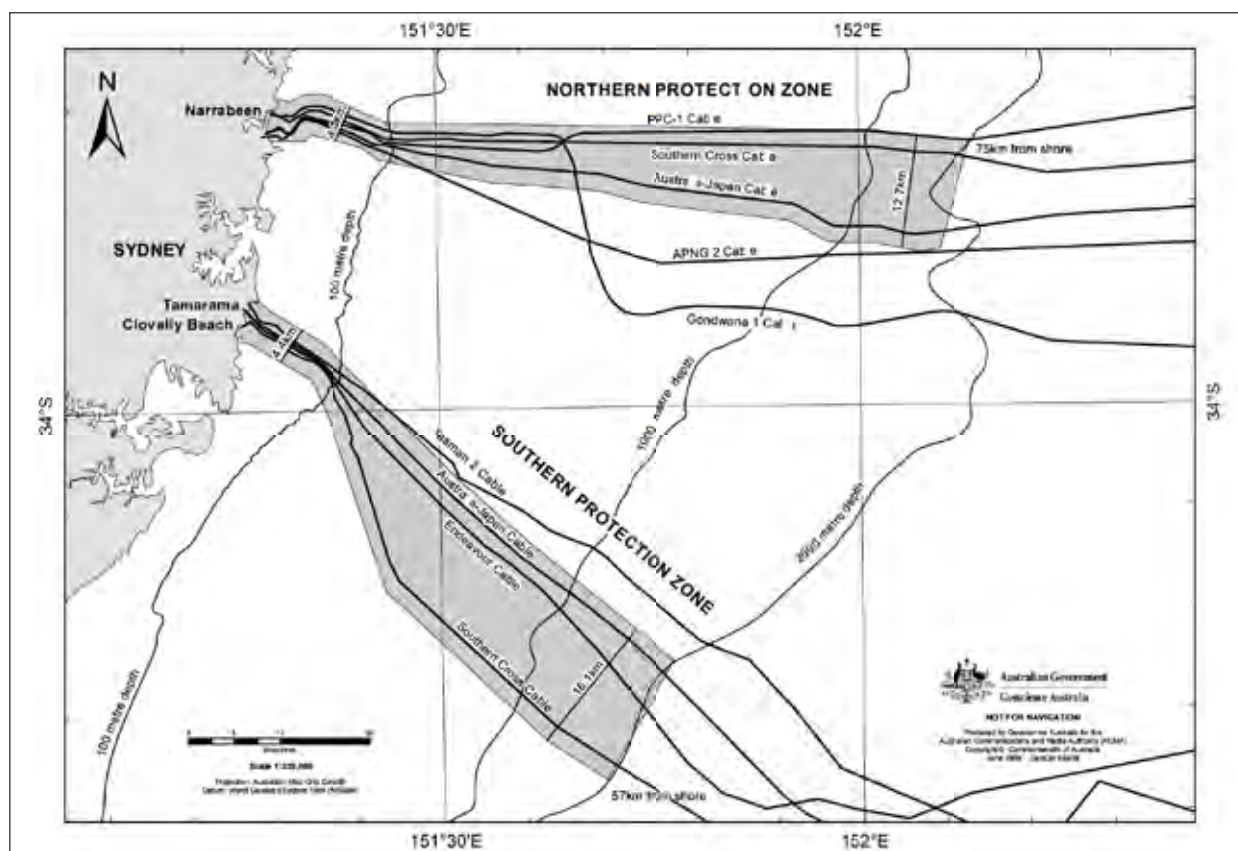
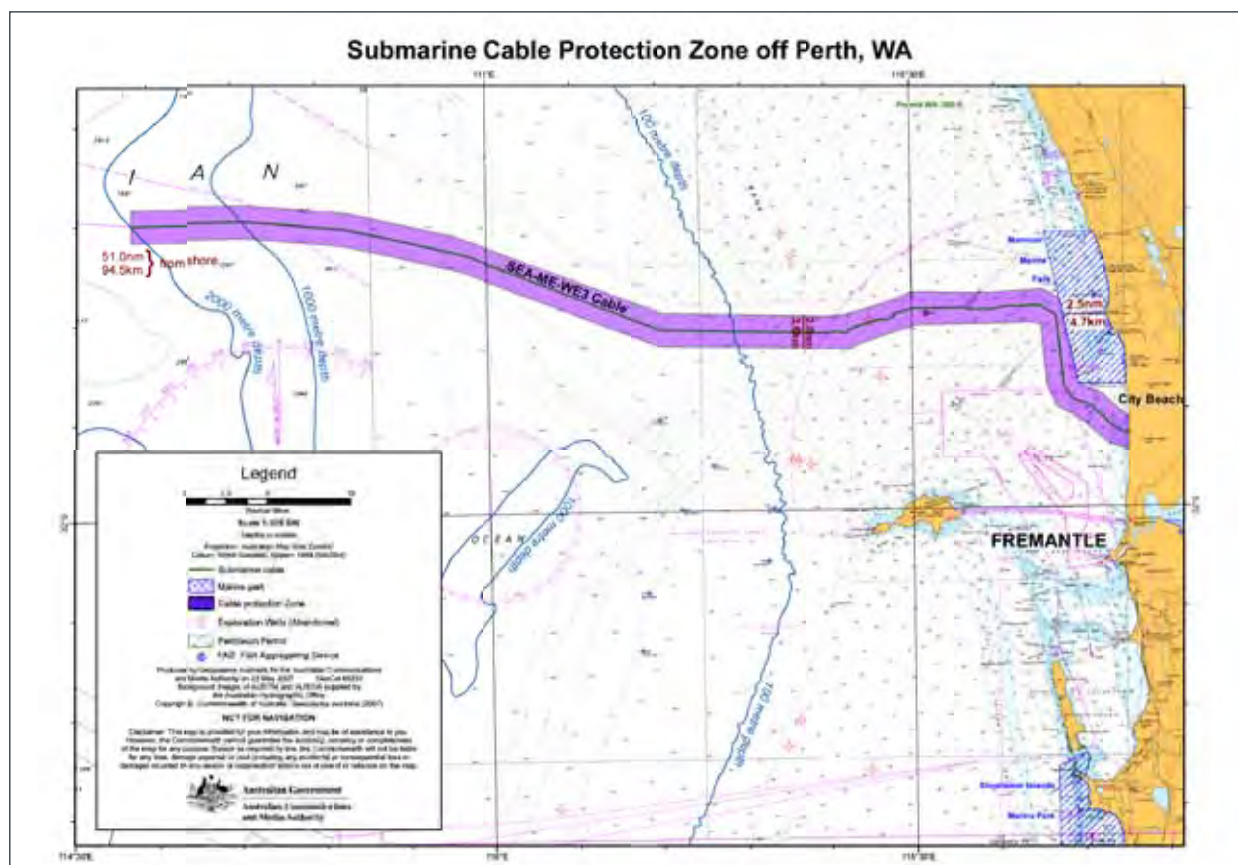


Figure 11 Protected zones associated with Submarine Telecommunications Cables—located off Perth (top) and Sydney (bottom)

Table 1 Stakeholder roles and responsibilities: Illegal activity in protected areas

STAKEHOLDER	ROLES	RESPONSIBILITIES
ACMA	LA	Regulation including the prohibition and restriction of activities in protection zones surrounding submarine telecommunications cables.
GBRMPA	LA	Regulates activity within the Great Barrier Reef Marine Park and, through the Reef Joint Field Management Program, ensures user compliance in the Great Barrier Reef World Heritage Area.
NOPSEMA	LA	Regulation of activity in petroleum safety zones such as adjacent to oil and gas facilities and near submerged pipelines and for deterrence of illegal activity in those zones. Note 1
DISER	LA	Provision of policy advice in relation to the protected zones adjacent to petroleum and greenhouse gas facilities and near submerged pipelines.
DAWE	LA	Regulation and deterrence of illegal activity involving Commonwealth marine reserves, sea installations and Underwater Cultural Heritage areas.
STATE AND TERRITORY GOVERNMENTS	LA	Enforcement of oil and gas or submarine telecommunications cable protected zones. Provides local involvement as required, including regulation and deterrence of activity involving environmental and historical protected areas.
AAD	Ps	Regulation of the subantarctic islands' Commonwealth marine reserves.
ABF	Ps	Provides enforcement or transportation as required.
AFMA	Ps	Regulation of Commonwealth fishing activities and deterrence of illegal foreign fishing within the EEZ and the disposal of illegal foreign fishing vessels and SIEVs.
AFP	Ps	Provides armed law enforcement and assistance with prosecution as required. Responsible for the enforcement of the prohibitions and restrictions in the protection zones declared under the Telecommunications Act 1997.
MBC	Ps	Where transportation to or surveillance of these zones is required.
DEFENCE	Ps Ss	Provides enforcement, transportation or surveillance as required.
STATE/TERRITORY POLICE	Ps	Provides armed law enforcement and assistance with prosecution as required.
AGD	Ss	Provides government legal direction as required.
AMSA	Ss	Provides surveillance capability when requested.
DAWE	Ss	Provides national policy oversight of Australia's agriculture, forestry and fisheries industries, including as lead Australian Government agency with responsibility for IUU-fishing policy
DFAT	Ss	Involvement when the issue involves any international aspect.
FINANCE/TREASURY	Ss	Involvement when specific financial arrangements are required.
INDUSTRY	Ss	Businesses that own, or operate OGI, or submerged cable/pipelines provide specialist support regarding that infrastructure as required.
INTELLIGENCE AGENCIES	Ss	Provides intelligence collection and analysis as required.
PM&C	Ss	Provides high-level policy advice as required.
<div> <div>LA</div> Lead Agency <div>Ps</div> Primary Stakeholder <div>Ss</div> Secondary Stakeholder </div>		

Note 1: Illegal activity also includes uncontrolled release of hydrocarbons

Commonwealth marine reserves

Both the Australian Government (DAWE) and the state and territory governments separately declare and manage marine reserves. The delineation between the Australian and the state and territory governments is generally the outer limit of the coastal waters (3 nautical miles from the territorial sea baseline).

Compliance and enforcement in marine reserves is the responsibility of the government that declared that zone. In the case of Commonwealth marine reserves, enforcement is the responsibility of DAWE. It should be noted that at a regional level Australian Government and state and territory government officers utilise cooperative arrangements to facilitate enforcement of respective zones. Some officers are cross-authorised (for enforcement purposes) under both Commonwealth and state and territory legislation.

Underwater Cultural Heritage Protected Areas

DAWE administers the *Underwater Cultural Heritage Act 2018* which protects approximately 8000 shipwrecks, sunken aircraft and other types of underwater cultural heritage sites located in Australian waters. All these sites have general protection against damage or interference and a small number of these sites (depicted in Figure 9) are provided with additional protection in the form of a protected zone.

Protected zones are established for a number of reasons including for conservation, management, social sensitivity or public safety considerations. To limit the impact of Underwater Cultural Heritage protected areas on the public, the Minister may declare a protected zone allowing a vessel to transit without permit, but not to become stationary or conduct underwater activities such as diving, trawling or dredging etc. without a permit.

Enforcement against illegal activity within those protected areas is conducted by DAWE or the state or territory government agencies on behalf of DAWE under the provisions of the *Underwater Cultural Heritage Act*.

COMMONWEALTH MARINE RESERVE ZONING

The *EPBC Act 1999* requires a Commonwealth marine reserve to be assigned an International Union for Conservation of Nature (IUCN) category and allows a management plan to divide a reserve into zones and to assign an IUCN category to each zone.

Zoning is a fundamental planning tool in managing marine reserves and defines activities that may be carried out and in which locations the marine environment is **protected** and to provide for ecologically sustainable use where appropriate.

Commonwealth marine reserve zoning schemes take into account the purposes for which the reserves were declared, reserve management principles, and management plan objectives. IUCN categories and management principles are applied in Commonwealth marine reserves in the following way:

- » **Category Ia—Strict nature reserve (sanctuary zones):** These areas are managed to minimise disturbance to the environment from human activities. Consequently, extractive activities, such as mining or fishing, are not allowed in these zones.
- » **Category II—National park (marine national park):** These areas are managed mainly for ecosystem protection and passive recreation. Consequently, mining and commercial fishing are not allowed in these zones. Recreational fishing and other activities may be permitted in some reserves of this category.
- » **Category IV—Habitat/species management area (habitat protection zones):** These areas are managed to ensure that activities do not have an impact on the habitat or species protected by the zones.
- » **Category VI—Managed resource protected area:** A wide range of activities are allowed or may be authorised in these zones provided they are consistent with the IUCN principles and do not have an unacceptable impact on the values of the area. In Commonwealth marine reserves this category applies to multiple use zones, special purpose zones and recreational use zones.

Petroleum and greenhouse gas safety zones

The declaration of petroleum safety zones is the responsibility of NOPSEMA in Commonwealth waters, and for designated coastal waters where powers have been conferred by the states and territories. Information on safety zones currently in force is available on NOPSEMA's website: <https://www.nopsema.gov.au/safety/petroleum-safety-zones/gazetted-notice-listing/>. Greenhouse gas safety zones can be declared by the responsible Commonwealth Minister.

Part 6.6 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGSA) provides for the establishment of safety zones around a petroleum and greenhouse gas well, structure or an item of equipment, to a maximum distance of 500 metres. Safety zones prohibit unauthorised vessels from entering or being present in a specified area surrounding the petroleum or greenhouse gas well, structure or equipment. It also prohibits entry to vessels into the 'area to be avoided', an area with a significant number of petroleum facilities in the Bass Strait, lying across a major shipping track. The 'area to be avoided' is described in section 618 of the *OPGGSA*.

Enforcement of safety zones is the responsibility of the respective state or territory governments for coastal waters. The Australian Government is responsible for the enforcement of these zones in Commonwealth waters, with **MBC** assigned assets undertaking surface and aerial security patrols around offshore facilities throughout the EEZ.

Submarine telecommunications cables

The Australian Government (ACMA) is responsible for the declaration and supervision of the protected zones for submarine telecommunications cables. These zones are in place when the cables are less than 2000 metres below the surface of the ocean (beyond this depth there is considered to be no appreciable threat). In Australia this means they extend up to 50 nautical miles from shore.

Enforcement of maritime security zones is the responsibility of state and territory government agencies (normally water police) within coastal waters.

Outside coastal waters (within the territorial sea, contiguous zone and EEZ) enforcement responsibility rests with the Australian Government (MBC).

Great Barrier Reef World Heritage area arrangements

Within the Great Barrier Reef world heritage area Marine Park inspectors from the Reef Joint Field Management Program and partner agencies conduct surveillance and enforcement activities to ensure compliance with the **Great Barrier Reef Marine Park Act 1975** and complementary State Legislation.

For offences against Marine Park legislation, investigators within Reef Joint Field Management Program and partner agencies will conduct the criminal investigation and, if necessary, provide a brief of evidence for prosecution. If necessary, some matters may be referred to the AFP, states, or territories for assistance. Policing and prosecution arrangements of illegal foreign fishing vessels committing fisheries offences within the Great Barrier Reef World Heritage Area, however, are more effectively dealt with under the **Fisheries Management Act** rather than **Marine Park Legislation**.

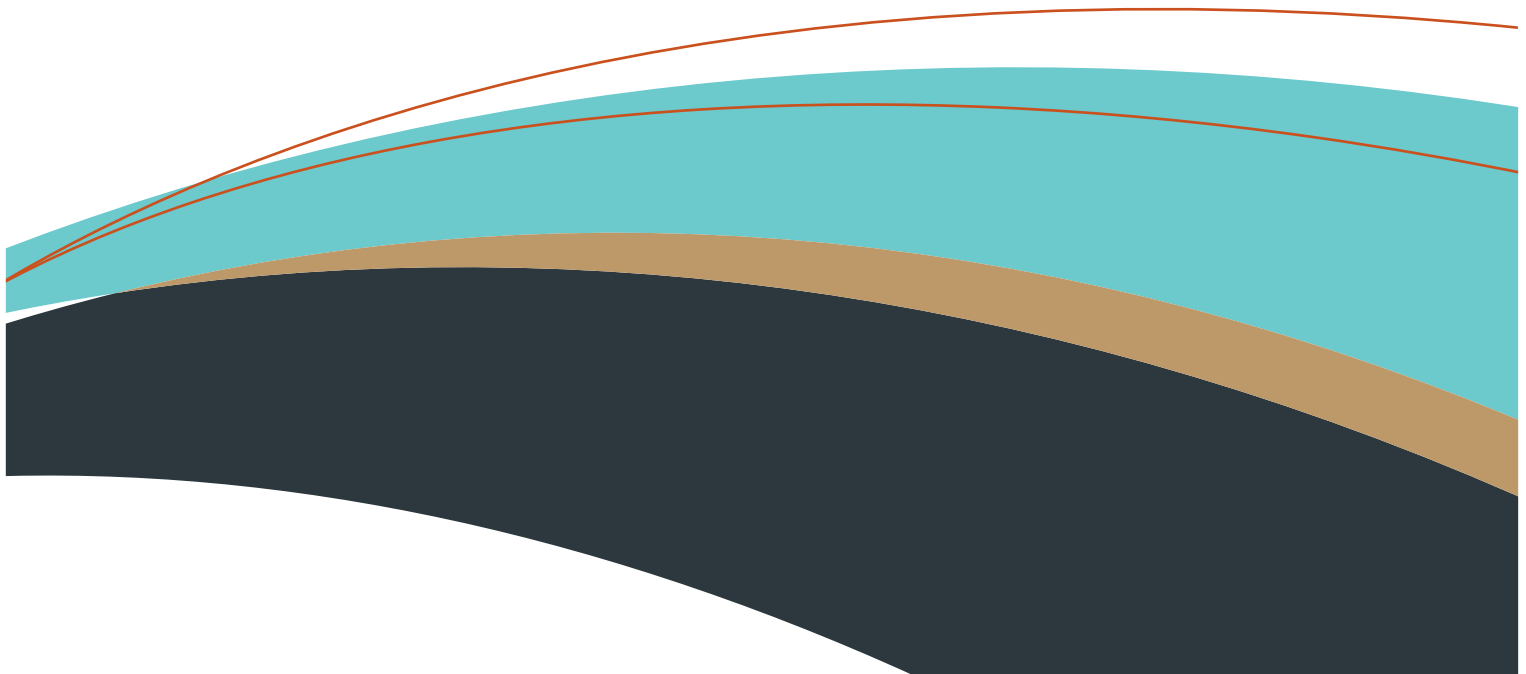
Public information management

For this maritime security threat, public information management responsibilities lie with the lead agency for the specific aspect of this threat. For example, specific issues relating to the environment, compromise to biosecurity and illegal activity in protected areas are to be coordinated by DAWE, ABF, AFP and other agencies as appropriate.

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5

ILLEGAL EXPLOITATION OF NATURAL RESOURCES





Potential
consequences
of illegal
exploitation
of natural
resources
include impacts
on food security,
environmental
damage and
economic
or business
downturn.

Illegal exploitation of natural resources

KEY POINTS

Illegal exploitation of natural resources includes illegal exploitation of fish stocks within the water column, illegal harvesting of sedentary organisms from the seabed and illegal commercial and recreational activities in Commonwealth marine areas, including Commonwealth marine reserves.

There are a number of Australian Government and state and territory stakeholders that are required to respond to illegal exploitation of natural resources.

Prevention, preparedness, response and recovery

- » The Australian Fisheries Management Authority (AFMA) is the lead agency for regulating all foreign and Commonwealth managed domestic fishing activities within the AFZ.
- » The Department of Agriculture, Water and Environment (DAWE) is the lead agency for illegal activities that may have a significant impact on the environment in Commonwealth marine areas, including Commonwealth marine reserves.
- » The Great Barrier Reef Marine Park Authority (GBRMPA) is the lead agency for regulating activity within the Great Barrier Reef Marine Park and through the Reef Joint Field Management Program Park ensures compliance in the Great Barrier Reef World Heritage Area.
- » State and territory bodies are the lead agencies in areas under their jurisdiction generally out to three nautical miles from the territorial sea baseline unless otherwise agreed between States, Territories and the Commonwealth under the Offshore Constitutional Settlement.

Description

Australia's national interests are threatened by the illegal exploitation of natural resources within Australia's maritime jurisdiction. Encompassed within this threat is the illegal exploitation of marine life, oil, gas and mineral resources. Potential security threat events in this category include:

- » **Illegal exploitation of living natural resources:** This includes illegal exploitation by both foreign and Australian flagged vessels of fish stocks within the exclusive economic zone (EEZ) (water column and seabed) as defined in United Nations Convention on the Law of the Sea (UNCLOS), as well as harvesting sedentary organisms from the seabed of the EEZ and the extended continental shelf. Commercial fishing activities carried out within the Australian Fishing Zone without authorisation may constitute illegal exploitation of natural resources. Furthermore, commercial fishing activity carried out within Commonwealth marine reserves as declared under the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)* without an authorisation may constitute illegal exploitation of the natural resources within the reserve. Actions resulting in the death, injury, removal or trade of certain listed species and actions that are not permitted that affect matters of national environmental significance as defined in the *EPBC Act* are illegal. Actions that may result in a significant impact on the environment in a Commonwealth marine area are also illegal.
- » **Illegal exploitation of mineral and non-Living natural resources:** This includes prohibited activities involving non-living resources, including illegal exploitation of oil, gas, mineral and other non-living resources of the seabed and subsoil within the EEZ and continental shelf as defined in UNCLOS.

Potential consequences for Australia

Potential consequences of illegal exploitation of natural resources include impacts on food security, environmental damage and economic or business downturn. There may also be detrimental impact to government business reputation and detrimental effects on external relationships and sovereignty.

Illegal foreign fishers operating in Australia's waters also pose a significant threat of compromise to biosecurity (see Chapter 9). Introduced pests and diseases have the potential to cause harm to the Australian economy and human health.

Potential consequences for individuals undertaking illegal or criminal acts

The potential consequences for crew from foreign boats who illegally exploit Australia's natural resources include:

- » fine and/or imprisonment for the owner or master of the vessel involved
- » fine and/or imprisonment for other personnel involved in the illegal, or criminal activity
- » confiscation of fishing catch and/or fishing equipment (in the case of illegal fishing)
- » seizure, confiscation, or destruction of the vessel involved.
- » Penalties for domestic commercial fishers operating illegally may include fines, the suspension or cancellation of fishing concessions or vessel forfeiture.

Stakeholder coordination

Generic arrangements

Four agencies are responsible for deterrence of activities for the security threat 'illegal exploitation of natural resources'. These agencies are:

1: **AFMA**, for deterrence of illegal fishing by foreign vessels and Commonwealth domestic commercial vessels in the Australian Fishing Zone, the Torres Strait Protected Zone and areas where Australia has jurisdiction over the seabed and sedentary organisms. Both licensed and unlicensed operators can pose maritime security threats and AFMA is the lead regulatory authority for foreign and domestic compliance matters;

THREAT SNAPSHOT

ILLEGAL FOREIGN FISHING IN AUSTRALIA'S WATERS

Australia's northern waters continue to be attractive to foreign operators seeking to take advantage of Australia's fish stocks. Australia's EEZ, including those off the Australian territories of Heard Island and McDonald Islands and Macquarie Island in the Southern Ocean, is expansive and includes fisheries resources that are highly valued. Illegal foreign fishing threatens Australia's fish stocks and the marine environment and can result in overfishing, destruction to the marine environment through the use of destructive fishing practices or pollution, and threatens the livelihoods of Australians through the potential introduction of biosecurity risks. Illegal fishing activity inside Australia's jurisdiction undermines Australia's ability to manage its natural resources and impacts on the national economic benefits derived from its natural resources. Such impacts can directly affect Australia's reputation as responsible fisheries managers, the economic viability of the Australian fishing industry and more broadly, can affect other sectors of the Australian economy including recreational fishing and those that either support the maritime industry or rely on the natural environment to support regional employment, such as tourism.

MBC conducts surveillance missions around Australia's coast using ABF and ADF assets. When a suspected illegal foreign fishing vessel is detected, MBC liaises with AFMA to coordinate an appropriate response. A response may include intercepting, boarding, apprehending illegal foreign fishing vessels (FFVs); transporting foreign fishers ashore where they are detained by ABF to facilitate investigation by AFMA; towing or escorting vessels to designated ports where AFMA has disposal sites, or destroying these vessels at sea in accordance with Australian law. When an FFV and its crew are apprehended, AFMA will inform the flag state. Surveillance assets coordinated by MBC are also used on specific taskings to assist AFMA officers in monitoring and boarding Australian domestic fishing vessels.



- 2: **DAWE**, for deterrence of illegal activities in Commonwealth marine reserves, activities that affect certain listed species, activities that may result in a significant impact on the environment in a Commonwealth marine area, and activities that affect matters of national environmental significance;
- 3: **GBRMPA** for deterrence of illegal activity in the Great Barrier Reef Marine Park; and
- 4: **state and territory governments** for regulation of state and territory managed fisheries.

Transportation of response teams may be a key component of response to illegal exploitation of natural resources. Agencies able to provide air and maritime surface transportation are MBC, the Australian Antarctic Division (AAD), the Australian Maritime Safety Authority and the Australian Federal Police (AFP), and state and territory police.

AFP or state or territory police are generally responsible for criminal investigation and providing briefs of evidence for prosecution. However, AFMA as the lead agency for fisheries matters will conduct the investigations into suspected cases of illegal fishing (by both domestic commercial fishers and foreign fishers) and provide a brief of evidence directly to the Commonwealth Director of Public Prosecutions for consideration. DAWE may institute criminal prosecution or civil proceedings for offences under the *EPBC Act* and the *Underwater Cultural Heritage Act 2018*. Investigators of the Australian and Queensland governments' Reef Joint Field Management Program investigate offences against the *Great Barrier Reef Marine Park Act 1975* and complementary State legislation, and provide briefs of evidence for prosecution.

ABF, AFP and ADF personnel, or other persons appointed by the Minister, are maritime officers under *Maritime Powers Act 2013*. For fisheries matters, maritime officers may exercise maritime powers for the purpose of (but not limited to) boarding, gathering information, searching, seizing, retaining, detaining and arresting. ABF and AFP officers are ex officio authorised officers under the *EPBC Act* with all the powers conferred by that Act. Other government officers, including ADF personnel and state fisheries officers, are authorised as wardens under the *EPBC Act*.

AFMA within the wider DAWE organisation works collaboratively in situations where offences are identified under both fisheries and environmental legislation and, where appropriate, undertake joint investigations.

Delineation of responsibilities

The delineation of responsibilities for the management of commercial fish stocks are set out in a series of gazetted Offshore Constitutional Settlement (OCS) arrangements and MOUs that exist between the Commonwealth Government and the state and territory governments. These OCS arrangements manage fish stocks on the basis of species, method of catch and by specific maritime boundaries or zones.

However, illegal foreign fishing activity (including in relation to state or territory managed commercial fish stocks) is solely managed by the Commonwealth Government (AFMA) and prosecuted under the Commonwealth's *Fisheries Management Act 1991* and *Torres Strait Fisheries Act 1984*, unless the activity occurs in coastal waters.

Great Barrier Reef World Heritage Area arrangements

Within the Great Barrier Reef World Heritage Area, Marine Park inspectors from the Reef Joint Field Management Program and partner agencies conduct surveillance and enforcement activities to ensure compliance with the Great Barrier Reef Marine Park Act 1975 and complementary Queensland legislation.

For offences against Marine Park legislation, investigators within the Reef Joint Field Management Program will conduct the criminal investigation and provide a brief of evidence for prosecution.

Torres Strait arrangements

Specific arrangements are in place with respect to the Torres Strait Protected Zone which recognise traditional fishing practices of traditional peoples of the Torres Strait (both Australian and Papua New Guinea nationals, who live in the protected zone and maintain traditional customary associations). Specifically traditional inhabitants are permitted to take turtle and dugong (under specific criteria) and other marine species for non-commercial consumption without an authorization. Non-traditional inhabitants may not take marine species for commercial purposes without an authorization and nontraditional inhabitants are banned from taking turtle or dugong. Historically compliance and enforcement services in the Torres Strait were delivered by Queensland State authorities however AFMA assumed responsibility for compliance and enforcement activities in the Torres Strait on 1 July 2018, supported by MBC and the Queensland Water Police for the supply of patrol assets.

Public information management

Public information management responsibilities are coordinated by ABF, in consultation with AFMA and the Department of Agriculture, Water and the Environment. For incidents within Commonwealth Marine Reserves, DAWE is also consulted and for incidents in the Great Barrier Reef Marine Park GBRMPA is consulted.

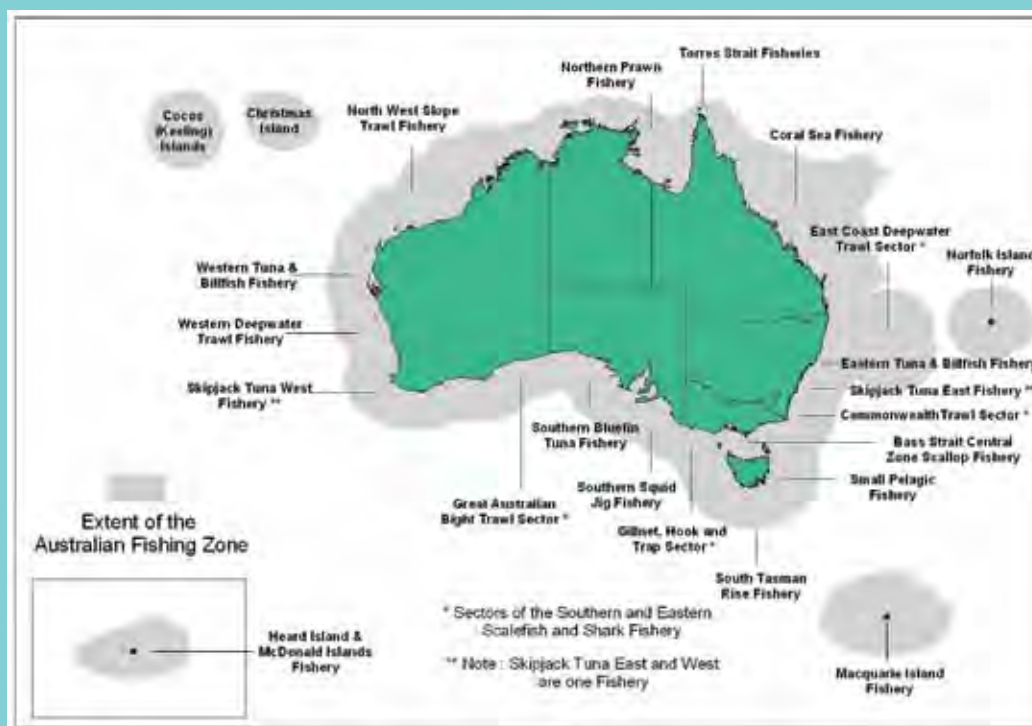


Figure 12 Commonwealth managed commercial fisheries within Australian waters

Map Courtesy of the Australian Fisheries Management Authority.

MOU OVERVIEW

The MOU Box, located off north west Australia, is approximately 50 000 square kilometres, contains five main reefs/islands, and has significant conservation values. Indonesian nationals have undertaken fishing in the area using traditional methods for some 300 years. Due to its location on the maritime boundary it is a focal point of interest for Australia and Indonesia on matters including fishing, conservation, national security and illegal immigration.

Traditional fishing is permitted under a 1974 MOU and updated (1989) guidelines agreed between Australia and Indonesia. Under these arrangements Australia refrains from applying its fisheries laws to traditional fishers (i.e. those using non-motorised vessels and fishing equipment) provided they conform to the conditions set out in the MOU and Guidelines. The traditional fishers typically target either shark or sedentary species such as sea cucumber and trochus, but invariably also take some finfish species either for bait, consumption or sale as dried fish.

The Ashmore and Cartier reefs are within Commonwealth marine reserves. Indonesian fishers are allowed to access the West Island Lagoon of Ashmore Reef Marine Park for shelter, fresh water and to fish for immediate consumption but are otherwise excluded from the reserves except in instances of force majeure.

Compliance with the MOU and Guidelines is generally good; however, it is not universal and the most common breaches of the MOU and Guidelines include:

- » access by motorised foreign fishing vessels
- » the use of mechanised fishing gear such as hookah **gear** by traditional fishers
- » fishing by traditional fishers in waters beyond the boundaries of the MOU Box
- » the use of destructive fishing practices such as blast fishing
- » access to Commonwealth marine reserve restricted areas
- » the take of protected species.

AFMA is the lead agency in relation to fishing offences while the wider DAWE organisation takes the lead for other environmental offences and the management regulations applying to Ashmore Reef and Cartier Island Marine Parks. Surveillance and compliance operations are usually undertaken by ABF and ADF, through MBC. When offences are suspected, MBC liaises directly with AFMA/DAWE to coordinate the appropriate response. Possible responses include intercepting, boarding, education, forfeiture of catch or equipment, and apprehension of vessels and crew.

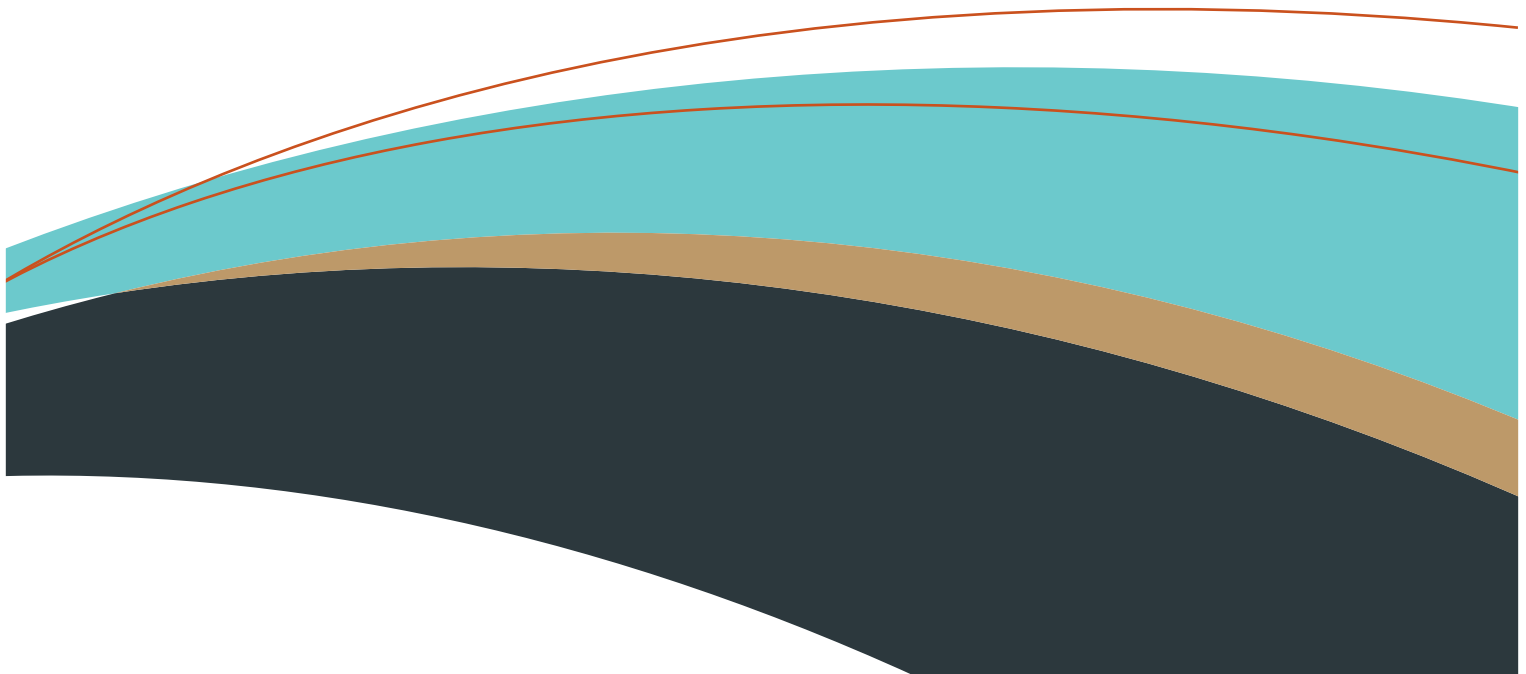
Australia and Indonesia continue to engage closely through various forums to enhance and strengthen fisheries management in the region, and ensure the sustainability of fisheries resources and the health of the marine environment. These forums include the Regional Plan of Action (RPOA) to Promote Responsible Fishing Practices including Combating Illegal, Unreported and Unregulated Fishing in the Region, the Australia-Indonesia Fisheries Surveillance Forum and the Australia-Indonesia Working Group on Marine Affairs and Fisheries.


Table 2 Stakeholders and responsibilities: Illegal exploitation of natural resources

STAKEHOLDER	ROLES	RESPONSIBILITIES
AFMA	LA	Regulation of Commonwealth fishing activities and deterrence of illegal fishing within the EEZ and the disposal of illegal foreign fishing vessels.
GBRMPA	LA	Regulates activity within the Great Barrier Reef Marine Park and, through the Reef Joint Field Management Program, ensures user compliance in the Great Barrier Reef World Heritage Area.
DAWE	LA	Regulation of activity in Commonwealth marine reserves; activities that affect certain listed species; activities that may result in a significant impact on the environment in a Commonwealth marine area; and activities that affect matters of national environmental significance.
STATE AND TERRITORY GOVERNMENTS	LA	Regulation of state and territory managed fisheries. Provides local involvement as required.
ABF	Ps	Provides enforcement, (including the temporary holding and initial processing and repatriation of illegal foreign fishers) transportation and surveillance as required. Provides assistance when illegal entry into Australia is a consideration.
AFP	Ps	Provides armed law enforcement and assistance with prosecution as required.
MBC	Ps	Provides enforcement, transportation and surveillance as required.
AAD	Ss	Provides assistance within the Antarctic region as required.
AGD	Ss	Provides government legal direction as required.
AMSA	Ss	Provides surveillance capability when requested.
DAWE	Ss	Provides national policy oversight of Australia's agriculture, forestry and fisheries industries, including as lead Australian Government agency with responsibility for IUU fishing policy. Secondary Responsibility: Regulation and response to biosecurity matters.
DEFENCE	Ss	Provides enforcement, transportation and surveillance if required.
DFAT	Ss	Involvement where the issue involves any international aspect.
DOH	Ss	Involvement when there is a health threat from foreign nationals.
FINANCE/TREASURY	Ss	Involvement if specific financial arrangements are required.
INTELLIGENCE AGENCIES	Ss	Provides intelligence collection and analysis as required.
PM&C	Ss	Provides high-level policy advice as required.
STATE OR TERRITORY POLICE	Ss	Provides armed law enforcement and assistance with prosecution as required.
<div> <div>LA</div> Lead Agency <div>Ps</div> Primary Stakeholder <div>Ss</div> Secondary Stakeholder </div>		

6

MARINE POLLUTION



An underwater photograph showing a large, tangled green net or mesh structure in the water. A diver is visible near the net. The background is a clear blue ocean.

Australia's
national
interests are
threatened by
marine pollution,
which may be
manifested
through
inadvertent,
reckless, or
deliberate
actions and
affect the
environment,
shipping,
or coastal
developments.

Marine pollution

KEY POINTS

Types of marine pollution include marine spills and discharges, illegal sea-dumping, marine debris, and marine obstruction.

Prevention, preparedness, response and recovery

- » The Australian Maritime Safety Authority (AMSA) is the lead Australian Government agency for the response to marine pollution in Australia's maritime jurisdiction.
- » The National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) is the national regulator for offshore petroleum activities in Commonwealth waters, and in state and territory waters where powers have been conferred (NOPSEMA came into existence on 1 January 2012).
- » Industry are the lead stakeholders for the risks prevention and the implementation of response strategies within privately owned facilities.
- » Port authorities are responsible for managing the threat if the vessel is in port, and state and territory governments are responsible if the vessel is in internal or coastal waters.

Description

Australia's national interests are threatened by marine pollution, which may be manifested through inadvertent, reckless, or deliberate actions and affect the environment, shipping, or coastal developments. Potential security threat events in this category include:

- » **Marine spills and discharges:** This encompasses the introduction of ship or offshore petroleum facility-generated spills, waste and pollutants that may cause damage to the offshore ecosystem or, if washed ashore, damage to the animal and plant life on coastal fringes.
- » **Illegal sea-dumping:** This encompasses the deliberate disposal of wastes at sea.
- » **Marine debris:** This encompasses the release of debris, including floating, or semi-submerged cargo, waste, discarded and lost fishing equipment (e.g. ghost nets), or remnant structure that may cause damage to the offshore ecosystem and present a navigation hazard or, if washed ashore, damage to the animal and plant life on coastal fringes.
- » **Marine obstruction:** This encompasses a disabled, stranded, or derelict vessel, or wreck, that may present an ongoing pollution, or navigation hazard, or block a waterway of significance to Australia's trading interests.

Potential consequences for Australia

The potential consequences of marine pollution include human health and social impacts, environmental damage, and economic or business downturn.

Potential judicial consequences for individuals undertaking illegal or criminal acts

The potential consequences for an individual who causes marine pollution include:

- » fine and/or imprisonment for the owner or master of the vessel involved
- » fine and/or imprisonment for other personnel involved in the illegal or criminal activity
- » civil or criminal action for activities that kill or harm native species or have a significant impact on the Commonwealth marine environment
- » seizure, or confiscation, of the vessel involved.

Stakeholder coordination

Generic arrangements

AMSA is responsible for managing the National Plan to Combat Pollution of the Sea by Oil and Other Noxious and Hazardous Substances and the National Maritime Emergency Response Arrangements.

Transportation of pollution response teams and equipment is a key component of response and recovery of marine pollution. The following agencies can provide air and surface transportation: Maritime Border Command (MBC), the Australian Antarctic Division (AAD), AMSA, and the Australian Federal Police (AFP) and state and territory police.

Maritime air reconnaissance of instances of marine pollution may be required and would normally be conducted using AMSA-contracted aircraft. However, MBC may be required to provide aircraft for maritime air reconnaissance.

The Department of Agriculture, Water and Environment (DAWE) would further be involved if international marine debris landed in Australia.

While AMSA officers do not have powers of arrest, they can detain vessels under investigation (pursuant to the ***Protection of the Sea [Prevention of Pollution from***

Ships] Act 1983). AFP or state police are responsible for the physical arrest of personnel if required. AMSA, with the assistance of police, conducts the criminal investigation and provides a brief of evidence for prosecution.

The ***OPGGS Act*** and associated Regulations provide NOPSEMA with the authority to perform regulatory functions in relation to offshore petroleum environmental management.

As the regulator, NOPSEMA has authority to direct a titleholder of an offshore petroleum activity to respond to an offshore petroleum incident. The titleholder must comply with the directions of NOPSEMA. Assessment and acceptance of environment plans (EPs) and associated oil pollution emergency plans (OPEPs) is a regulatory function of NOPSEMA. These plans must include response strategies as part of their activity description.

Marine spills and discharges

National maritime pollution arrangements (for maritime spills and discharges) are described in the Inter-Governmental Agreement on the National Plan to Combat Pollution of the Sea by Oil and other Noxious and Hazardous Substances.

Arrangements for responding to a marine pollution event are described as a layered approach. Responsibility for clean-up first rests with the polluting vessel or titleholder



Table 3 Stakeholders and responsibilities: Marine pollution

STAKEHOLDER	ROLES	RESPONSIBILITIES
AMSA	LA	Coordination of Commonwealth Government management responses to oil and chemical marine pollution from ships.
OIL & GAS INDUSTRY	LA	The petroleum titleholder and their operators are responsible for managing and mitigating risks associated with their activities and the implementation of response strategies.
NOPSEMA	LA	Regulation of offshore petroleum activities in the Commonwealth waters and state and territory waters where this responsibility is conferred.
DISER	LA	Provides coordination across the Australian Government in the event of an offshore petroleum incident.
STATE AND TERRITORY GOVERNMENTS	LA	Responds to marine pollution events in state or territory waters. Provides local involvement as required.
GBRMPA	Ps	Works with Queensland agencies to support National Arrangements for response and recovery in the Great Barrier Reef World Heritage Area
DAWE	Ps	Regulation of activity involving the Commonwealth marine environment, including Commonwealth marine reserves; threatened species and ecosystems; and deterrence of associated illegal activity. Regulation of dumping at sea. Also provides advice on environmental matters during incident response.
AAD	Ss	Provides assistance within the Antarctic region as required.
ABF	Ss	Provides transportation or surveillance as required.
AGD	Ss	Provides government legal direction as required.
AFP	Ss	Provides armed law enforcement and assistance with prosecution as required.
MBC	Ss	Provides transportation, surveillance or command and control as required and evidence collection and sampling as required.
DAWE	Ss	Regulation and response to biosecurity matters.
DEFENCE (INCLUDING ADF)	Ss	Provides transportation or surveillance as required.
DFAT	Ss	Involvement when the issue involves any international aspect.
FINANCE/TREASURY	Ss	Involvement when specific financial arrangements are required.
HOME AFFAIRS (INCLUDING ATS)	Ss	Provides security regulation and policy advice as required.
INTELLIGENCE AGENCIES	Ss	Provides intelligence collection and analysis as required.
PM&C	Ss	Provides high-level policy advice as required.
STATE AND TERRITORY POLICE	Ss	Provides armed law enforcement and assistance with prosecution as required.
<div> <div>LA</div> Lead Agency <div>Ps</div> Primary Stakeholder <div>Ss</div> Secondary Stakeholder </div>		

of an offshore petroleum facility in the Commonwealth offshore area. If that vessel or the titleholder of an offshore petroleum facility cannot manage the spill, then assistance is provided by the appropriate authority. Which authority is responsible depends on the location of the spill:

- » port authority if the vessel is in port
- » state or territory government (normally maritime or transport portfolio) if the vessel is in internal or coastal waters
- » Commonwealth (AMSA) if the vessel is outside 3 nautical miles from the territorial seas baseline.

Under the national plan, NOPSEMA is the Australian Government statutory agency for oil spill incidents from offshore petroleum facilities in Commonwealth waters. NOPSEMA can provide advice to titleholders and their operators and can issue directions during an offshore petroleum incident, supporting a whole-of-government approach to incident coordination. NOPSEMA does not have the legislative functions to perform combat agency functions. The petroleum titleholder and their operator remain responsible for the risks presented and the implementation of response strategies.

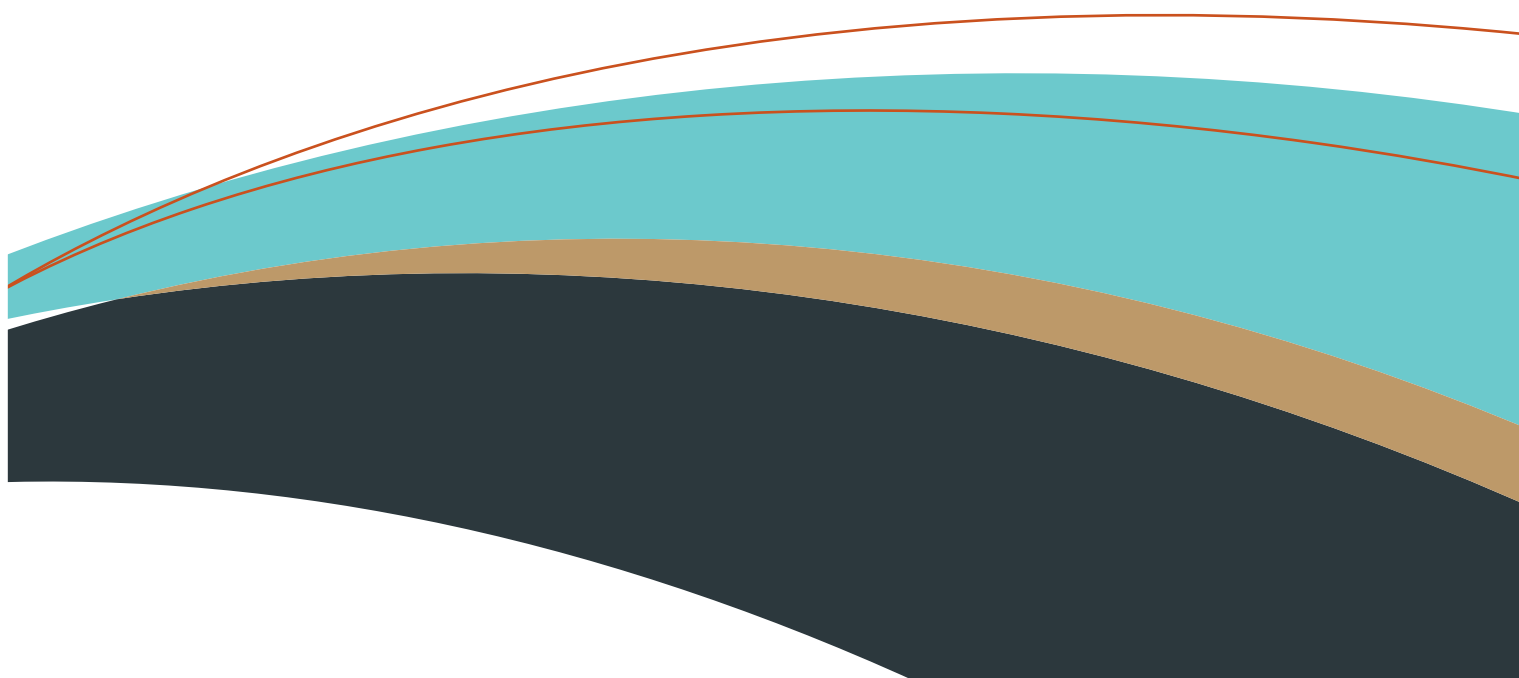
Petroleum titleholders and their operators must comply with the accepted EP/OSCP and directions given by NOPSEMA. NOPSEMA provide for expedited assessment of revisions during an incident, where necessary. NOPSEMA verify compliance with response arrangements described in the EP/OPEP.

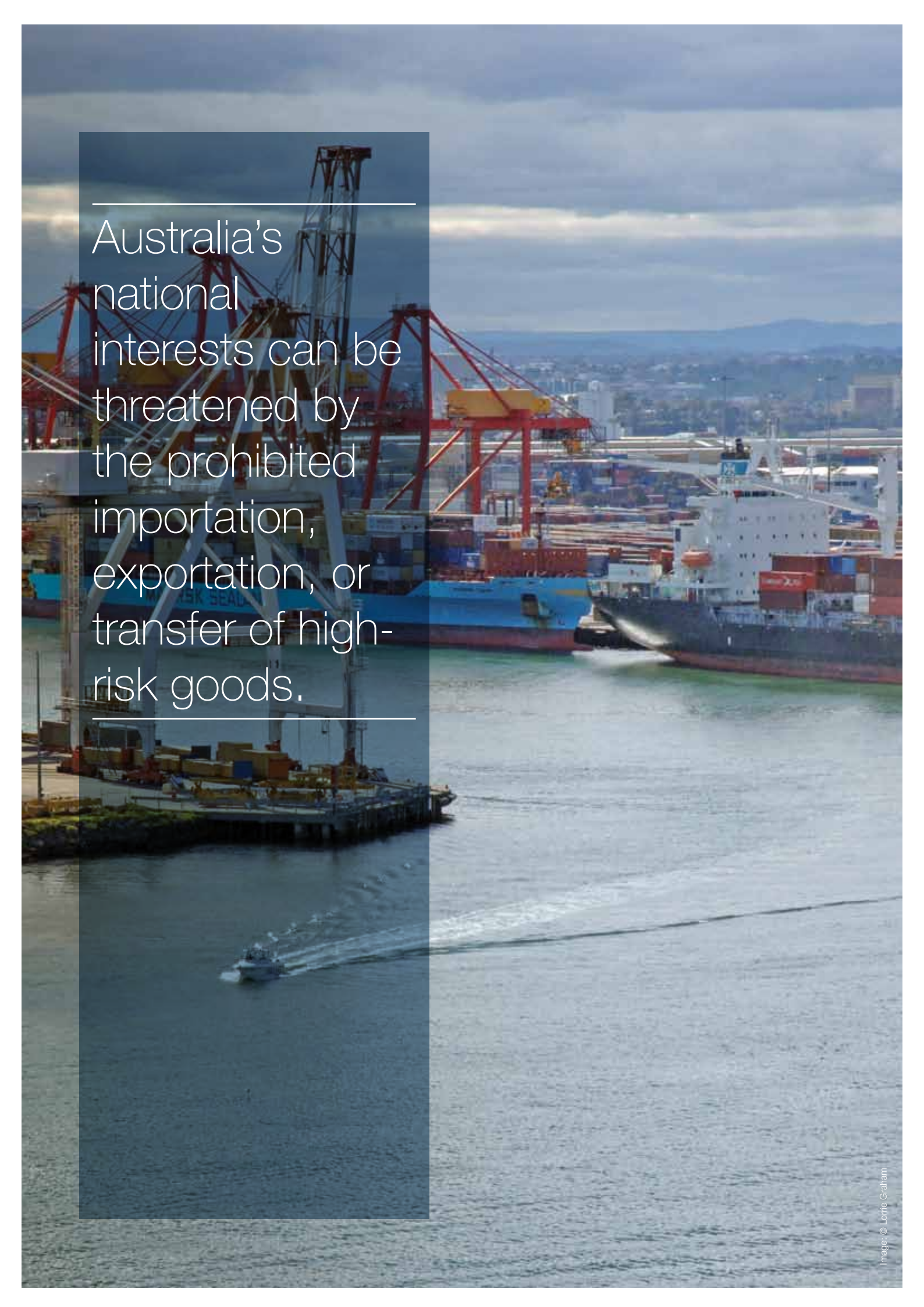
Public information management

For this threat, public information management responsibilities lie with AMSA for ship sourced incidents. DISER is the lead agency in the event of an offshore petroleum incident in Commonwealth waters. In this role, DISER plays a key coordination and information management function in the Australian Government's response to an offshore petroleum incident.

7

PROHIBITED IMPORTS AND EXPORTS



A large container ship is docked at a port, with several red cranes visible. The ship is loaded with colorful shipping containers. In the background, a city skyline is visible under a cloudy sky. A small boat is moving across the water in the foreground.

Australia's
national
interests can be
threatened by
the prohibited
importation,
exportation, or
transfer of high-
risk goods.

Prohibited imports and exports

KEY POINTS

- » Commodities such as border-controlled drugs, border-controlled precursors, weapons, strategic/dual use goods, animals, biological material and goods subject to sanctions may be prohibited under Australian law for import, export or transfer in Australian waters without appropriate permission.
- » This security threat includes the prohibited movement of items and the transfer of prohibited items at sea.
- » The security threats relating to these goods are:
 - that they may be destined for uses that are contrary to Australia's national security (e.g. terrorist groups or countries with illicit weapons programs)
 - that they are border-controlled drugs or substances or other prohibited items contrary to Australia's national security or interest.

»

Description

Australia's national interests can be threatened by the prohibited importation, exportation, or transfer of high-risk goods.²¹ This involves both the import and export of prohibited goods, or transshipment, transit or transfer of goods of security and biosecurity concern. This threat is

broad and encompasses the trafficking of a wide range of goods, including, but not limited to, narcotics, precursor chemicals, weapons, live animals, biological material and items identified as controlled exports to meet Australia's non-proliferation commitments.

Potential security threat events in this category include:

- » **Prohibited movement of items.** This encompasses the prohibited movement, by any means, of certain items through Australia's maritime jurisdiction.
- » **Transfer of prohibited items at sea.** This encompasses illegal activities in which items are transferred from or to vessels in order to avoid regulated ABF scrutiny.

Potential consequences for Australia

The potential consequences of the prohibited movement or transfer of prohibited goods at sea include agricultural and environmental damage, economic downturn, non-compliance with international treaties and obligations and threats to international safety and security and to the life and wellbeing of people.

Potential judicial consequences for individuals undertaking illegal or criminal acts

The potential consequences for an individual undertaking illegal acts relating to prohibited goods include:

- » fine and/or imprisonment for the master or owner of the vessel involved
- » fine and/or imprisonment for other personnel involved in the illegal, or criminal, activity
- » seizure or confiscation of the proceeds of the illegal, or criminal, activity
- » seizure, confiscation, or destruction, of the vessel involved
- » seizure and destruction of the prohibited goods.

²¹ High-risk goods can be defined as goods of national security concern and/or contrary to Australia's national interest (e.g. drugs, weapons, goods of proliferation concern, goods subject to UN sanctions).

THREAT SNAPSHOT

OPERATION ROMANSILVER—

AUSTRALIAN COCAINE SEIZURE 2018

In one of Australia's largest cocaine seizures, ABF officers joined forces with the ADF, AFP and Queensland and NSW police to seize approximately 600 kg of pure cocaine off Queensland's south coast. ABF surveillance aircraft assigned to Maritime Border Command (MBC) were deployed and, within a day, they pinpointed the location of the suspect vessel. The ADV Fourcroy and the Queensland Police Marine Area Command vessels tracked a rigid-hull inflatable boat (RHIB) at range while ABF, QPS and AFP officers waited offshore in the Brunswick Heads region to conduct the interception. The QPS, AFP with support from ADF officers, executed a search warrant and boarded the rigid-hull inflatable boat. Cocaine was located during this search. The perpetrators were subject to Australian Law and the cocaine did not make it onto Australian streets. The outcome of this operation demonstrates the close relationships that exist between federal and state law enforcement and security agencies with responsibilities across the border continuum.



Defence and strategic goods

Regulation 13E of the **Customs (Prohibited Exports) Regulations 1958** (the PE Regulations) states that the export of any item contained within Australia's control list, the Defence and Strategic Goods List (DSGL), is prohibited unless permission has been granted prior to export. The DSGL covers a range of defence and dual-use goods applicable for use in military or weapons of mass destruction programs. It is based on all the export control regime control lists and is made up of the European Union Dual-Use List, the Wassenaar Arrangement Munitions List and additional specific Australian entries. The Defence Export Control Office within the Department of Defence is responsible for administering and updating the DSGL, and has delegated authority from the Minister for Defence to grant permission to export for DSGL controlled goods.

ABF is responsible for the enforcement of the DSGL, through Regulation 13E. Exporters of DSGL goods are required to present their permit to ABF at the time of export. If a valid permit is not produced, the goods may be seized as a prohibited export, and penalties apply, including fines of up to \$525 000 and/or imprisonment for up to ten years.

Stakeholder coordination

Table 4 Stakeholders and responsibilities: Prohibited imports and exports

STAKEHOLDER	ROLES	RESPONSIBILITIES
AFP	LA	Provides armed law enforcement and a lead investigative and prosecution role as required.
DAWE	LA	Regulation and respond to biosecurity matters.
ABF	Ps	Detect, deter and disrupt the illegal movement of prohibited goods across the border. Investigate and prosecute border offences (other than narcotics).
DEFENCE	Ps	Possible interventions of goods at sea (including interception of anti-proliferation goods). Regulation of issuing permits for certain goods.
INDUSTRY	Ps	Businesses that import or export are required to comply with import and export requirements, including having appropriate permissions for goods being supplied or traded.
DAWE	Ps	Responsible for issuing permits and regulating imports and exports of items that may affect the environment, including wildlife (CITES and native plants and animals), hazardous materials and ozone-depleting substances and synthetic greenhouse gases and related equipment.
AAD	Ss	Provides assistance within the Antarctic region as required.
AGD	Ss	Provides government legal direction as required.
AMSA	Ss	Provides surveillance capability when requested.
MBC	Ss	Provides enforcement, transportation and surveillance as required.
DFAT	Ss	Involvement when the issue involves any international aspect.
FINANCE/ TREASURY	Ss	Involvement when specific financial arrangements are required.
INTELLIGENCE AGENCIES	Ss	Responsible for intelligence collection and analysis as required.
PM&C	Ss	Provides high-level policy advice as required.
STATE AND TERRITORY GOVERNMENTS	Ss	Provides local involvement as required.
STATE AND TERRITORY POLICE	Ss	Provides armed law enforcement and assistance with prosecution as required.
<div> <div>LA</div> Lead Agency <div>Ps</div> Primary Stakeholder <div>Ss</div> Secondary Stakeholder </div>		

Responsibilities detailed above mainly focus on law enforcement, rather than on the policy responsibilities (e.g. DFAT for chemical weapons, sanctions and counter proliferation, DAWE for drugs and Home Affairs for firearms, policy & regulation for certain goods and issuing of permits).

ABF is the lead agency responsible for deterrence and interception of prohibited imports and exports, including prevention and awareness relating to this threat. It works closely with other agencies such as Defence, AFP and State police authorities to address these issues.

In most cases ABF will conduct the criminal investigation and provide a brief of evidence for prosecution. However, if the specific threat relates to the movement of significant quantities of border-controlled drugs, or is of a wide-ranging, or transnational nature then the AFP become responsible for the criminal investigation, and for providing briefs of evidence for prosecution. These arrangements are detailed in an MOU between ABF and the AFP.

When there is a quarantine or compromise to biosecurity threat, DAWE (and state equivalents) will become involved, and the severity of the biosecurity threat may dictate that this threat may take primacy (with DA or the Department of Health) over the prohibited imports and exports threat.

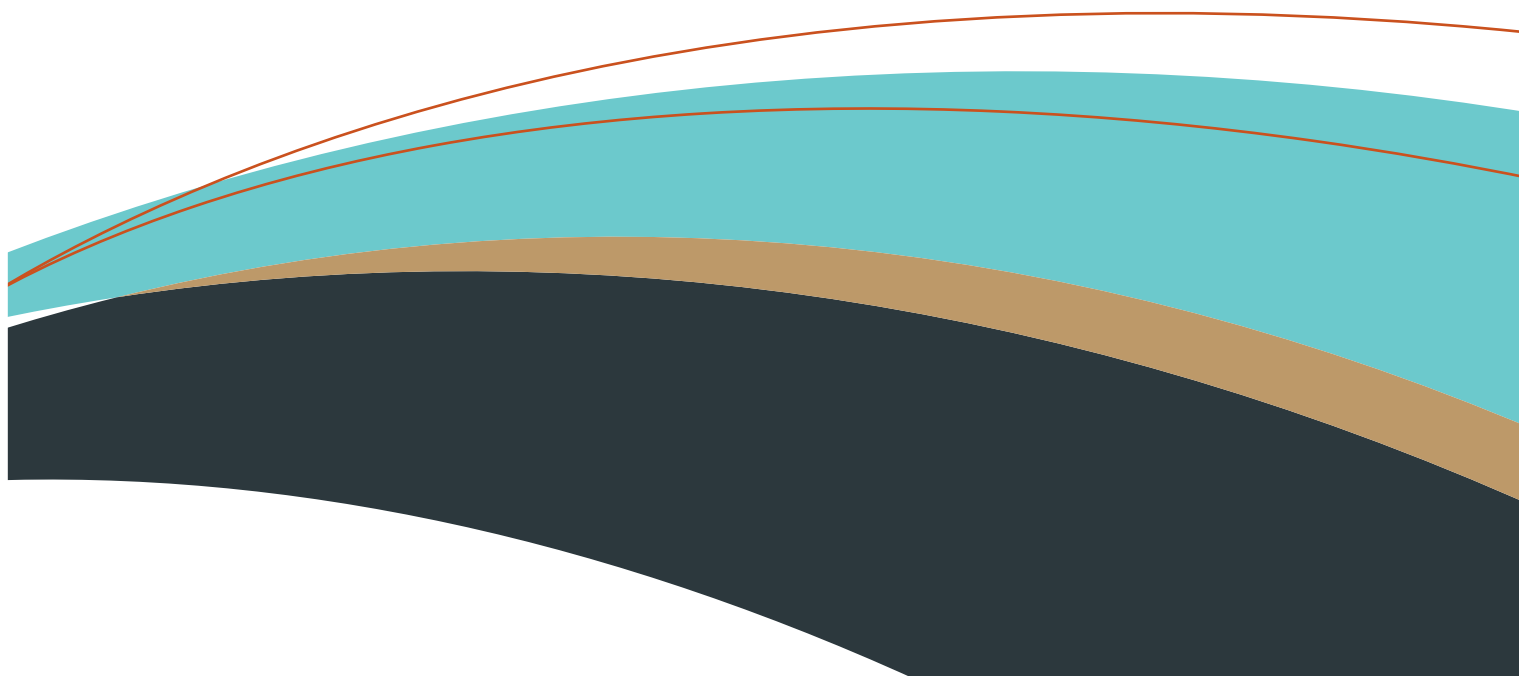
Public information management

For this civil maritime security threat, public information management responsibilities are placed with ABF media and communications, in consultation with other agencies as appropriate.



8

UNAUTHORISED MARITIME ARRIVALS





The primary risk
is the potential
for entry into
Australia without
having been
screened
by border
authorities.

Unauthorised maritime arrivals

KEY POINTS

1. Nobody who arrives illegally by boat will settle in Australia.
2. Operation Sovereign Borders (OSB) has successfully suppressed, but not defeated, the threat to the integrity of Australia's borders and potential loss of life at sea posed by people-smuggling enterprises.
3. Continued vigilance is required to ensure the threat remains suppressed and future attempts to test Australia's borders are not realised.

Operation Sovereign Borders

OSB was established in 2013 as a whole-of-government enterprise to protect the integrity of the Australian border, and prevent loss of life at sea by denying an irregular pathway to settlement in Australia, and deterring vulnerable people from attempting dangerous maritime ventures. Potential security threat events in this category include:

With more than 65 million people displaced globally, 2.9 million regionally, and Australia remaining an attractive destination, regular and irregular migration challenges will persist. While there has been a sustained reduction in maritime people smuggling ventures attempting to reach Australia since OSB was established, retaining the OSB construct as an ongoing capability with effective interagency engagement, command coordination and oversight will ensure our agility to respond to future people smuggling challenges.

OSB is led by a two-star military Commander who coordinates through a Joint Agency Task Force (JATF) the efforts of 16 contributing departments and agencies across the operational, intelligence and policy domains, to deliver a coherent, multi-layered approach in achieving the denial and deterrence effects.

Fundamental to the success of the OSB mission are the three pillars of:

- Disruption and deterrence activities underpinned by the strategic communications campaign;
- On-water operations, to return potential illegal immigrants to source or transit countries, where appropriate; and
- Regional Processing to enable resettlement in third countries.

JATF OSB operationalises these pillars by coordinating the delivery of six core effects, those being: deterrence; disruption; detection; interception; return; and, resettlement. Delivery of these effects through a multi-layered, multi-agency approach is achieved through the following activity streams:

➤ **Deterrence and Disruption** – led by the Australian Federal Police (AFP), this stream aggregates the efforts of the National Intelligence Community and law enforcement agencies, in conjunction with offshore partners, to disrupt and deter maritime people smuggling ventures in source and transit countries. Disruption and deterrence activities are underpinned by an offshore communication campaign focussed on ensuring that vulnerable people considering engaging the services of people-smugglers are aware of our strong border protection policies and the risks in undertaking such journeys.

➤ **Detection, Interception and Transfer** – the Detection, Interception and Transfer Task Group is led by the Australian Border Force's (ABF) Maritime Border Command (MBC), in cooperation with the Australian Defence Force (ADF). It coordinates aerial surveillance and maritime patrols to detect and intercept Suspected Illegal Entry Vessels (SIEVs), and return the people aboard to their country of departure or country of origin. The safety of Australian Government officers and those on intercepted vessels is a paramount consideration during all operations, which are conducted in accordance with international obligations and domestic law.

Returns occur through one of the following mechanisms:

1. **An enforced turn-back:** which involves the safe removal of a vessel from Australian waters.
2. **A takeback:** where Australia works with a country of departure or origin to achieve the safe return of passengers and crew.
3. **Assisted returns:** in some circumstances Australian Government vessels may be called upon to assist persons in a **Safety of Life at Sea (SOLAS)** situation.

4. Regional Processing, Return and Resettlement

– individuals who cannot be returned to their country of departure or origin are transferred to a regional processing country where their protection claims are assessed by that country. Those found to have valid protection claims will be resettled in a country other than Australia. Third country resettlement has been undertaken with both Cambodia and the United States. This effect is delivered by the Department of Home Affairs.

The threat to the integrity of Australia's borders and potential loss of life at sea posed by people-smuggling enterprises is suppressed but not defeated. Consequently, the risk of large-scale people smuggling restarting, along with the loss of control of our borders, remains.

Since the commencement of OSB in September 2013, 23 people smuggling ventures carrying 1,309 people were unable to be returned to their country of origin or departure. The last such arrival was in July 2014, at which time all 157 persons on board were transferred to Nauru.

Legislative framework

OSB operates in compliance with all domestic and international law obligations in the regulation of people smuggling vessels and vulnerable people who undertake irregular maritime journeys, including international human rights law, refugee law and the law of the sea, relying on advice from the Department of Home Affairs Legal Division, the Attorney-General's Department and the Australian Government Solicitor. In specific relation to on-water activities, OSB utilises the **Maritime Powers Act 2013** for the interception, boarding and searching of vessels. For activities within the migration zone, OSB operates under the **Migration Act 1958** and the **Customs Act 1901**.

International engagement and arrangements

In addition to partnering across the Australian government, OSB departments and agencies also cooperate to varying degrees with relevant foreign governments and international organisations to achieve OSB objectives.

Those relationships are supported through the Department of Foreign Affairs and Trade, including by the Ambassador for People Smuggling and Human Trafficking. The relationships include the United Nations Commissioner for Refugees (UNHCR) and the International Organisation for Migration (IOM); source countries (such as Iraq, Iran, Afghanistan, Bangladesh, Vietnam and Sri Lanka); transit countries (such as Pakistan, India, Malaysia and Indonesia); regional processing countries; resettlement countries; and like-minded countries.

Stakeholders/ forums

OSB comprises representatives of the following 16 government departments and agencies:

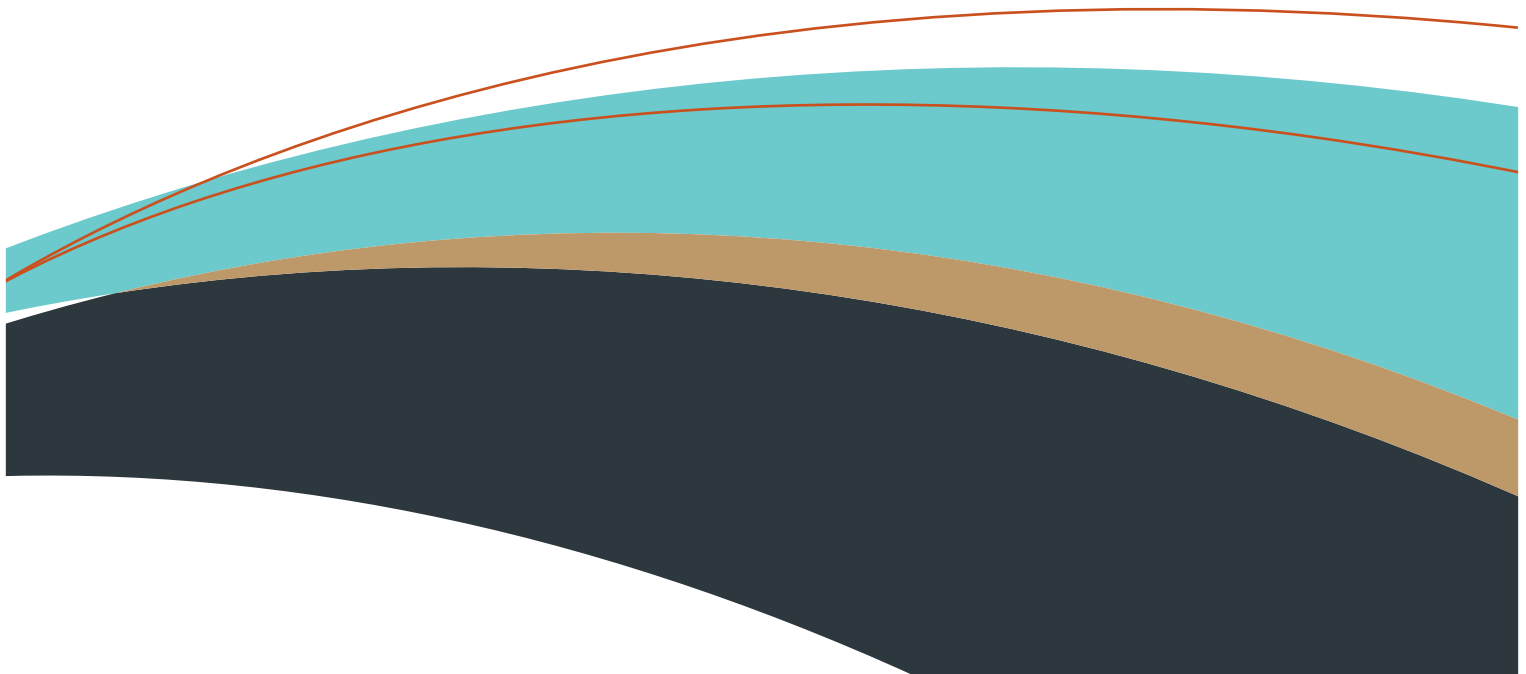
- Department of the Prime Minister and Cabinet;
- Department of Foreign Affairs and Trade;
- Department of Defence;
- Department of Home Affairs;
- Attorney-General's Department;
- Australian Defence Force;
- Australian Border Force;
- Maritime Border Command;
- Office of National Intelligence;
- Australian Signals Directorate;
- Australian Secret Intelligence Service;
- Australian Security Intelligence Organisation;
- Australian Geospatial Intelligence Organisation;
- Australian Criminal Intelligence Commission;
- Australian Federal Police; and the
- Australian Maritime Safety Authority.

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9

COMPROMISE TO BIOSECURITY



The potential consequences of compromise to biosecurity include environmental damage, impacts on human health and economic or business downturn for the Australian agriculture and aquaculture industries.

Compromise to biosecurity

KEY POINTS

Compromise to biosecurity in Australia's maritime jurisdiction can come from inadvertent or deliberate introduction of pests, diseases and viruses.

Introduced pests, diseases and viruses have the potential to cause harm to the Australian economy, environment and human health.

Prevention, preparedness, response and recovery

- » The Department of Agriculture, Water and the Environment (DAWE) and the Department of Health (DoH) are the lead agencies for this maritime security threat.

Description

Australia's national interests are threatened by any compromise to its biosecurity introduced through the maritime environment. This includes the introduction of marine or land pests, diseases, and viruses, regardless of whether they affect agriculture, livestock, human health, or are harmful to Australia's natural flora and fauna.

Potential security threat events in this category include:

- » **Inadvertent introduction.** The primary risk of compromise to biosecurity comes through inadvertent introduction through illegal or commercial activity. This encompasses the threat posed by the inadvertent introduction of pests, diseases or viruses into Australia. One avenue of inadvertent introduction is through interaction with unauthorised maritime arrivals or foreign fishing vessels

- » **Deliberate introduction.** This encompasses any deliberate act to introduce a pest, disease, or virus into Australia's territory or population. Such deliberate actions could be politically motivated to harm Australia's population or agricultural industries or may be motivated by profit and target specific industries or markets.

Potential consequences for Australia

The potential consequences of compromise to biosecurity include environmental damage, impacts on human health and economic or business downturn for the Australian agriculture and aquaculture industries. A detrimental social impact may occur, along with detrimental impact to government reputation or threat to Australian sovereignty and detrimental effects on food security, agriculture and aquaculture.

Potential judicial consequences for individuals undertaking illegal or criminal acts

The potential consequences for an individual who compromises biosecurity include:

- » fine and/or imprisonment for the owner or master of the vessel involved
- » fine and/or imprisonment for other personnel involved in the illegal, or criminal activity
- » seizure, confiscation, or destruction of the vessel involved.

Stakeholder coordination

Lead agencies for biosecurity threats (DoH for compromises to public health or DAWE for biosecurity threats) manage prevention of and awareness about threats, as well as managing any response to threats.

The lead agencies coordinate a national response to biosecurity threats where needed.

Response to a threat may be organised cooperatively between lead agencies and involve stakeholder agencies, depending on the nature of the threat. This coordination will include establishment of incident response plans and direct liaison with state or territory agencies responsible for implementing on-ground actions.

In the case of a compromise to biosecurity, biosecurity zones may need to be established around the event. The scope of these zones will be established by the lead agencies in cooperation with the appropriate jurisdictional agencies. Maintenance of biosecurity zones may be allocated to containment forces such as the Australian Federal Police (AFP), state and Northern Territory police and the Australian Defence Force (ADF).

Transportation of response, recovery and containment forces is a key component to the management of the compromise to biosecurity threat. The following agencies can provide air and maritime surface transportation: Maritime Border Command (MBC), the Australian Antarctic Division (AAD), ADF, the Australian Maritime Safety Authority (AMSA) and the AFP, state and Northern Territory police.

DAWE will conduct the civil and criminal investigation and provide a brief of evidence for prosecution. However, if the threat is wide-ranging or transnational in nature, then the AFP may become responsible for the criminal investigation, and for providing a brief of evidence for prosecution.



Public information management

For this maritime security threat, public information management responsibilities lie with DAWE for biosecurity threats, or DoH's National Incident Room for compromise to human health.

International arrangements

The Australian Government is a signatory to international treaties that require the notification to international bodies of serious pest and disease incidents or threats. Under the International Health Regulations (2005), Australia (through DoH) will notify the World Health Organization of any incident of international public health concern.

Australia has ratified, and implements through the *Biosecurity Act 2015*, the International Convention for the Control and Management of Ships' Ballast Water and Sediments.

THREAT SNAPSHOT

THE BLACK STRIPED MUSSEL

The black striped mussel was discovered in Darwin Harbour during a resurvey of the Port of Darwin in 1999. Its presence in Cullen Bay Marina, and subsequently two other marinas, was the first recorded sighting of the species in Australia. Its establishment in Northern Territory (NT) waters had the potential to seriously affect marine biodiversity and threaten the social and economic benefits derived from aquaculture, recreational and commercial fishing, domestic and international tourism, and the shipping industry.

All vessels known to have been in any of Darwin's three marinas were contacted and checked through the coordinated efforts of AFMA and then Department of Agriculture, Water and the Environment. The then *Quarantine Act 1908* and the NT Fisheries Regulations were used in tandem to control vessel movements and order the inspection and cleaning of vessels.

The NT Department of Primary Industries acted as the lead agency for the eradication of the black striped mussels. Further assistance was provided by the Commonwealth Scientific and Industrial Research Organisation's Centre for Research on Introduced Marine Pests, the Museum and Art Gallery of the Northern Territory, the Northern Territory University and the ADF. Private business operators supplied supplementary divers, equipment and chemicals.

Cullen Bay Marina, which was the worst affected, was dosed with hypochlorite and copper sulfate over a three-week period, resulting in a complete kill of the black striped mussel. Eradication of the black striped mussel was successful.

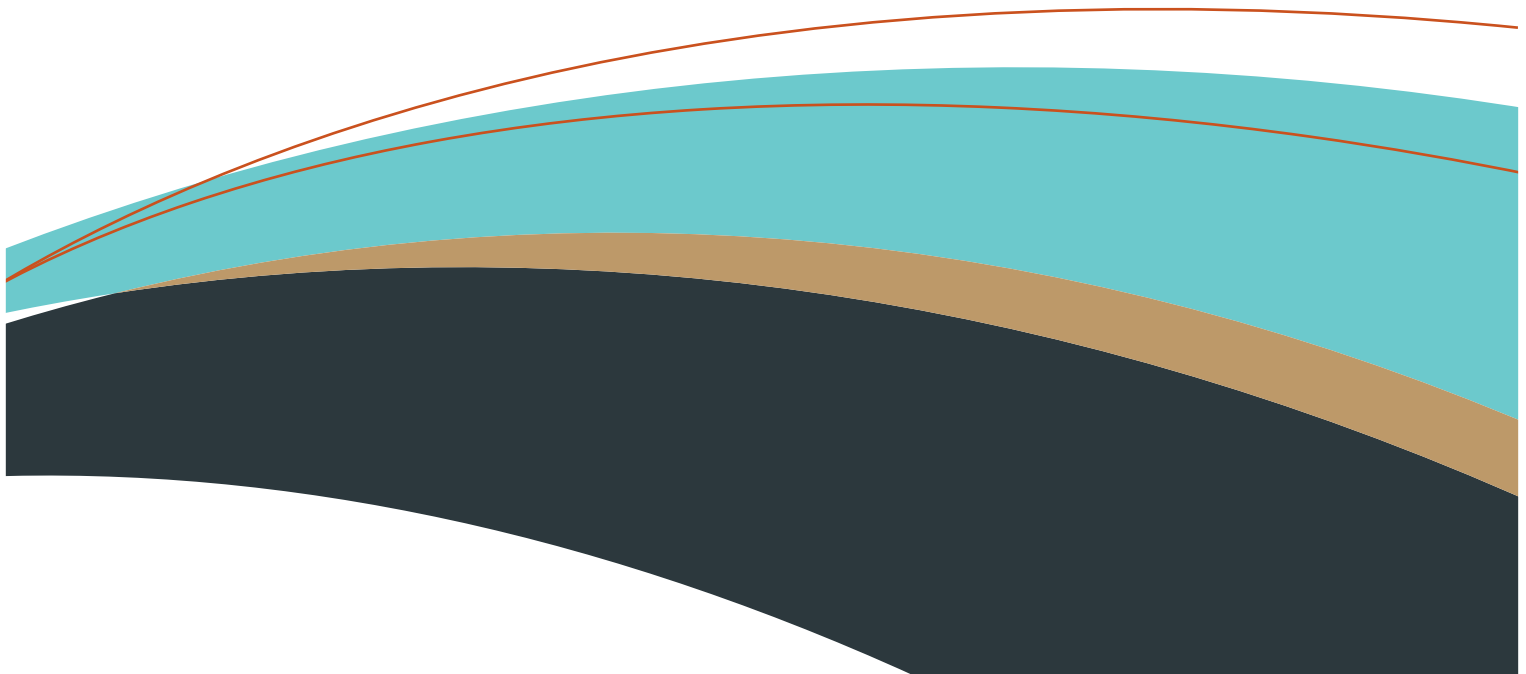


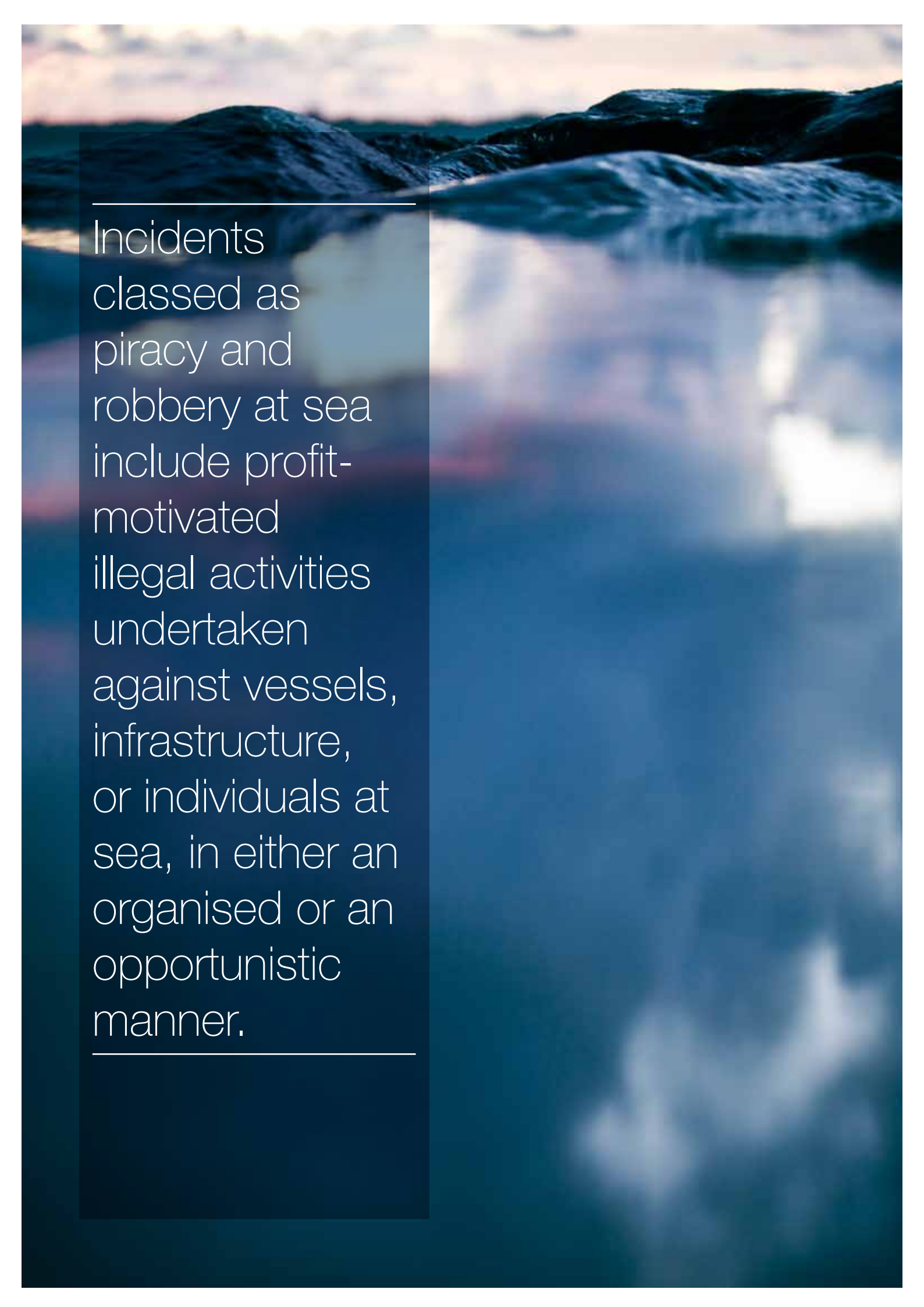
Table 6 Stakeholders and responsibilities: Compromise to biosecurity

STAKEHOLDER	ROLES	RESPONSIBILITIES
DAWE	LA	Regulation and response to biosecurity matters.
DOH	LA	Regulation to manage threats to public health and coordination of response for threats to public health.
ABF	Ps	Provides enforcement, (including the temporary holding and initial processing and repatriation of illegal foreign fishers) transportation and surveillance as required.
AFMA	Ps	Regulation of fishing activities and deterrence of illegal fishing activity within the AFZ, including the disposal of illegal foreign fishing vessels. Also responsible for disposal of SIEVs on land.
MBC	Ps	Provides enforcement, transportation and surveillance as required
GBRMPA	Ps	Regulates activity within, and provides advice on impacts to, the Great Barrier Reef World Heritage Area.
AAD	Ss	Provides assistance in the Antarctic region as required.
AFP	Ss	Deterrence and interception of prohibited imports and exports.
AGD	Ss	Provides government legal direction.
DEFENCE	Ss	Provides surveillance as required.
DFAT	Ss	If the issue has an international aspect
FINANCE/TREASURY	Ss	Provides specific financial arrangements as required.
INTELLIGENCE AGENCIES	Ss	Provides intelligence collection and analysis as required.
PM&C	Ss	Provides high-level policy advice as required.
STATE AND TERRITORY GOVERNMENTS	Ss	Provides local involvement as required.
STATE/TERRITORY POLICE	Ss	Provides armed law enforcement and assistance with prosecution as required.
<div> <div>LA</div> Lead Agency <div>Ps</div> Primary Stakeholder <div>Ss</div> Secondary Stakeholder </div>		

10

PIRACY, ROBBERY OR
VIOLENCE AT SEA





Incidents classed as piracy and robbery at sea include profit-motivated illegal activities undertaken against vessels, infrastructure, or individuals at sea, in either an organised or an opportunistic manner.

Piracy, robbery or violence at sea

Key points

- » Australia's national interests may be threatened by acts of piracy, robbery or violence at sea.
- » The Australian Government response to acts of piracy, robbery or violence at sea will be influenced by the location or nature of the incident, the flag state of the vessel and nationality of those involved.
- » The legal issues surrounding the response and recovery for this maritime security threat are numerous.

Prevention and preparedness

- » The Department of Home Affairs (Home Affairs) has a preventative security regulatory role in safeguarding against unlawful interference with security regulated ports, ships and offshore facilities.

Response and recovery

- » Maritime Border Command (MBC) is the lead agency for the operational coordination for the response and recovery aspects of piracy, robbery and violence at sea, including law enforcement response, command and control, transportation and surveillance. The coordination framework and responsibilities is covered in MBC's Australian Piracy, Robbery or Violence At Sea Plan (AUSPRVSPAN).

Description

Australia's national interests may be threatened by an act of piracy, robbery, or violence at sea. Incidents classed as piracy and robbery at sea include profit-motivated illegal activities undertaken against vessels, infrastructure, or individuals at sea, in either an organised or an opportunistic manner. Specific definitions of piracy and robbery at sea are outlined below. Violence is generally intrinsic in acts of piracy and robbery at sea, but violence can also occur as an isolated and unrelated event.

This chapter deals only with those incidents occurring with an Australian connection. This could include an event occurring within Australian territorial waters, involvement of Australian flagged vessels or, or nationals, or an occurrence in the Australian Security Forces Authority Area (SFAA).

Definitions

The **United Nations Convention on the Law of the Sea (UNCLOS)** is the principal piece of international law on the subject of piracy and provides universal jurisdiction for all states to act to suppress piracy on the high seas and in areas outside the jurisdiction of any state. UNCLOS also provides the definition of piracy upon which Australian domestic law is based. Australia implements the piracy provisions of UNCLOS through the **Crimes Act 1914 (Crimes Act)**, making piracy a criminal offence under Australian law. The **Crimes Act** also covers acts of **armed robbery at sea** within the territorial sea of Australia.

Definition of Piracy: In accordance with the **Crimes Act** an act of piracy means an act of violence, detention or depredation committed for private ends by the crew or passengers of a private ship or aircraft and directed:

- » if the act is done on the high seas or in the coastal sea of Australia—against another ship or aircraft or against persons or property on board another ship or aircraft
- » if the act is done in a place beyond the jurisdiction of any country—against a ship, aircraft, persons or property.

The **Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation 1988** (SUA Convention), and the **Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf 1998**, deal with the broader concept of violence at sea. The main purpose of the SUA Convention is to ensure that appropriate action is taken against persons committing unlawful acts against ships. These include the seizure of ships by force, acts of violence against persons on board ships, and the placing of devices on board a ship which are likely to destroy or damage it.

The SUA is given effect through the *Crimes (Ships and Fixed Platforms) Act 1992*.

The Act makes unlawful the seizure of ships and fixed platforms, various acts of violence endangering safe navigation of private ships and acts of violence endangering the safety of fixed platforms.

Definition of robbery and violence at sea: Robbery is an offence under Australian domestic law, with the central elements being the unlawful taking of property with intent to permanently deprive the owner of the property, accompanied by the use, and/or threatened use of immediate force or violence. **Robbery at sea differs from piracy in that, rather than being a crime on the High Seas, it occurs within the national jurisdiction of individual states.** In accordance with the International Maritime Organization's (IMO's) Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery against Ships, is defined as:

- (a) any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State's internal waters, archipelagic waters and territorial sea;
- (b) any act of inciting or of intentionally facilitating an act described above.

The **Crimes at Sea Act 2000** establishes a cooperative scheme between the Commonwealth and states to apply the criminal law of the states extraterritorially in areas adjacent to the coast of Australia, including offences for armed robbery or other violent acts. The CAS Act also applies the criminal law in force in the Jervis Bay Territory to the area beyond the adjacent area for acts connected with Australian ships, acts committed by Australian citizens, and acts connected with foreign ships where the first port of call after a criminal act occurs is in Australia.



Potential consequences for Australia

The potential consequences of piracy, robbery, or violence at sea are the threat of death, or injury to humans, disruption of commercial shipping activity, damage to and destruction of property and damage to Commonwealth marine reserves and other protected areas. The security of shipping lanes throughout Asia and of the maritime approaches to Australia is essential for international trade. The threat towards Australian cargo transported via international shipping is as high as it is for any other international shipping country or ship owner or operator.

Potential judicial consequences for individuals undertaking illegal or criminal acts

The potential consequences to an individual who undertakes an act of piracy, robbery, or violence at sea include:

- » fine and/or imprisonment for those individuals involved
- » seizure or confiscation of the proceeds of the illegal, or criminal activity
- » seizure, confiscation, or destruction of the vessel involved.

Response framework

The Australian Government's framework for responding to acts of piracy within the SFAA is outlined in the **Australian Piracy, Robbery or Violence at Sea Plan (AUSPRVSPLAN)**. This plan is managed by Maritime Border Command (MBC). AUSPRVSPLAN provides the framework for coordinating a response to an incident on the high seas and specifies that incidents occurring within the territorial sea would usually be managed by state or territory police (where the state or territory has the capacity to manage the incident).

Numerous Commonwealth agencies have responsibilities in relation to this maritime security threat. Commander MBC as the SFA is responsible for the coordinated whole-of-government response to acts of violence against ships occurring within the SFAA and adjacent areas. Various other agencies have primary and secondary stakeholder responsibilities.

THREAT SNAPSHOT

THE *MAERSK ALABAMA*

Incidents of piracy, robbery or violence at sea are rare in the Australian Security Forces Authority Area. For that reason, this case study relates to an incident that occurred on a merchant vessel bound for Mombasa, Kenya. The merchant vessel *Maersk Alabama* was loaded with aid cargo bound for Africa when four Somali pirates attacked the ship in April 2009. The crew deployed anti-piracy measures, including the use of a secure room to provide shelter for the crew during the course of the attack. During the incursion the pirates captured the ship's captain and departed the ship using the ship's lifeboat. The United States destroyer USS *Bainbridge* was dispatched and reached the *Maersk Alabama*, with the intention of rescuing the *Maersk Alabama's* captain. A stand-off occurred with the lifeboat holding the pirates and captain, which was resolved when US Navy SEAL snipers shot and killed the three pirates and rescued the captain from the lifeboat.

If this situation occurred in the Australian territorial sea the state or territory responsible for those waters would be required to respond to that incident. Within the SFAA but outside of these waters the Australian Government may be involved in coordinating or responding to the incident. Should the Australian Government need to respond to an incident relating to the security threat 'piracy, robbery or violence at sea', MBC would coordinate the whole-of-government response.

This incident was subsequently made into a movie starring Tom Hanks called "Captain Phillips".



Stakeholder coordination

Acts of piracy, robbery or violence at sea occurring in the territorial sea, state or territory ports or internal waters that are within the capacity of the state or territory. For acts of piracy and violence at sea which are beyond the State or Territory capacity or jurisdiction to respond, the Australian Government, through MBC, is responsible for coordinating the response to the incident. The maritime zones where state or territory laws apply are shown in Figure 7. Examples of offences that fall under state or territory jurisdiction include matters arising under the applied laws, including matters such as murder, theft or assault. The **National Protocol for Receiving Reports of Crimes At Sea** (the protocol) provides a framework to ensure that reports of crimes at sea receive an appropriate response regardless of who they are reported to.

Under this maritime security threat, where an offence has occurred, numerous authorities may be involved in the subsequent investigation. The protocol provides for law enforcement agencies (Commonwealth, state and territory) to decide on the most appropriate agency to

lead the investigation and enforce the legislation. Agencies would consider the flag state of the vessel or platform and the nationality of the persons involved in the alleged criminal activity in making this decision. MBC would deliver the law enforcement effect.

In general terms, the AFP would usually lead the investigation into an incident under this threat, in coordination with other relevant agencies, including those from foreign governments. Where a prosecution is to be mounted into an alleged offence, this would usually be led by the Commonwealth Director of Public Prosecutions. Further, some Australian states have their own piracy offences, separate from those in the **Crimes Act** and may elect to investigate and prosecute offences under their legislation.

Public information management

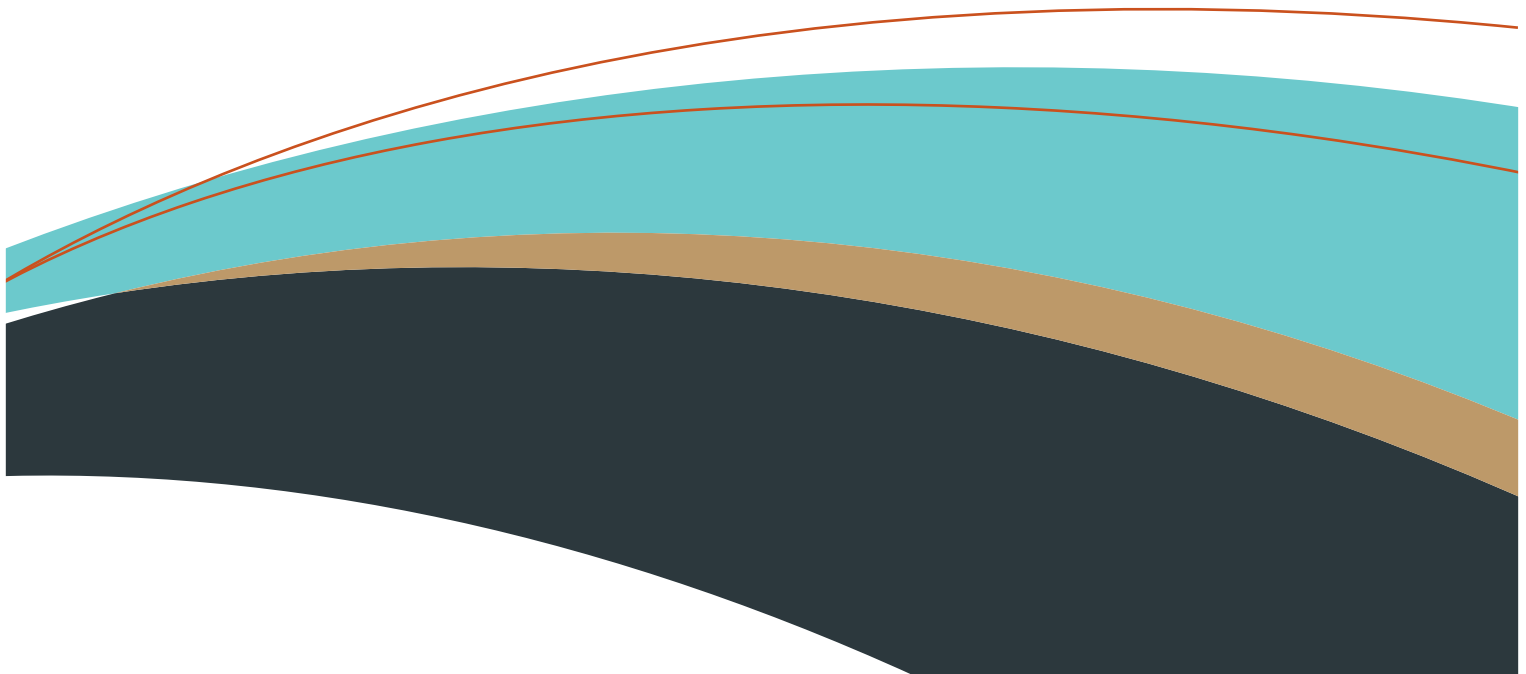
Public information management responsibilities lie with Department of Home Affairs media and communications in consultation with the Attorney-General's Department and other agencies as appropriate.

Table 7 Stakeholders and responsibilities: Piracy, robbery or violence at sea

STAKEHOLDER	ROLES	RESPONSIBILITIES
ABF (MBC)	LA	Lead agency for the response and recovery aspect of the threat. Provides law enforcement response, command and control, transportation or surveillance. MBC is responsible for the coordinated whole-of-government response on the high seas.
ABF (Wider Commands)	Ps	Provides transport and surveillance as required.
AFP	Ps	Responsible for investigation of criminal activity that may be appropriately dealt with under Commonwealth legislation.
AGD	Ps	Government legal direction, including on matters of international law (Office of International Law).
AMSA	Ps	Regulation of maritime safety activities, surveillance and response for SOLAS events.
HOME AFFAIRS	Ps	Has a preventative security regulatory role in safeguarding against unlawful interference with security regulated ports, ships and offshore facilities. Provides assistance when illegal entry into Australia is a consideration.
INTELLIGENCE AGENCIES	Ps	Provides intelligence collection and analysis where necessary.
STATE AND TERRITORY POLICE	Ps	Responsible for investigation of criminal activity (in the case of robbery and violence at sea) that may be more appropriately dealt with under state or territory legislation rather than Commonwealth legislation. Acts of robbery or violence occurring in the territorial sea, ports or internal waters that are within the capacity of the state or territory to manage would normally be dealt with by state or territory law enforcement agencies.
AAD	Ss	Provides assistance within the Antarctic region as required.
DEFENCE	Ss	Provides transport, surveillance and area security and maritime industry advice as required.
DFAT	Ss	Provides advice if the issue has an international aspect.
FINANCE/TREASURY	Ss	Responsible for specific financial arrangements as required.
GBRMPA	Ss	Works with Queensland agencies for response to, and recovery from environmental impacts within the Great Barrier Reef World Heritage Area
PM&C	Ss	Provides high-level policy advice as required.
NOPSEMA	Ss	Responsible for regulation of offshore petroleum activities in Commonwealth waters and state and territory waters where this responsibility is conferred.
DAWE	Ss	Provides assistance and environmental advice in relation to recovery of impacts within Commonwealth marine reserves.
STATE AND TERRITORY GOVERNMENTS	Ss	Provides local involvement as required.
<div> <div>LA Lead Agency</div> <div>Ps Primary Stakeholder</div> <div>Ss Secondary Stakeholder</div> </div>		

11

MARITIME TERRORISM



Maritime
Border
Command
(MBC) is the
lead for the
response and
recovery
aspects of this
security threat.



Maritime terrorism

KEY POINTS

The arrangements for maritime terrorism incidents are drawn from the National Counter-Terrorism Plan; with numerous agencies with significant roles working together to counter this threat.

Security threats in this category include attacks on fixed infrastructure, including attacks against vessels; attacks on commercial interests; and incidents mounted from, or through, the maritime environment.

Prevention and preparedness

- » The Department of Home Affairs through Aviation and Maritime Security Division, has a preventative security (regulatory) role in safeguarding against unlawful interference with security regulated ports, ships and offshore facilities (including reducing vulnerability to terrorist attack). However, the Division is not the lead agency for this security threat.

Response and recovery

- » Maritime Border Command (MBC) is the designated lead coordinator for the operational response and recovery aspects of this security threat within the Offshore Area. Acts of maritime terrorism occurring in state or territory ports or internal waters that are within the capacity of the state or territory to manage would normally be dealt with by state or territory law enforcement agencies. Outside of these waters (including the territorial sea baseline to the territorial sea) the Commonwealth is responsible under the National Counter-Terrorism Plan.

Description

Australia's national interests may be threatened by any act of maritime terrorism. Terrorism is a criminal activity intended to coerce or intimidate governments or public to meet political, religious, or ideological objectives. The scope of actions that could conceivably constitute maritime terrorism is vast. However, of primary concern, are incidents considered to be of terrorist intent that manifest either in, or through, Australia's maritime jurisdiction. Potential security threat events in this category include:

- » Attacks on fixed infrastructure: This encompasses infrastructure associated with ports, maritime navigation, the offshore oil and gas industry, submerged pipelines and communications cables.
- » Attacks against vessels: This encompasses both publicly and privately owned vessels, whether Australian, or foreign flagged, within Australia's Security Forces Authority, including merchant shipping, cruise ships, pleasure craft, ferries and government vessels such as those operated by the Royal Australian Navy and the Australian Border Force.
- » Attacks on commercial interests: This encompasses commercial enterprises that derive income through access to the exclusive economic zone (EEZ), such as the tourist and fishing industries.
- » Incidents mounted from, or through, the maritime environment: This encompasses terrorist actions, facilitation of terrorist actions and support against any target, including those on land, which seek access through Australia's maritime approaches.

Potential consequences for Australia

The potential consequences of maritime terrorism include economic downturn, the threat of death or injury to humans and damage to Commonwealth marine reserves and other protected areas.

Potential judicial consequences for individuals undertaking illegal or criminal acts

It is important to note that, while all acts of terrorism are criminal, not all criminal acts constitute terrorism. Differing motivations for criminals and terrorists exist, with organised criminal activity generally being based on a desire for financial gain, as opposed to terrorism where an ideological or political purpose is required.

The potential consequences for an individual who is involved in maritime criminality include, but are not limited to:

- » fine and/or imprisonment for the owner or master of the vessel involved
- » fine and/or imprisonment for other personnel involved in the illegal, or criminal activity
- » seizure, confiscation, or destruction of the vessel involved.

Australia's terrorism offences are contained in Part 5.3 of the **Criminal Code Act 1995**. In particular, divisions 101–103 outline offences for terrorist acts, terrorist organisations, and the financing of terrorism.

The National Counter-Terrorism Plan outlines the responsibilities, authorities and the mechanisms to prevent, or if they occur, manage acts of terrorism and their consequences within Australia and offshore. The Australia-New Zealand Counter-Terrorism Committee oversees these national arrangements.

Commonwealth, state and territory agencies have responsibilities in relation to countering the threat of terrorism. Combating the threat of terrorism is a collaborative effort involving all Australian jurisdictions.

THREAT SNAPSHOT

Dongbang Giant No.2 ATTACK

To date there have been no notable incidents of terrorism in Australia's maritime jurisdiction. This case study is of an event that occurred in the maritime regions adjacent to the Philippines in 2016. Twenty gunmen attacked the Dongbang Giant No.2, a large cargo vessel, in the Celebes Sea off the Philippines coast. The vessel was enroute from Australia to Masan, South Korea. The militants, allegedly belonging to the Abu Sayyaf group, kidnapped the Korean master and a Filipino crew member.

Other crewmen were not seized and one managed to call his family, who reported the assault to authorities. The Philippines' counter-terror teams and the Philippine Navy were alerted. In the afternoon the vessel was found drifting.

The logistics for responding to a maritime terrorism incident, such as the *Donbang Giant No.2* terrorist attack, in Australia's maritime jurisdiction would be complex. As with most terrorism incidents, there would need to be a whole-of-government response. An incident in the vicinity of a major city or the coast could be expected to attract greater media attention than an incident in more remote waters. The response timeframes for an incident near a major city are likely to be less than for one that is more isolated, and it is likely that state or territory police will be the first responders in this scenario. As on land, there are jurisdictional boundaries on the water, and responsibility for the response may transfer accordingly between state jurisdictions and the Commonwealth.



Table 8 Stakeholders and responsibilities: Maritime terrorism

STAKEHOLDER	ROLES	RESPONSIBILITIES
ABF (MBC)	LA	Lead Commonwealth agency for whole-of-government coordination of response and recovery, as designated in the National Counter Terrorism Plan, for incidents beyond the coastal waters of states or territories.
ABF (Other Commands)	Ps	Provides transport and surveillance as required. Assist with maritime terrorism response inshore and at the waterfront, including ship and container searches, and assist with the Australian contribution to Proliferation Security Initiative operational exercises.
AFP	Ps	The AFP enforces Commonwealth criminal law and protects Commonwealth and national interests from crime. The AFP is the Commonwealth Government's primary law enforcement body.
AGD	Ps	Provides legislative advice and legal services as required.
AMSA	Ps	Provides surveillance and response to SOLAS events and pollution as required.
DEFENCE	Ps	The ADF maintains capabilities to assist civil authorities in emergencies under Defence Force Aid to Civilian Authorities through Part IIIAAA of the Defence Act.
HOME AFFAIRS	Ps	Responsible for visa vetting and processing people in post-response situations. Has a preventative security regulatory role in safeguarding against unlawful interference with security regulated ports, ships and offshore facilities (including reducing vulnerability to terrorist attack).
INTELLIGENCE AGENCIES	Ps	Responsible for intelligence collection and analysis.
PM&C	Ps	Coordinates Commonwealth policy responses to terrorism.
STATE OR TERRITORY POLICE	Ps	Contributes as part of inter-jurisdictional coordination arrangements under the National Counter-Terrorism Plan. Police have operational responsibility for preventing and responding to terrorism and will investigate possible terrorist activity.
DISER	Ps	Provides coordination across the Australian Government in the event of an offshore petroleum incident (pollution/ safety).
ARPANSA	Ss	Responsible for specialist advice regarding radiation effects.
DFAT	Ss	Responsible if the issue has an international aspect.
DOH	Ss	Provides health assistance as required.
FINANCE/TREASURY	Ss	Provides specific financial arrangements as required.
GBRMPA	Ss	Works with Queensland agencies for response to, and recovery from environmental impacts within the Great Barrier Reef World Heritage Area
NOPSEMA	Ss	Responsible for regulation of offshore petroleum activities in Commonwealth waters and state and territory waters where this responsibility is conferred.
AAD	Ss	Provides assistance within the Antarctic region as required.
STATE AND TERRITORY GOVERNMENTS	Ss	Provides local involvement as necessary.
<div>LA</div> Lead Agency <div>Ps</div> Primary Stakeholder <div>Ss</div> Secondary Stakeholder		

Stakeholder coordination

In accordance with the National Counter-Terrorism Plan, the Australian Government has direct responsibility for counter-terrorism prevention and response in the Australian offshore area (the area seaward of the Territorial Sea Baseline to the limitations of the EEZ or continental shelf), including the protection of oil and gas facilities within this area and the interdiction of ships. The states and territories have direct responsibility for prevention and response within their territories, internal waters and port limits.

The Department of Home Affairs, through the Aviation and Maritime Security Division, will determine the appropriate MARSEC level or security direction to raise industry's security response preparedness.

Commander MBC (Rear Admiral) will act as the federal government operational level, coordinating authority for any maritime terrorism threat or incident response. The coordinating function will be conducted via an Augmented Multi-Agency Task Force that draws together all the key government agencies and stakeholders.

The Australian Federal Police (AFP) or state and territory police are responsible for the criminal investigation and for providing a brief of evidence for prosecution.

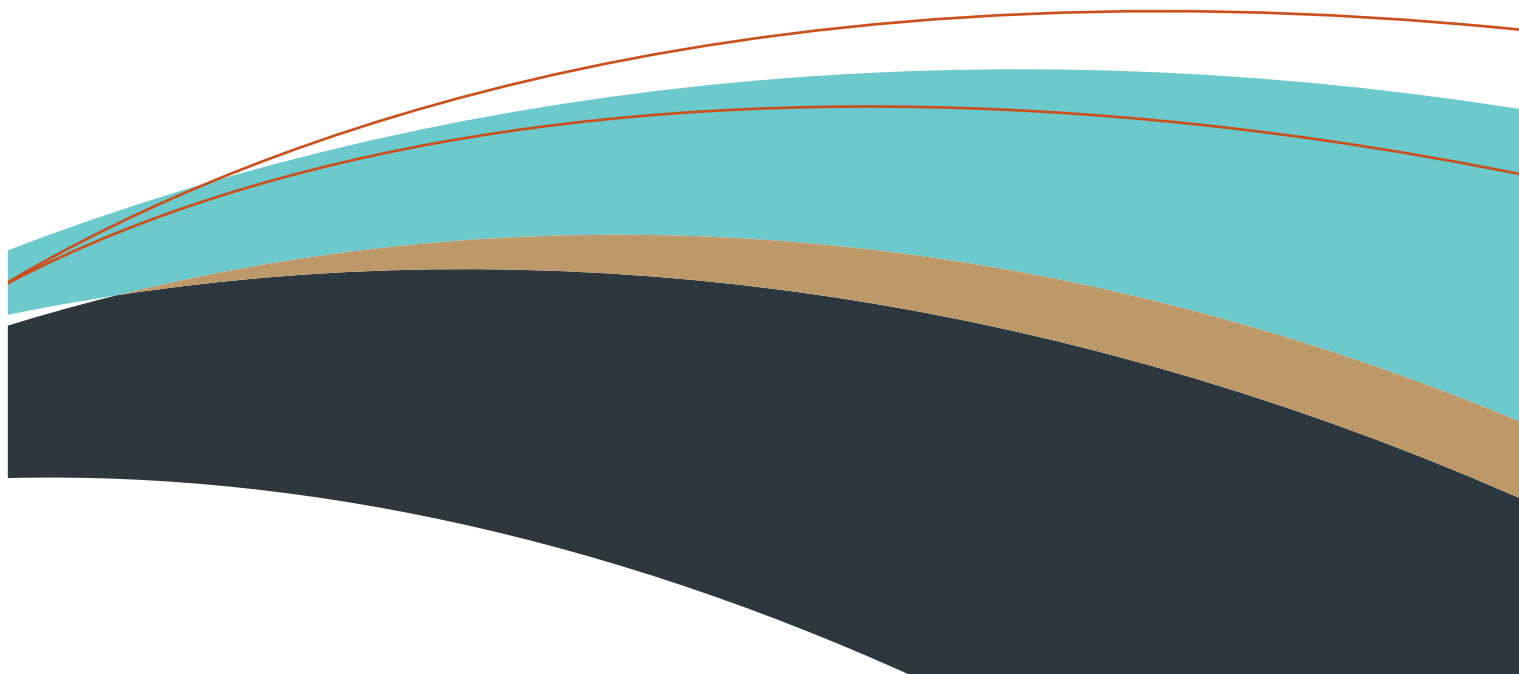
Public information management

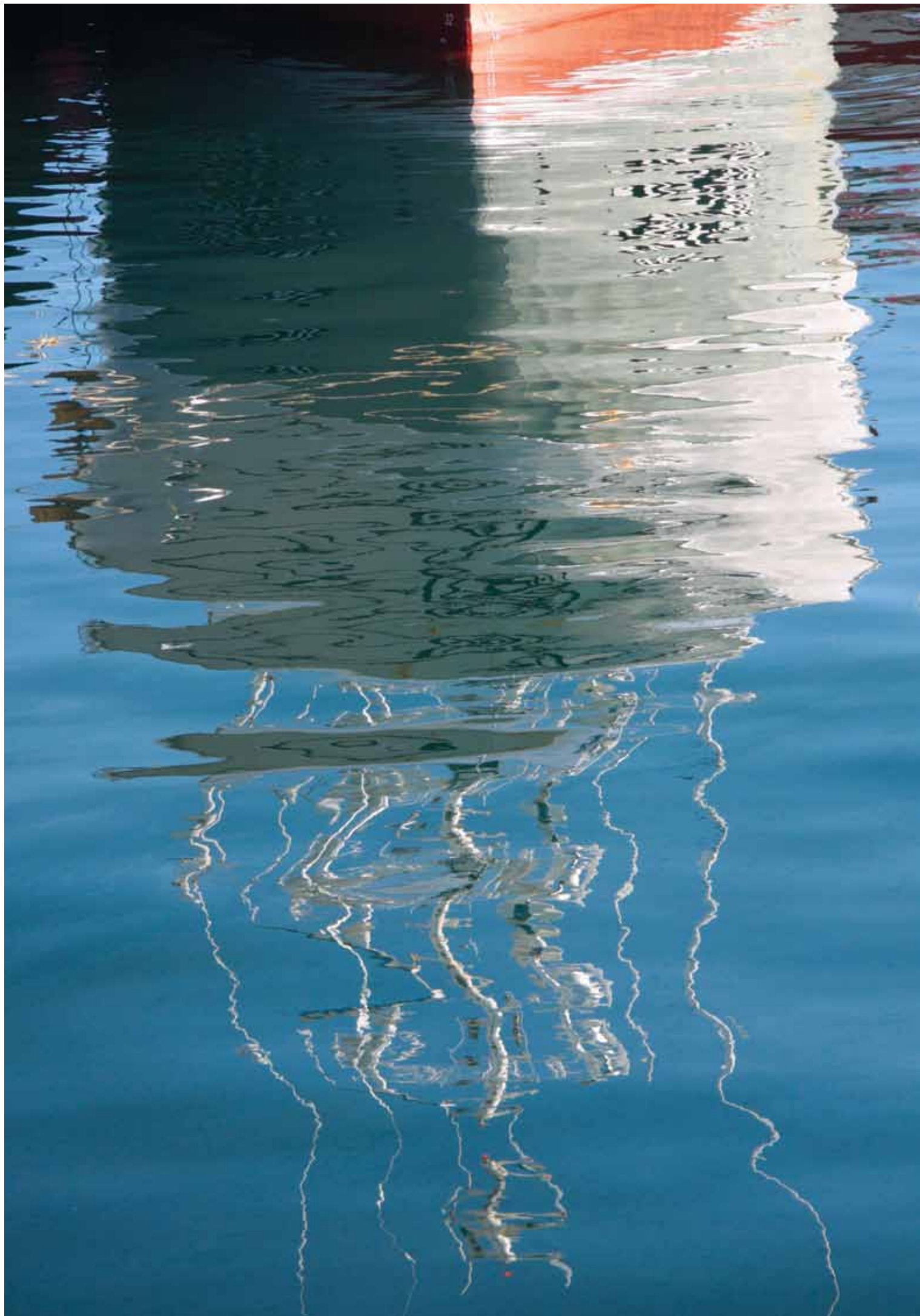
Coordination and consultation on public information is in accordance with the National Security Public Information Guidelines.





ANNEXES





Annex A – International arrangements

As the lead agency responsible for managing Australia's international affairs, the Department of Foreign Affairs and Trade (DFAT) is involved in maritime security issues of an international nature.

Organisations

Australia is a member of a number of multilateral international bodies that have links to maritime security.

The International Maritime Organization (IMO)

is responsible for developing and maintaining a comprehensive regulatory framework for shipping. Its remit includes safety, environmental concerns, legal matters, technical cooperation, maritime security and the efficiency of shipping. A specialised agency of the UN with 167 member states and three associate members, IMO is based in the United Kingdom and has around 300 international staff.

The **United Nations (UN)** is central to global efforts to solve problems that challenge humanity. Cooperating in this effort are more than 15 specialised agencies (including the IMO) and several programs and bodies, known together as the UN system. The UN and its family of organisations work to keep peace throughout the world, develop friendly relations among nations, promote respect for human rights, protect the environment, fight disease and reduce poverty. UN agencies define the standards for safe and efficient air travel and help improve telecommunications and enhance consumer protection. The UN leads the international campaigns against drug trafficking and terrorism.

The **World Health Organization (WHO)** is the directing and coordinating authority for health within the UN system. It is responsible for providing leadership on global health matters, shaping the health research agenda, setting norms and standards, articulating evidence-based policy options, providing technical support to countries, and monitoring and assessing health trends.

The **International Atomic Energy Agency (IAEA)**, the UN's 'nuclear watchdog', works for the safe, secure and peaceful uses of nuclear science and technology. Its key roles in application of nuclear safeguards contribute to international peace and security.

The Organisation for the Prohibition of Chemical

Weapons works to prevent proliferation of chemical weapons, through the application of the verification and implementation measures provided for in the Chemical Weapons Convention, which also serve to build confidence between state parties.

Plans and initiatives

Australia participates in the following international plans and initiatives, which contribute to managing security threats in the global maritime domain.

The **Proliferation Security Initiative (PSI)** is an integral part of the response to combat the proliferation of weapons of mass destruction (WMD), which is a threat to international peace and security. The PSI aims to help prevent the proliferation of WMD, their delivery systems and related materials through enhanced interdiction efforts. The PSI builds on existing multilateral non-proliferation efforts, and makes clear that any action under the PSI will be consistent with national authorities and relevant international law. A number of UN Security Council resolutions have been passed in support of PSI arrangements including 1540 (2004), 1673 (2006), 1696 (2006), 1737 (2006), 1747 (2007), 1803 (2008) and 1810 (2008).

The **International Plan of Action (IPOA) to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated (IUU) Fishing** was produced by the United Nations Food and Agriculture Organization (FAO) in 2001. Agriculture, Water and the Environment represents the Australian Government in the FAO. The objective of this plan is to prevent, deter and eliminate IUU fishing by providing all states with comprehensive, effective and transparent measures by which to act, including through appropriate regional fisheries management organisations established in accordance with international law.

The **International Ship and Port Facility Code**, adopted by the IMO in 2004, contains detailed security-related requirements for governments, port authorities and shipping companies in a mandatory section (Part A), and a series of guidelines about how to meet these requirements in a second, non-mandatory section (Part B).

The **United Nations Global Counter-Terrorism Strategy** was adopted by the UN General Assembly in 2006. The strategy is a unique instrument to enhance national, regional and international efforts to counter terrorism. Member states have agreed to a common strategic and operational approach to fight terrorism and have resolved to take practical steps individually and collectively to prevent and combat terrorism. A number of **UN Security Council resolutions** were issued prior to this strategy being adopted, including 1373 (2001) and 1535 (2004). Additional **UN Security Council resolutions** have been issued in support of this strategy and follow on arrangements, including 1787 (2007) and 1805 (2008).

Pandemic Influenza Risk Management: A WHO guide to inform and harmonize national and international pandemic preparedness and response is a guide to inform and harmonize national and international pandemic preparedness and response plans. It also outlines the roles and responsibilities of WHO relevant to pandemic preparedness, in terms of global leadership and support to Member States in line with other UN policies of crisis and emergency management.

Legally binding instruments (conventions, treaties and agreements)

Australia is signatory or party to the following international conventions and agreements, which contribute to the management of security threats in the global maritime domain:

The **United Nations Convention on the Law of the Sea** (UNCLOS) entered into force generally and for Australia in 1994 and provides a comprehensive regime dealing with all matters relating to the law of the sea. UNCLOS establishes a legal order of the seas and helps ensure an equitable and efficient utilisation of marine resources; conservation of living resources; and the study, protection and preservation of the marine environment. Consistent with UNCLOS and pursuant to proclamations under the **Seas and Submerged Lands Act 1973** Australia has a 12 nautical mile territorial sea, a 24 nautical mile contiguous zone and a 200 nautical mile **Exclusive Economic Zone (EEZ)**. More recently, Australia's sovereign rights and jurisdiction with respect to around 2.5 million square kilometres of extended continental shelf beyond the EEZ have been confirmed under UNCLOS. In addition,

in accordance with the Offshore Constitutional Settlement, a 3 nautical mile coastal waters zone has been declared.

Antarctic Treaty system

The **Antarctic Treaty** system establishes Antarctica as a natural reserve devoted to peace and science and puts in place principles for the governance of the region. These include freedom of scientific investigation, free exchange of scientific information, protection of the positions of Antarctic Treaty Parties on issues of sovereignty, and the non-militarisation of Antarctica and the Southern Ocean. The Antarctic Treaty system is made up of four major international agreements: the **1959 Antarctic Treaty**; the **1972 Convention for the Conservation of Antarctic Seals**; the **1980 Convention on the Conservation of Antarctic Marine Living Resources**; and the **1991 Protocol on Environmental Protection to the Antarctic Treaty**. These agreements are legally binding and purpose-built for the unique geographical, environmental and political characteristics of the Antarctic.

The **Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR)** entered into force in 1982, and is part of the Antarctic Treaty system. The objective of CCAMLR is the conservation of Antarctic marine living resources, where the definition of conservation includes rational use.

The **Convention for the Conservation of Antarctic Seals** entered into force in 1978 and for Australia in 1987. This Convention establishes a system of protection, scientific study and rational use of Antarctic seals.

Conservation

The **Agreement on the Conservation of Albatrosses and Petrels (ACAP)** seeks to conserve albatrosses and petrels by coordinating international activity to mitigate known threats to their populations. ACAP came into force in February 2004 and currently has 13 member countries (including Australia) and over 30 species of albatrosses, petrels and shearwaters.

The **Convention on Biological Diversity** entered into force generally and for Australia in 1993. Its aim is the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the use of genetic resources, including by appropriate access to genetic resources.

The **Convention for the Protection of the Natural Resources and Environment of the South Pacific Region** entered into force generally and for Australia in 1990. This convention has the objective of protecting and managing the natural resources and environment of the South Pacific region.

The **Convention on International Trade in Endangered Species** entered into force generally in 1975 and for Australia in 1976. This convention aims to ensure that international trade in specimens of wild animals and plants does not threaten their survival.

The **Convention for the Protection of the World Cultural and Natural Heritage** (World Heritage Convention) entered into force generally and for Australia in 1975. Each state party to this convention recognises that the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage situated on its territory belongs primarily to that state.

The **International Convention for the Regulation of Whaling** entered into force generally and for Australia in 1948 to provide for the proper conservation of whale stocks and thus make possible the orderly development of the whaling industry. It governs the commercial, scientific, and aboriginal subsistence whaling practices of 89 member nations.

Fisheries, including fisheries surveillance and law enforcement

The **Pacific Islands Forum Fisheries Agency (FFA)** strengthens national capacity and regional solidarity so its 17 members can manage, control and develop their tuna fisheries. FFA provides assistance to Monitoring Control and Surveillance (MCS) activities, policy and services, for members to strengthen national capacity and regional solidarity to prevent, deter and eliminate IUU fishing in the Pacific. The FFA provides assistance with the development of agreements under the **Niue Treaty and the Niue Treaty Subsidiary Agreement**, which provides for cooperative fisheries enforcement between the parties.

The **Treaty between the Government of Australia and the Government of the French Republic on cooperation in the maritime areas adjacent to the French Southern and Antarctic Territories, Heard Island and the McDonald Islands**, entered into force in 2005. The treaty's aim is to enhance cooperative surveillance efforts to combat illegal, unreported and unregulated (IUU) fishing in the Southern Ocean in the region of the Territory of Heard Island and McDonald Islands.

The **Agreement on Cooperative Enforcement of Fisheries Laws between the Government of Australia and the Government of the French Republic in the Maritime Areas Adjacent to the French Southern and Antarctic Territories, Heard Island and the McDonald Islands** entered into force in 2011. It relates to cooperative surveillance and law enforcement against IUU fishing in the territorial seas and EEZs of the Australian Territory of Heard Island and McDonald Islands and French Southern Ocean Territories, building on the 2005 treaty.

The **Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas** entered into force generally in 2003 and for Australia in 2004. This agreement applies to all fishing vessels that are used or intended for fishing on the high seas, and outlines the responsibilities of operators of those vessels and the flag state.

The **Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea** of 10 December 1982 relating to the **Conservation and management of Straddling Fish Stocks and Highly Migratory Fish Stocks (Fish Stocks Agreement - FSA)** entered into force in 2001. The essential purpose of the FSA is to allow States who are members to board, in their own EEZ or on the high seas, vessels of other States that are members of the FSA. The stated objective of the FSA is to ensure the long term conservation and sustainable use of straddling fish stocks, and highly migratory fish stocks, through effective implementation of the relevant provisions of the United Nations Convention on the Law of the Sea (UNCLOS), being Articles 63 and 64. It also implements UNCLOS Article 118, which creates a duty on States parties to co-operate 'in the conservation and management of living resources in the areas of the high seas'.

The **Convention on the Conservation of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Western and Central Pacific Fisheries Convention)** entered into force generally and for Australia in 2004. The aim of this convention is to ensure, through effective management, the long-term conservation and sustainable use of highly migratory fish stocks in the western and central Pacific Ocean. This convention established the **Western and Central Pacific Fisheries Commission**, the purpose of which is to implement the convention.

The **Convention for the Conservation of Southern Bluefin Tuna** entered into force generally and for Australia in 1994. This convention ensures, through appropriate management, the conservation and optimum use of southern bluefin tuna.

The **Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific (Wellington Convention)** entered into force generally in 1991 and for Australia in 1992. This convention seeks to have the practice of longline driftnetting in the South Pacific region prohibited where possible and otherwise discouraged.

The **Agreement for the Establishment of the Indian Ocean Tuna Commission** entered into force in 1996 and aims to promote cooperation among its members to ensure, through appropriate management, the conservation and optimal use of tuna and tuna-like fishes and encourage sustainable development of fisheries based on such stocks.

The Southern Indian Ocean Fisheries Agreement entered into force in 2012. The Agreement is a legally binding treaty, which aims to ensure the long term conservation and sustainable use of the fishery resources in the agreement area through cooperation among its contracting parties.

The **Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean** entered into force generally and for Australia in August 2012. The aim of this Convention is to ensure the long-term, sustainable management of the non-tuna resources in the South Pacific ocean and the marine ecosystems in which they occur.

The **Exchange of Notes Constituting an Agreement between the Australia and the United States of America on Access to the Australian Fishing Zone** entered into force in 1987. Under this agreement, Australia opens all or parts of the waters surrounding Christmas Island, and Cocos (Keeling) Islands to fishing by United States vessels pursuant to the Treaty on Fisheries between the governments of Certain Pacific Island States, and the Government of the United States of America.

The **Agreement between Australia and the Republic of Indonesia relating to Cooperation in Fisheries** entered into force in 1993. The agreement aims to facilitate cooperation in fisheries research relevant to the conservation and optimum use of marine living resources.

Safety at sea

The **International Convention for the Safety of Life at Sea** entered into force generally in 1965 and for Australia in 1968. This convention specifies the minimum standards for the construction, equipment and operation of ships, compatible with their safety.

The **Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA Convention)** entered into force generally in 1992 and for Australia in 1993. The main purpose of this convention is to ensure that appropriate action is taken against persons committing unlawful acts against ships. These include the seizure of ships by force; acts of violence against persons on board ships; and the placing of devices on board a ship which are likely to destroy or damage it. The **Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf** is a protocol to the SUA Convention which entered into force generally in 1992 and for Australia in 1993. This protocol includes the fixed platforms operating on the continental shelf within the provisions of the SUA Convention. The **2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol of 2005 to the 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf** were further updates to the SUA Convention.

The **Customs Convention on Containers** entered into force generally in 1975 and for Australia in 1976 to develop and facilitate international carriage by container.

Hazardous materials

The **International Convention for the Control and Management of Ships' Ballast Water and Sediments (BWS Convention)**, was ratified by Australia and entered into force generally in 2017. Parties to this convention undertake to prevent, minimise and ultimately eliminate the transfer of harmful aquatic organisms and pathogens through the control and management of ships' ballast water and sediments.

The **International Convention on the Control of Harmful Anti-fouling Systems on Ships, (AFS Convention)** entered into force generally and for Australia in 2003. It prohibits the use of harmful organotins in anti-fouling paints used on ships and will establish a mechanism to prevent the potential future use of other harmful substances in anti-fouling systems.

The **Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention)** entered into force generally and for Australia in 1992. This convention is the most comprehensive global environmental agreement on hazardous and other wastes. The convention has 179 parties and aims to protect human health and the environment against the adverse effects resulting from the generation, management, transboundary movements and disposal of hazardous and other wastes.

The **International Convention for the Prevention of Pollution from Ships (MARPOL 73/78)** entered into force in 1983. Annex IV of MARPOL 73/78 entered into force for Australia in May 2004 in accordance with Article 15(2) of the convention (MARPOL 73/78). MARPOL is the main international convention covering prevention of pollution of the marine environment by ships from operational or accidental causes. The convention includes regulations aimed at preventing and minimising pollution from ships—both accidental pollution and that from routine operations.

The **International Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Convention)** entered into force generally in 1975 and for Australia in 1985. This convention contributes to the international control and prevention of marine pollution. It prohibits the dumping of certain hazardous materials, requires a prior special permit for the dumping of a number of other identified materials and a prior general permit for other wastes or matter.

Oil pollution

The **International Convention on Oil Pollution Preparedness, Response and Co-operation** entered into force generally in 1995. This convention requires parties to establish measures for dealing with pollution incidents, either nationally or in cooperation with other countries. Ships are required to carry a shipboard oil pollution emergency plan, to be developed by the IMO. Operators of offshore units under the jurisdiction of parties are also required to have oil pollution emergency plans or similar arrangements, which must be coordinated with national systems for responding promptly and effectively to oil pollution incidents.

The **International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties** entered into force generally in 1975 and for Australia in 1984. This convention affirms the right of a coastal state to take such measures on the high seas as may be necessary to prevent, mitigate, or eliminate danger to its coastline or related interests from pollution by oil, or the threat thereof, following upon a maritime casualty. The convention applies to all seagoing vessels except warships or other vessels owned or operated by a state and used on government non-commercial service.

The **International Convention on Civil Liability for Oil Pollution Damage** entered into force generally in 1975 and for Australia in 1984 to ensure that adequate compensation is available to people who suffer damage from oil pollution that results from maritime casualties involving oil-carrying ships. The convention places the liability for such damage on the owner of the ship from which the polluting oil escaped or was discharged.

Weapons and nuclear materials

The **Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction** entered into force generally and for Australia in 1997. This convention prohibits all development, production, acquisition, stockpiling, retention, transfer and use of chemical weapons. It requires each state party to destroy chemical weapons and chemical weapons production facilities it possesses, as well as any chemical weapons

it may have abandoned on the territory of another state party.

The **Convention on the Physical Protection of Nuclear Material** entered into force generally and for Australia in 1987. This convention makes it legally binding for parties to protect nuclear facilities and material used for peaceful purposes while in domestic use, storage and transport. It also provides for expanded cooperation between and among states on rapid measures to locate and recover stolen or smuggled nuclear material and requires states to criminalise particular offences under its national laws. Each state party shall take appropriate steps within the framework of its national law and consistent with international law to ensure as far as practicable that, during international nuclear transport, nuclear material within its territory or on board a ship or aircraft under its jurisdiction, insofar as such ship or aircraft is engaged in the transport to or from that state, is protected at the levels described in this convention.

The **South Pacific Nuclear Free Zone Treaty (Treaty of Rarotonga)** entered into force generally and for Australia in 1986. It is a regional nuclear non-proliferation treaty, by which Australia and a number of Pacific island states agree to ban the use, testing and possession of nuclear weapons within a defined zone within the South Pacific and to ensure that the provision of nuclear material is for peaceful purposes and subject to appropriate safeguards.

The **Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction** entered into force generally in 1975 and for Australia in 1977. This convention requires states to never in any circumstances develop, produce, stockpile, acquire or retain biological agents or toxins and weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes in armed conflict. States are required to destroy or divert to peaceful purposes all such agents, toxins and related equipment.

The **Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof** entered into force generally in 1972 and for Australia in 1973 as a step toward disarmament, the reduction of international tensions and the maintenance of world peace. The treaty prohibits the placement of nuclear weapons, or other weapons of mass

destruction, or structures for launching, storing, testing, or using such weapons on or under the seabed and the ocean floor.

The **Treaty on the Non-Proliferation of Nuclear Weapons** entered into force generally in 1970 and for Australia in 1973. The treaty seeks to prevent the spread of nuclear weapons and weapons technology, to promote cooperation in the peaceful uses of nuclear energy and to further the goal of achieving nuclear disarmament.

The **Treaty Banning Nuclear Weapons Tests in the Atmosphere, in Outer Space and Under Water** entered into force generally and for Australia in 1963. The treaty requires states to prohibit, prevent and to refrain from carrying out any nuclear weapon test explosion or any other nuclear explosion at any place under its jurisdiction or control.

Other

The **International Telecommunications Convention, Final Protocol, Additional Protocols I- VII and Optional Additional Protocol**, entered into force generally and for Australia in 2008. It maintains and extends international cooperation between all International Telecommunications Union member states for the improvement and rational use of telecommunications of all kinds, as well as to promote and to offer technical assistance to developing countries in the field of telecommunications.

The **Agreement between Australia and the Republic of Indonesia on the Framework for Security Cooperation (Lombok Agreement)** entered into force in 2008. The treaty provides a framework for expanding bilateral cooperation between Australia and Indonesia on matters affecting their common security and their respective national security. The treaty endorses ongoing work by the governments of both countries to strengthen bilateral security cooperation, such as high-level dialogue and consultation, and institutional exchanges and activities.

The **United Nations Convention Against Transnational Organised Crime** was adopted in November 2000 and aims to promote cooperation to prevent and combat transnational organised crime more effectively. The subsequent **Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children** supplements this convention and aims to prevent and

combat trafficking in persons, paying particular attention to women and children; protect and assist the victims of such trafficking, with full respect for their human rights; and promote cooperation among states in order to meet those objectives. The **Protocol Against the Smuggling of Migrants by Land, Sea and Air** further supplements this convention and aims to prevent and combat the smuggling of migrants and to promote cooperation among states to that end, while protecting the rights of smuggled migrants.

The **United Nations Convention Against Illicit Traffic of Narcotic Drugs and Psychotropic Substances 1988** entered into force generally in 1990 and for Australia in 1993. It promotes cooperation among the parties so that they may address more effectively the various aspects of illicit traffic in narcotic drugs and psychotropic substances.

The **United Nations Convention Relating to the Status of Refugees** entered into force in 1954 and was followed by the Protocol relating to the Status of Refugees, which entered into force in 1967. This convention defines refugees and the obligations of signatory countries towards them.

The **Treaty between Australia and the Independent State of Papua New Guinea Concerning Sovereignty and Maritime Boundaries in the area between the two Countries, including the area known as Torres Strait, and Related Matters (Torres Strait Treaty)** entered into force in 1985. The treaty sets down an agreed position on sovereignty over certain islands, establishes maritime boundaries and provides for certain other related matters, including traditional fishing rights and movement in the area between the two countries, including the Torres Strait.

The **Agreement between the Government of the Commonwealth of Australia and the Government of the Republic of Indonesia establishing Certain Seabed Boundaries and the Agreement between the Government of the Commonwealth of Australia and the Government of the Republic of Indonesia Establishing Certain Seabed Boundaries In the Area of the Timor and Arafura Seas, Supplementary to the Agreement of 18 May 1971**, both of which entered into force in 1973, established the seabed boundaries between Australia and Indonesia in the Arafura and Timor Seas, to the east and west of the area of seabed now covered by the TST.

The Treaty between the Government of Australia and the Government of the Republic of Indonesia Establishing an Exclusive Economic Zone Boundary and Certain Seabed Boundaries (Perth Treaty) signed in 1997 is yet to enter into force. The treaty finalises the maritime (water column and seabed) boundaries between Australia and Indonesia where not established by previous agreements.

The Agreement between Australia and the Netherlands Concerning Old Dutch Shipwrecks, which entered into force in 1972, provides for the transfer to Australia of rights, titles and interest in and to wrecked vessels of the Vereenigde Oostindische Compagnie (the Dutch East India Company) lying on or off the coast of Western Australia.

Non-legally binding instruments (arrangements, declarations, MOAs, MOUs and codes of conduct)

The following arrangements, declarations, MOAs and MOUs directly involve Australia.

Fisheries

The **Memorandum of Understanding between the Government of the Republic of Indonesia and the Government of Australia Concerning the Implementation of a Provisional Fisheries Surveillance and Enforcement Arrangement** signed in 1982. The MOU established the Provisional Fisheries Surveillance and Enforcement Line to delineate areas of responsibility for surveillance and enforcement of fisheries activities in the zone between Australia and Indonesia.

The **MOU between Australia and Indonesia Regarding the Operations of Indonesian Traditional Fishermen in the Areas of the Australian Exclusive Fishing Zone and Continental Shelf** (Indonesian Traditional Fishing MOU) was signed in 1974. The MOU allows for traditional Indonesian fishing in a specified area within the AFZ adjacent to and surrounding Ashmore Reef. Guidelines

The **Regional Plan of Action (RPOA) to Promote Responsible Fishing Practices including Combating Illegal, Unreported and Unregulated Fishing in the Region**, signed in 2007 by Fisheries Ministers of 11 South East Asian Countries. The objectives of the RPOA are to enhance and strengthen the overall level of fisheries management in the region, in order to sustain fisheries resources and the marine environment, and to optimise the benefit of adopting responsible fishing practices.

and procedures for implementing the operation of this MOU were agreed in 1989.

The **Letter of Intent Between the Government of the Republic of Indonesia and the Government of Australia Concerning Cooperation and Assistance Relating to Fisheries Surveillance and Law Enforcement Measures**, signed in 2009, confirms cooperation to implement measures to address illegal fishing along the maritime boundaries of the parties in the Arafura Sea and Timor Sea.

The **Arrangement between the Government of Australia and the Government of New Zealand for the Conservation and Management of Orange Roughy on the South Tasman Rise** (Orange Roughy Arrangement), signed in 2000, is an arrangement for the conservation and management of orange roughy on the Southern Tasman Rise. The arrangement stipulates total catch and quota for this fish stock between the two nations.

The **Kyoto Declaration and Plan of Action on the Sustainable Contribution of Fisheries to Food Security** 1995 entered into force in 1995. Parties to the declaration affirm that effective and integrated fisheries management and conservation policies will result in long-term and significant gains in food supply, income and wealth, and in economic growth.

The **Code of Conduct for Responsible Fisheries** produced by the FAO describes the principles and standards applicable to the conservation, management and development of all fisheries. It also covers the capture, processing and trade of fish and fishery products, fishing operations, aquaculture, fisheries research and the integration of fisheries into coastal area management.

Other

Counter-terrorism MOUs: Australia has signed seventeen bilateral counter-terrorism MOUs (including a document of intent and a declaration of intent) with Indonesia, Malaysia, Thailand, the Philippines, Fiji, Cambodia, Timor-Leste, India, Papua New Guinea, Brunei, Pakistan, Afghanistan, Turkey, Bangladesh, the United Arab Emirates, Saudi Arabia and France. The MOUs are umbrella arrangements between governments. They set out a framework for bilateral cooperation between law enforcement, intelligence and defence officials and other relevant agencies, such as customs

and immigration. They can be complemented by other MOUs at an agency level, such as the many MOUs which have been established between police forces and financial investigation units.

People Smuggling MOUs: Australia has signed immigration-related MOUs to address people smuggling and associated border security issues with fifteen countries. These countries include those used by people smugglers to source potential clients; for example, from refugee communities and people displaced by conflict or environmental issues such as long-term drought; transit countries used by people smugglers to gather and hold clients; and maritime departure countries in the region where people smuggling ventures can target Australia. In some of these countries, multiple MOUs are in place to cooperate on mutual border security arrangements to counter people smugglers and people moving in an irregular manner, and to facilitate the return of people to their countries of origin who have moved towards or to Australia without proper authorisation and are found not to be owed protection.

The Directives for Maritime Rescue Coordination Centres on Acts of Violence Against Ships were issued by the IMO under the SFA arrangements. AMSA is the agency that provides notification when piracy, robbery, violence at sea or terrorism occurs. In Australia, under SFA arrangements MBC is obliged to be notified when any act of piracy, robbery, violence at sea or terrorism occurs with the Australian SFAA.

On 28 August 2019, Australia has entered into a MoU with Timor-Leste on cooperation for the regulation of the Bayu-Undan Gas Field and Pipeline. In accordance with Article 3(3) of Annex D to the Treaty Between Australia and the Democratic Republic of Timor-Leste Establishing Their Maritime Boundaries in the Timor Sea, the MOU sets out how Australian authorities will cooperate with the relevant Timor-Leste statutory authority in relation to the Bayu-Undan Pipeline.

Forums, committees and groups

Established in 1994, the **ASEAN Regional Forum (ARF)** is an important platform for security dialogue in the Indo-Pacific. It provides a setting in which members can discuss current security issues and develop cooperative measures to enhance peace and security in the region.

The ARF is characterised by consensus-based decision-making and frank dialogue. It comprises 27 members: the 10 ASEAN member states (Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam); the 10 ASEAN dialogue partners (Australia, Canada, China, the European Union, India, Japan, New Zealand, the Republic of Korea, Russia and the United States); Bangladesh, the Democratic People's Republic of Korea, Mongolia, Pakistan, Sri Lanka, and Timor-Leste; and one ASEAN observer (Papua New Guinea). The ARF has five work streams: Counter-Terrorism and Transnational Crime; Information and Communications Technology (ICT) Security; Disaster Relief; Maritime Security; and Non-Proliferation and Disarmament. The ARF has hosted a number of activities, including:

- Workshop on Maritime Law Enforcement Promoting a Comprehensive Approach to Address Maritime Crimes;
- Inter-Sessional Meeting on Maritime Security;
- Workshop on Enhancing Regional Maritime Law Enforcement Cooperation;
- Workshop on Implementing UNCLOS and other International Instruments to Address Emerging Maritime Issues;
- Workshop on Maritime Domain Awareness;
- Workshop on Dispute Resolution and Law of the Sea; &
- Concept Paper on the International Ship and Port Facility Security Code Training Series and Manual

The **Australia Group**, formed in 1985, is an informal forum of countries that, through the harmonisation of export controls, seeks to ensure that exports do not contribute to the development of chemical or biological weapons. By coordinating national export control measures, Australia Group participants are better able to fulfil their obligations under the Chemical Weapons Convention and the Biological and Toxin Weapons Convention to the fullest extent possible.

The **Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies** became fully functional in December 1996. The arrangement was established to contribute to regional and international security and stability, by promoting transparency and greater responsibility in transfers of conventional arms and dual-use goods and technologies, thus preventing destabilising accumulations.

Participating states (which include Australia) seek, through their national policies, to ensure that transfers of these items do not contribute to the development, or enhancement of military capabilities which undermine these goals, and are not diverted to support such capabilities.

The plan to establish the **Regional Anti-Piracy Prosecutions and Intelligence Coordination Centre (RAPPICC)** in the Seychelles was announced by the United Kingdom at the time of the London Conference on Somalia in February 2012. RAPPICC was established to fill a hole in the international counter-piracy effort, specifically designed to collect and analyse intelligence with a view to prosecuting pirate leaders, financiers and enablers.

The **Contact Group on Piracy off the Coast of Somalia (CGPCS)** was convened by the United States in January 2009. The CGPCS coordinates international efforts to suppress piracy off the coast of Somalia and provides an important avenue of communication between contributing states, regional organisations and commercial maritime organisations.

The **Shared Awareness and De-confliction (SHADE)** group formed in 2008 helps to coordinate Combined Maritime Forces, the North Atlantic Treaty Organisation, European Union, independent naval operators and industry representatives' counter-piracy efforts off the coast of Somalia and then people smuggling off Libya. The goal of SHADE is to improve coordination of counter-piracy operations through information exchanges.

The **Regional Cooperation Agreement on Combating Piracy and Armed Robbery in Asia (ReCAAP)** entered into force in September 2006. It is the first government-to-government agreement designed to enhance the security of regional waters. The agreement sets out the obligations of member countries and provides a framework for the exchange of information. The obligations of member countries include prevention and suppression of piracy and armed robbery, the arrest of perpetrators and seizure of vessels or craft used to carry out attacks, and the rescue of victims of attacks. Singapore is the host country for the Information Sharing Centre, which was established in November 2006 to facilitate the sharing of piracy-related information. Member countries are **Australia**, Bangladesh, Brunei Darussalam, Cambodia, China, Denmark, India, Japan, Korea, Laos, Myanmar, Netherlands, Norway, Philippines, Singapore, Sri Lanka, Thailand, the United Kingdom and Vietnam, but neither Malaysia or Indonesia.

The **Western and Central Pacific Fisheries Commission** was established by the Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean which entered into force on 19 June 2004. It was set up to ensure, through effective management, the long-term conservation and sustainable use of highly migratory fish stocks in the western and central Pacific Ocean. Member states are Australia, Canada, China, the Cook Islands, the European Union, the Federated States of Micronesia, Fiji, France, Indonesia, Japan, Kiribati, Republic of Korea, the Republic of Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, the Philippines, Samoa, Solomon Islands, Chinese Taipei (Taiwan), Tonga, Tuvalu, the United States of America and Vanuatu. Participating territories include American Samoa, Commonwealth of the Northern Mariana Islands, French Polynesia, Guam, New Caledonia, Tokelau, Wallis and Futuna.

Cooperating non-members include Belize, Ecuador, El Salvador, Indonesia, Mexico, Panama, Senegal, Thailand and Vietnam.

The **Indian Ocean Tuna Commission** was established in 1993 to promote cooperation among its members to ensure, through appropriate management, the conservation and optimal use of tuna and tuna-like

species and to encourage sustainable development of fisheries based on such stocks. Members include Australia (since 13 November 1996), Bangladesh, China, Comoros, Eritrea, the European Union, France, India, Indonesia, Islamic Republic of Iran, Japan, Kenya, Republic of Korea, Madagascar, Malaysia, Maldives, Mauritius, Mozambique, Sultanate of Oman, Pakistan, Philippines, Seychelles, Sierra Leone, Somalia, Sri Lanka, Republic of South Africa, Sudan, United Republic of Tanzania, Thailand, United Kingdom and Yemen. Cooperating non-contracting parties include Senegal and Liberia.

The **Pacific Islands Forum Fisheries Agency (FFA)**, established in 1981, was set up to provide expert fisheries management and development advice and services to member countries to assist with the sustainable management and protection of fish stocks within their EEZs. As an example of this advice and services, the agency can provide assistance with the development of subsidiary agreements under the Niue Treaty. Member states are Australia, Cook Islands, the Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu and Vanuatu.

The **Asia-Pacific Fishery Commission** was established under an agreement as the Indo-Pacific Fisheries Council in 1948 by the FAO. The Commission is an Article XIV FAO Regional Fishery Body established by FAO at the request of its members, which include Australia, Bangladesh, Cambodia, China, France, India, Indonesia, Japan, Korea, Malaysia, Myanmar, Nepal, New Zealand, Pakistan, Philippines, Sri Lanka, Thailand, the United Kingdom, the United States of America and Vietnam. The Secretariat is provided and supported by FAO. A number of international plans of action (IPOAs) have been developed that align within the framework of the Code of Conduct for Responsible Fisheries issued by the FAO:

- » IPOA for the Conservation & Management of Sharks
- » IPOA to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing
- » IPOA for the Management of Fishing Capacity
- » IPOA Reducing Incidental Catch of Seabirds in Longline Fisheries
- » IPOA to Promote Responsible Fishing Practices.

The **Working Group on Marine Affairs and Fisheries**, under the auspices of the Australia–Indonesia Ministerial

Forum, was established in June 2001. The working group's primary focus is on issues related to the fisheries, environment and scientific research portfolios. DAWE takes the lead along with the Ministry of Marine Affairs and Fisheries in Indonesia.

Programs

Australia has a number of international programs to support maritime security regionally.

The **Pacific Patrol Boat Program** was established in 1987 to provide 22 suitable patrol vessels and associated training and infrastructure to 12 Pacific nations in the region. The Pacific Patrol Boat Systems Program Office was created within the Minor War Vessels Branch of the Navy. The patrol vessels are involved in a number of multilateral and bilateral maritime security operations on a regular basis. The Australian Government is currently commencing the Pacific Patrol boat replacement program with the Guardian patrol vessels. This program has been extended to include Timor-Leste.

Maritime Powers Act

2013

The **Maritime Powers Act 2013** can make special provision for international agreements, in order to facilitate their enforcement. Division 4 of Part 1 of the **Maritime Powers Act** permits the Minister approve the use of the Act's powers in respect of an international agreement, or to prescribe the agreement in regulations. For example, this would permit the operation of Australian law on board a foreign vessel, in waters outside Australia's jurisdiction, where an international agreement between Australia and the foreign State existed, authorising such an exercise of law. Any of the agreements discussed above would certainly qualify. Similarly, a foreign State could make an ad hoc request for enforcement support from Australia, and this could also be supported under sections 48 and 49 of the **Maritime Powers Act**.

Maritime Powers Regulation

The **Maritime Powers Regulation 2014** prescribes the following international agreements for the purpose of the exercise of maritime powers by Australia in relation to a vessel, installation or aircraft:

- a. the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, done at New York on 4 December 1995;
- b. the Agreement on Cooperative Enforcement of Fisheries Laws between the Government of Australia and the Government of the French Republic in the Maritime Areas Adjacent to the French Southern and Antarctic Territories, Heard Island and the McDonald Islands, done at Paris on 8 January 2007;
- c. the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, done at Rome on 22 November 2009;

d. the Treaty between Australia and the Independent State of Papua New Guinea concerning Sovereignty and Maritime Boundaries in the area between the two Countries, including the area known as Torres Strait, and Related Matters, done at Sydney on 18 December 1978;

e. the Treaty between Australia and the Democratic Republic of Timor Leste Establishing their Maritime Boundaries in the Timor Sea done at New York on 6 March 2018;

f. the Treaty between the Government of Australia and the Government of the French Republic on cooperation in the maritime areas adjacent to the French Southern and Antarctic Territories (TAAF), Heard Island and the McDonald Islands, done at Canberra on 24 November 2003;

g. the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982.

The **Maritime Powers Regulation 2014** prescribes the following international decisions for the purpose of the exercise of maritime powers by Australia in relation to a vessel, installation or aircraft:

- a. Conservation and Management Measure 2006-08, Western Central Pacific Fisheries Commission Boarding and Inspection Procedures, made under Article 26 of the Convention on the Conservation of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean
- b. Resolution 10/11, On Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, adopted by the Indian Ocean Tuna Commission established under the Agreement for the Establishment of the Indian Ocean Tuna Commission
- c. Conservation Measure 10-03 (2012), Port Inspections of fishing vessels carrying Antarctic marine living resources, adopted by the Commission for the Conservation of Antarctic Marine Living Resources under the Convention on the Conservation of Antarctic Marine Living Resources
- d. The System of Inspection implemented by the Commission for the Conservation of Antarctic Marine Living Resources under Article XXIV of the Convention on the Conservation of Antarctic Marine Living Resources.

Annex B – Australian Government legislation and working arrangements

Commonwealth legislation

Generic legislation

The **Maritime Powers Act 2013** is the primary piece of legislation for law enforcement at sea. It provides Maritime Officers, including ADF, ABF, AFP and any other officer appointed by the Minister, to act pursuant to an authorisation with a range of common powers to enforce all Australian laws which have an application in the maritime environment. The Act also enables the enforcement of international agreements and decisions enabling application in all maritime zones. Powers include the ability to board, search, seize, detain and arrest.

The **Admiralty Act 1988** governs the exercise of admiralty jurisdiction by Australian courts. It is possible to arrest a ship, including foreign ships, within the jurisdiction of a state and to use that ship as security for a maritime claim. The Act also provides for admiralty jurisdiction to be exercised in relation to claims directed against a specific person or claims for damage to a ship.

The **Australian Maritime Safety Authority Act 1990** established AMSA. AMSA's primary responsibilities include providing strategic advice and operational oversight on maritime safety matters and associated environmental and navigational issues; monitoring ship, crew and coastal pilot compliance with maritime safety standards; delivering national search and rescue coordination and marine pollution response services; and managing the Australian Register of Ships.

The **Autonomous Sanctions Regulations 2011** empower the Minister for Foreign Affairs to designate 'sanctioned vessels' which the Minister is able to then direct to, either, leave Australia, including by a particular route, or not enter a particular port or place, or any port or place, in Australia, subject to Australia's obligations under international law.

The **Coastal Waters (State Powers) Act 1980** enables the states to make laws which apply within their coastal waters (out to 3 nautical miles) and in certain circumstances within the adjacent areas. Provisions covered in the Act include the extent of the territorial sea and coastal waters, state legislative powers over certain matters and the international status of the territorial sea.

The **Coastal Waters (State Title) Act 1980** provides the states with proprietary rights and title in the seabed and subsoil of the coastal waters between 0 and 3 nautical miles, and establishes the right of the Commonwealth, or an authority of the Commonwealth, to use the seabed and space up to the three (3) nautical mile limit for government purposes, including for communications and defence.

The **Control of Naval Waters Act 1918** provides that proclaimed waters around naval facilities and establishments may be placed under the control of a superintendent of naval waters, who can control the movement in those waters and adjacent foreshore of vessels, vehicles and aircraft.

The **Crimes Act 1914** contains search, information gathering, and arrest powers. The **Crimes Act** also has general provisions that govern the interpretation of Commonwealth criminal offences and how Commonwealth criminal proceedings are conducted. This includes provisions relating to the commencement of prosecutions for offences against Commonwealth law and the sentencing of federal offenders. The **Crimes Act** also contains piracy offences. The Act provides the Australian legal definition of piracy and provides powers for the AFP and the ADF to enforce the Piracy Provisions.

The **Crimes at Sea Act 2000** and relevant state Acts (such as the **Crimes at Sea Act 2001** [Qld]) provide for a cooperative scheme to give greater certainty to the application of Australian criminal law to Australian ships, Australian nationals, and foreign-registered ships in certain instances. It further provides that the criminal law of the various states and territories can be applied in the oceans around Australia. It divides those oceans into separate areas of jurisdiction, and allocates criminal legislation to acts taking place in those waters. The areas of jurisdiction were first used in the offshore petroleum settlement in 1967. For the first 12 nautical miles, state law applies by force of the law of the relevant state; and for the waters from 12 nautical miles to 200 nautical miles or the outer limit of the continental shelf (whichever is greater), state law applies by force of the law of the Commonwealth.²³

The **Criminal Code Act 1995** codifies the general principles of criminal responsibility that apply to Commonwealth offences. The Criminal Code also contains a number of offences, including offences relating to Clause 2, Schedule 1 of the **Crimes at Sea Act 2000** (Cth).

to Commonwealth administration, people smuggling, drug importation, terrorism and trafficking.

The ***Australian Border Force Act 2015*** establishes the Australian Border Force.

The ***Defence Act 1903*** provides the ADF with the authority to enhance a State or territory response or respond to a threat in the offshore. In particular, ***Part IIIAAA of the Defence Act*** authorises the Governor-General to make an order calling out the ADF to respond to domestic violence that is occurring or likely to occur within the States or Territories. Call out can occur at the request of the State or Territory governments, by the Commonwealth to protect Commonwealth interests, in a sudden and extraordinary emergency, or as a contingency if certain circumstances arise. The offshore area includes Australia's maritime zones seaward of internal waters of the States and Territories extending to the outer edge of the EEZ or the Continental Shelf. Call out in the offshore area can only be initiated by the Commonwealth.

The ***Evidence Act 1995*** sets out the general rules of evidence that apply in federal court proceedings, particularly in relation to the adducing of evidence, admissibility of evidence and issues of proof. The Act is based on model uniform evidence laws, which have also been enacted in NSW, Victoria, Tasmania, the ACT and the NT.

The ***Navigation Act 2012*** implements a number of international laws and regulations into Australian law. Provisions covered in the Navigation Act include vessel survey and certification, construction standards, crewing, seafarers' qualifications and welfare, occupational health and safety, carriage and handling of cargo, passengers, marine pollution prevention, monitoring and enforcement activities.

The ***Seas and Submerged Lands Act 1973*** provides for establishing the baseline and breadth of the territorial sea contiguous zone, exclusive economic zone and continental shelf in accordance with the provisions of UNCLOS.

Region-specific legislation

The ***Antarctic Marine Living Resources Conservation Act 1981*** implements CCAMLR and is administered by the AAD (DAWE). It regulates harvesting of or research into all living organisms that are found in the marine environment within the Convention Area. This area is defined in the Convention as south of a series of coordinates which approximate the Antarctic Convergence where cold polar water to the south meets the warmer subantarctic water to the north and includes Heard Island and McDonald Islands, but not Macquarie Island. AFMA has responsibility for regulating Australian commercial harvesting of marine organisms in the Convention Area.

The ***Antarctic Treaty Act 1960*** implements Australia's international obligations under the 1959 Antarctic Treaty.

The ***Antarctic Treaty (Environment Protection) Act 1980*** applies to the area south of 60°S, and is administered by the AAD (DAWE). The Act and supporting regulations implement Australia's obligations under the Protocol on Environmental Protection to the Antarctic Treaty (the Madrid Protocol) and the Convention for the Conservation of Antarctic Seals. The Act requires all activities being undertaken in the Antarctic to be assessed for environmental impacts, and establishes a permit system.

The ***Ashmore and Cartier Islands Acceptance Act 1933*** provides for the acceptance of Ashmore Islands and Cartier Island as a territory under the authority of the Commonwealth.

The ***Australian Antarctic Territory Acceptance Act 1933*** provides for the acceptance of the Australian Antarctic Territory as a territory under the authority of the Commonwealth.

The ***Australian Antarctic Territory Act 1954*** provides a legal regime for the territory, being:

- » Commonwealth laws that expressly apply to the territory and Commonwealth laws specific to the territory
- » Ordinances made specifically for the territory

- » the laws, other than criminal laws, in force from time to time in the ACT in so far as they are applicable and not inconsistent with an Ordinance in force in the territory
- » the criminal laws in force from time to time in the Jervis Bay Territory and not inconsistent with an Ordinance in force in the territory.

The ***Christmas Island Act 1958*** provides for the acceptance of Christmas Island as a territory under the authority of the Commonwealth and for the government of that territory.

The ***Cocos (Keeling) Islands Act 1955*** transferred the islands to Australian control (23 November 1955).

The ***Coral Sea Islands Act 1969*** established the Coral Sea Islands as a territory of the Commonwealth. The laws of the ACT (so far as they are applicable) apply in the territory and the Supreme Court of Norfolk Island (which consists of judges of the Federal Court) exercises criminal jurisdiction in the territory. Commonwealth laws only apply when they are expressed to extend to the territory. Any Commonwealth or ACT Act that extends to the territory applies to the islands and the 12 nautical mile territorial sea around each island.

The ***Great Barrier Reef Marine Park Act 1975*** established the Great Barrier Reef Marine Park. The main object of the Act is to provide for the long term protection and conservation of the environment, biodiversity and heritage values of the Great Barrier Reef Region.

The ***Heard Island and McDonald Islands Act 1953*** ratifies Australia's acceptance from the United Kingdom of sovereignty over the HIMI Territory and provides for the legal regime, including the application to the territory of:

- » Commonwealth laws that expressly apply to the territory and Commonwealth laws specific to the territory
- » Ordinances made specifically for the territory
- » the laws, other than criminal laws, in force from time to time in the ACT in so far as they are applicable and not inconsistent with an Ordinance in force in the territory
- » the criminal laws in force from time to time in the Jervis Bay Territory and not inconsistent with an Ordinance in force in the territory.

The ***Norfolk Island Act 1979*** establishes the mechanisms of government for Norfolk Island.

The ***Torres Strait Fisheries Act 1984*** includes provisions to acknowledge and protect the traditional way of life and livelihood of traditional inhabitants, including their rights in

relation to traditional fishing; to protect and preserve the marine environment and indigenous fauna and flora in the vicinity of the Torres Strait Protected Zone; to share the allowable catch of relevant Protected Zone commercial fisheries with Papua New Guinea in accordance with the Torres Strait Treaty; and to adopt conservation measures necessary for the **conservation** of species in such a way as to minimise any restrictive effects of the measures on traditional fishing.

Legislation relating to illegal activity in protected areas

The ***Environment Protection and Biodiversity Conservation Act 1999*** (the ***EPBC Act***) provides for the protection of the environment and the conservation of biodiversity. In relation to the offshore maritime environment, the ***EPBC Act*** provides protection for matters of national environmental significance, including listed threatened species and communities, listed migratory species, World Heritage properties, national heritage places and the Commonwealth marine environment generally. The Act also provides for the establishment and management of Commonwealth marine reserves, the protection of listed marine species, whales and other cetaceans and creates a number of civil and criminal offences.

Oil and gas companies must seek approval to undertake offshore oil and greenhouse gas activities in Australian waters, and demonstrate that their activities will not have unacceptable environmental impacts. In 2014 NOPSEMA's environmental management authorisation process was endorsed by then Minister for the Environment as a Program that meets the requirements of the ***EPBC Act***. Under the subsequent class approval, activities which are undertaken in accordance with the endorsed Program do not require separate approval under the EPBC Act

The ***Fishing Levy Act 1991*** prescribes the imposition of a levy for the holders of domestic Australian fishing concessions.

The ***Submarine Cables and Pipelines Protection Act 1963*** relates to the protection of submarine cables and pipelines beneath the high seas. The Act provides that it is an offence to wilfully damage a cable or to damage a cable through culpable negligence.

The **Telecommunications Act 1997 (Schedule 3A)** provides a regulatory regime under which submarine cables are installed and protected in Australian waters. Under Schedule 3A, the ACMA has the power to declare protection zones over telecommunications submarine cables in Australian waters. Three protection zones have been declared.

DAWE administers the **Underwater Cultural Heritage Act 2018** which protects approximately 8000 shipwrecks, sunken aircraft and other types of underwater cultural heritage sites located in Australian waters. All these sites have general protection against damage or interference and a small number of these sites (depicted in Figure 9) are provided with additional protection in the form of a protected zone. Protected zones are established for a number of reasons including for conservation, management, social sensitivity or public safety considerations. To limit the impact of Underwater Cultural Heritage protected areas on the public, the Minister may declare a protected zone allowing a vessel to transit without permit, but not to become stationary or conduct underwater activities such as diving, trawling or dredging etc. without a permit. Enforcement of illegal activity within those protected areas is conducted by DAWE or the state or territory government agencies on behalf of DAWE under the provisions of the **Underwater Cultural Heritage Act**.

Legislation relating to illegal exploitation of natural resources

The **Environment Protection and Biodiversity Conservation Act 1999** (the **EPBC Act**) establishes an assessment and approval process for actions that are likely to have a significant impact on matters of national environmental significance, which include Commonwealth marine areas. The **EPBC Act** also makes it an offence to kill, injure, take, trade, keep or move a member of a listed threatened species, ecological community, migratory species and marine species in a Commonwealth area, which includes the coastal sea of Australia or an external territory, the waters of the continental shelf and the EEZ. There are also offences relating to whales and other cetaceans.

The **Fisheries Management Act 1991** and **Fisheries Administration Act 1991** include provisions prohibiting certain fishing methods, granting fishing concessions, collecting levies and charges, and undertaking surveillance, and enforcement. Additional powers relating to foreign boats and offences, such as the boat being equipped for fishing, include automatic forfeiture provisions.

Agriculture administers these acts and AFMA has responsibility to enforce the provisions of Commonwealth legislation by detecting and investigating illegal activities by domestic and foreign fishing boats in the AFZ and Commonwealth managed fisheries.

The **Offshore Minerals Act 1994** sets up a licensing system for mining and exploration for mineral resources, other than petroleum, in particular offshore areas. The Act applies state laws to those offshore areas so far as those laws concern mining and exploration activities, with some exceptions, including criminal laws, tax laws, and laws that are inconsistent with Commonwealth laws. Decisions relating to the grant of titles under this legislation in relation to an offshore area of a state or the NT are the responsibility of the Joint Authority for the state or NT, which is constituted by the Commonwealth minister and state/NT minister with relevant portfolio responsibility. The Designated Authority is the relevant state/NT minister for each offshore area. An important feature of the licensing system is that the Joint Authority always acts through the corresponding Designated Authority. The Joint Authority's decisions are carried out by the Designated Authority. Applicants and licence holders always deal with the Designated Authority and do not deal directly with the Joint Authority, although the Joint Authority is the ultimate decision-maker. There are also external territory areas administered by the Joint Authority and Designated Authority, both of whom are the Commonwealth minister. The Department of Industry, Science, Energy and Resources has responsibility for this Act.

The **Offshore Petroleum and Greenhouse Gas Storage Act 2006** sets up a system for regulating petroleum exploration and recovery, and the injection and storage of greenhouse gas substances, in offshore areas under Commonwealth jurisdiction. The Act provides for the grant of petroleum exploration permits, petroleum retention leases, petroleum production licences, infrastructure licences, pipeline licences, petroleum special prospecting authorities, petroleum access authorities, greenhouse gas assessment permits, greenhouse gas holding leases, greenhouse gas injection licences, greenhouse gas search authorities, and greenhouse gas special authorities and state/NT minister with portfolio responsibility for petroleum matters.

The responsible Commonwealth minister is solely responsible for the decisions relating to the granting of greenhouse gas injection and storage titles in the Act. The Act also provides for the establishment and operation of the National Offshore Petroleum Safety and Environmental Management Authority to administer occupational health and safety, structural and well integrity and environmental management provisions, and the National Offshore Petroleum Titles Administrator, which is responsible for assisting and advising the Joint Authority and responsible Commonwealth minister, and has titles administration, data and information management functions. The Department of Industry, Science, Energy and Resources has responsibility for this Act.

The ***Timor Sea Maritime Boundaries Treaty Consequential Amendments Act 2019*** gives effect to the Treaty Between Australia And The Democratic Republic Of Timor-Leste Establishing Their Maritime Boundaries In The Timor Sea. In addition to establishing our maritime boundaries, the Act provides a framework for the exploration, development and exploitation of the Greater Sunrise petroleum resources in the Greater Sunrise Special regime area in accordance with the Treaty.

The ***Sea Installations Act 1987*** regulates the placement, use and maintenance of seabed installations in Australian waters and facilitates the application of a variety of Commonwealth laws to sea installations. A sea installation refers to any man-made structure that is in contact with the seabed and used for an environment-related activity (e.g. tourism, recreation).

The ***Torres Strait Fisheries Act 1984*** provides a framework legislating the rights and obligations conferred on Australia by the Timor Sea Treaty. Seven management priorities have been articulated in support of this Act, including to acknowledge and protect the traditional way of life and livelihood of traditional inhabitants, including their rights in relation to traditional fishing; to protect and preserve the marine environment and indigenous fauna and flora in and in the vicinity of the Torres Strait Protected

Zone; and to share the allowable catch of relevant protected zone commercial fisheries with Papua New Guinea in accordance with the Torres Strait Treaty.

Legislation relating to marine pollution

The ***Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*** provides for criminal offences for activities that result, are likely to result, or will result, in a significant impact on the environment in a Commonwealth Marine Area.

The ***Environment Protection (Sea Dumping) Act 1981*** aims to minimise marine pollution threats by prohibiting ocean disposal of waste considered too harmful to be released in the marine environment and regulating permitted waste disposal to ensure environmental impacts are minimised. The Act also fulfils Australia's obligations under the Protocol to the ***Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter***.

The ***Protection of the Sea (Civil Liability) Act 1981*** implements the ***International Convention on Civil Liability for Oil Pollution Damage 1969***, in that the owner of a ship is liable for any pollution damage caused by oil that escapes or is discharged from that ship.

The ***Protection of the Sea (Harmful Anti-fouling Systems) Act 2006*** implements the ***International Convention on the Control of Harmful Anti-fouling Systems*** on Ships which prohibits the use of harmful organotins in anti-fouling paints used on ships. It also establishes a mechanism to prevent the potential future use of other harmful substances in anti-fouling systems.

The ***Protection of the Sea (Powers of Intervention) Act 1981*** provides that the Commonwealth is authorised to take measures to protect the sea from pollution by oil and other noxious substances discharged from ships. It ensures that AMSA takes the necessary measures to prevent, mitigate or eliminate the danger. The Act includes provisions for taking measures to prevent pollution of the sea by oil and other substances, liability and prosecution for acts and omissions and penalties for the contravention of directions under the Act.

The ***Protection of the Sea (Prevention of Pollution from Ships) Act 1983*** provides for the protection of the sea from pollution by oil and other harmful substances

discharged from ships. Provisions covered in the Act include prohibitions on the discharge of oil, oily mixtures²⁴ and oily residues, as well as other substances, into the sea as well as other substances.²⁵

Legislation relating to prohibited imports and exports

The **Customs Act 1901** provides for the customs control of goods related to importation, exportation, examination and detention of goods and payment of various duties. There are also provisions that cover forfeiture of goods, powers of arrest and detention of people, and penalty provisions that cover narcotics and other banned substances.

The **EPBC Act 1990** regulates the international movement of animals and plants and animal and plant products. It implements Australia's obligations under CITES by establishing a permitting system for importing or exporting CITES listed species. Permits are also required for exporting regulated native specimens and for importing some live animals and plants. Authorised officers may seize specimens if a person imports or exports them without the relevant permit.

The **Biosecurity Act 2015** makes provisions for vessels and people that are liable to biosecurity; notification of any outbreaks in disease; performance of biosecurity duties; enforcement powers available to secure, inspect, direct and place under biosecurity control vessels or vehicles; and various penalty provisions. The **Biosecurity Act 2015** also defines the biosecurity jurisdiction.

Legislation relating to irregular maritime arrivals

The **Migration Act 1958** includes provisions for controlling the arrival and presence in Australia of non-citizens; obtaining information and documents about unlawful non-citizens; the types of visas available for non-citizens and the application

process for visas for various people; and cancellation of a visa and revocation of cancellation in certain circumstances. The Act provides for detention, removal and deportation of unlawful non-citizens and various offences that apply in relation to bringing a non-citizen to Australia when they will be an unlawful non-citizen on arrival.

Legislation relating to compromise to biosecurity

The **National Health Security Act 2007** provides a national system of public health surveillance to enhance the capacity of the Commonwealth and the states and territories to identify and respond to public health events of national significance, including the occurrence of certain communicable diseases; the release of certain chemical, biological or radiological agents; the occurrence of public health risks; and the occurrence of overseas mass casualties.

The government introduced the Biosecurity Bill and Inspector General of Biosecurity Bill in 2012. The Bills were designed to replace the **Quarantine Act 1908** (Cth), and implement reforms to Australia's quarantine and biosecurity systems. They will establish roles, functions and powers to manage biosecurity at the border and onshore, and establish an Inspector-General of Biosecurity as an independent statutory agency.

Legislation relating to piracy, robbery or violence at sea and legislation relating to maritime terrorism

The **Crimes Act 1914** contains Australia's piracy offences and implements the relevant obligations under UNCLOS. The Act provides the Australian legal definition of piracy and provides powers for the AFP and the ADF to enforce the Act.

The **Criminal Code Act 1995** contains Australia's terrorism offences.

²⁴ Section 9 *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* (Cth).

²⁵ Section 10 *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* (Cth).

The ***Crimes (Ships and Fixed Platforms) Act 1992*** implements the **Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation** and the **Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf**. Although this act focuses on terrorism, it is possible for this legislation to also apply to an act of piracy if certain conditions exist.

The ***Maritime Transport and Offshore Facilities Security Act 2003*** regulates the security arrangements of Australian ports, port facilities, ships, and offshore oil and gas facilities and provides for the protection of waters and land around designated ports. The Act also assists in protecting Australian trade by safeguarding against unlawful interference with maritime transport and offshore facilities. The Act applies to Australian and foreign registered cargo ships (generally only above 500 gross tonnage) and passenger ships travelling to Australian ports but does not apply to ADF vessels, Commonwealth or foreign government vessels, or fishing or recreational vessels. Provisions covered in the Act include the powers of law enforcement in relation to stop and search²⁶ generally, as well as searching vessels²⁷ and removing people from ships or zones²⁸, security regulated ports and facilities, offence provisions and enforcement action in relation to non-regulated foreign ships and powers of officers where state or territory police are authorised officers under the Act.

The **Emergency Response Plan for Communicable Disease Incidents of National Significance: National Arrangements (National CD Plan)**, developed by Department of Health, outlines the whole of government response for communicable disease incidents of national significance. It focuses on assisting non-health agencies to anticipate the activities of the health sector and clarifies the expectations of agencies across government in supporting the health response and maintaining essential services.

The **Model Arrangements for Leadership during Emergencies of National Consequence**, endorsed by the Council of Australian Governments in 2008, set out how Australian governments would work together to coordinate the response to and recovery from emergencies of national consequence.

Australian arrangements

National plans

The following national plans contribute to the management of security threats in Australia's maritime jurisdiction:

²⁶ Section 153, *Maritime Transport and Offshore Facilities Security Act 2003* (Cth).

²⁷ Section 155, *Maritime Transport and Offshore Facilities Security Act*.

²⁸ Section 157, *Maritime Transport and Offshore Facilities Security Act*.

The **National Counter-Terrorism Plan**, produced by the Australia-New Zealand Counter-Terrorism Committee (ANZCTC), outlines responsibilities, authorities and the mechanisms to prevent or, if they occur, manage acts of terrorism and their consequences within Australia. The plan is supported by the classified **National Counter-Terrorism Handbook**, which contains nationally agreed policies for commanders, controllers and other senior decision-makers involved in counter-terrorism activities, and guidance on the broad coordination arrangements for preparedness for, prevention of, response to, and recovery from a terrorist incident.

The **National Guidelines for Protecting Critical Infrastructure from Terrorism** were developed by the National Counter-Terrorism Committee (now ANZCTC) in close consultation with industry and with security agencies in each jurisdiction. The guidelines provide a framework for national consistency in providing advice on the protection of critical infrastructure from terrorism. The guidelines suggest actions that critical infrastructure owners need to consider in consultation with law enforcement agencies as they respond to the security environment.

The **National Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing** is produced by Agriculture, Water and Environment. It is Australia's implementation of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, and is a compilation of measures already in place in Australia to combat IUU fishing.

The **National Plan for Maritime Environmental Emergencies** is a national integrated government and industry organisational framework enabling effective responses to marine pollution incidents. AMSA manages the plan, working with state and NT governments, the shipping, oil, exploration and chemical industries, and emergency services to maximise Australia's capability to respond to marine pollution.

The **National Chemical, Biological, Radiological and Nuclear (CBRN) Security Strategy** outlines responsibilities, authorities and mechanisms to prevent, or if they occur, to respond to and recover from acts of terrorism and their consequences within Australia.

Operation MARITIME PROTECTOR is the overarching name given to maritime security operations conducted by MBC and includes **Operation RESOLUTE**.

Domestic operations and exercises

A number of Australian operations and exercises contribute to the management of maritime security within Australia's maritime jurisdiction:

Operation RESOLUTE: Operation RESOLUTE is the ADF's contribution to the whole-of-government effort to protect Australia's borders and offshore maritime interests. The operation consolidates previous ADF operations, including Operation RELEX II (focusing on unauthorised arrivals), Operation CRANBERRY (illegal fishing and smuggling), Operations CELESTA and MISTRAL (patrols of Australia's Southern Ocean EEZ), and patrols protecting Australia's gas and oil infrastructure. ADF resources regularly allocated to Operation RESOLUTE include:

- » RAAF P-8A Poseidon maritime patrol aircraft
- » RAN Armidale Class Patrol Boats (ACPBs)
- » Australian Army Regional Force Surveillance Group
- » Australian Defence Vessels (ADV): large hulled vessel and patrol boats
- » Transit Security Elements
- » embarked linguists and medical personnel (including doctors)
- » Logistics Support elements
- » access to Intelligence systems and information

Southern Ocean Operations: ABF and AFMA officers embark on patrols conducted by other agency or nation's vessels, to deter and respond to IUU fishing activity in the Southern Ocean inside the Australian Fishing Zone and adjacent CAMLR Convention waters. For example, AFMA has embarked officers on board French vessels, which generally conduct annual operational sorties in the Southern Ocean.

Joint authorities

Joint authorities coordinate operations between the Australian Government and state governments, and have been established for the following areas.

Fisheries

The **Queensland Fisheries Joint Authority** comprises the Australian Minister for Agriculture, Fisheries and Forestry and the Queensland Minister for Agriculture, Fisheries and Forestry and was established under ***Fisheries Management Act 1991* (Cth)** and the ***Fisheries Act 1994* (Qld)** in 1995. The Queensland Fisheries Joint Authority is responsible for managing certain fish stocks in the Gulf of Carpentaria under the ***Fisheries Act 1994*** and associated subordinate legislation, including the ***Fisheries Regulation 2008***. The activities of the joint authority are limited to commercial fisheries, in which the main fish stocks it manages include mackerel, snapper, shark and demersal finfish.

The **Western Australia Fisheries Joint Authority** was established under provisions of the ***Commonwealth Fisheries Act 1952 (now replaced by the Fisheries Management Act 1991)*** and the ***Western Australian Fisheries Act 1905 (now replaced by the Fish Resources Management Act 1994)***. Starting in 1988, the joint authority had responsibility for managing the Joint Authority Southern Demersal Gillnet and Demersal Longline Managed Fishery. From 1995 the joint authority had responsibility for the management of the Joint Authority Northern Shark Fishery. As part of reforms to Offshore Constitutional Settlement (OCS) arrangements, on 1 December 2018, the WA Joint Authority Southern Demersal Gillnet and Demersal Longline Managed Fishery transitioned to WA jurisdiction.

The **Northern Territory Fisheries Joint Authority** is a joint authority between the NT and the Commonwealth established in 1983 under the then Commonwealth legislation. In 1995, the joint authority, subject to provisions in the ***Fisheries Management Act 1991 (Cth)*** and the ***Fisheries Act 1988 (NT)***, assumed responsibility for the Demersal, Timor Reef, Offshore Net and Line and Finfish Trawl Fisheries. The joint authority comprises the Commonwealth Minister for Agriculture, Fisheries and Forestry and the NT Minister for Primary Industry and Fisheries. The territory manages the day-to-day operations of the fishery on behalf of the joint authority. Current arrangements recognise the historical management zones.

The **Torres Strait Protected Zone Joint Authority** consists of the Commonwealth Minister for Agriculture, Water and Environment (Chair), the Queensland Minister for Agriculture, Fisheries and Forestry and the Chairperson of the Torres Strait Regional Authority. It is responsible for monitoring the condition of commercial and traditional fisheries within the Torres Strait Protected Zone and for formulating policies and plans to manage them. The joint authority has regard to the rights and obligations conferred on Australia by the Torres Strait Treaty, in particular the traditional way of life and livelihood of the traditional inhabitants, including their traditional fishing. Queensland Agriculture and Fisheries acts as an agent for the joint authority undertaking licensing and domestic enforcement responsibilities, and AFMA acts as an agent for the joint authority in the day to day management of fisheries and the international enforcement responsibilities.

National working groups and committees

Where appropriate, subcommittees and subordinate working groups are shown below their parent committees or working groups in this section. The following committees, including interdepartmental committees, and working groups assist with the ongoing management of maritime security threats:

The **Australian Government Counter-Disaster Task Force**, chaired by PM&C, comprises representatives of Australian Government departments and agencies and has a significant role in providing disaster and emergency relief or rehabilitation assistance.

The **Australia-New Zealand Emergency Management Committee** (ANZEMC) works to strengthen disaster resilience by providing strategic leadership on emergency management policy and through supporting related capability and capacity development activities. The ANZEMC is the senior officials' body supporting the Standing Council on Police and Emergency Management (SCPEM) on issues relating to emergency management.

The **Australian Maritime Defence Council** fosters the partnership between Defence and the maritime industry to develop maritime support capability, and to facilitate effective interaction and cooperation between government and industry.

The **Australian Transport Council** was established in 1993. **Industry, Science, Energy and Resources** provides secretariat support for the council, which provides a forum for Commonwealth, state, territory and New Zealand ministers to consult and advise governments on coordinating and integrating all transport and road policy issues.

The **Industry Consultation on National Security**, chaired by the Attorney-General, provides a forum for the Australian Government to engage directly with Australia's business leaders on key national security issues. It also fulfils the Prime Minister's requirements for ministers to have a stakeholder consultation mechanism on deregulation and portfolio policy priorities.

The **Joint Agencies Maritime Advisory Group (JAMAG)** is the lead forum for managing collective issues in relation to the eight civil maritime security threats in Australia's maritime jurisdiction. This status was agreed by then Homeland and Border Security Policy Coordination Group, during its meeting of 14 October 2010. The role of the JAMAG is to provide Commander Maritime Border Command, and other relevant senior

government officials, with whole-of-government policy advice on maritime security threats, projects and issues, to provide direction on current and emerging strategic maritime risks that may impact broadly across government, to review and advise on the national civil maritime surveillance plan, to review and, where appropriate, advise on government directed civil maritime security projects and to ensure timely and appropriate sharing of information relevant to maritime security projects and issues between relevant agencies.

The **Law Enforcement Advisory Committee** provides advice and recommendations to the the Australian Communications Management Authority on law enforcement and national security issues relating to telecommunications.

The **Maritime Industry Security Consultative Forum** was established by the then Office of Transport Security (now Aviation and Maritime Security under Department of Home Affairs) to facilitate the constructive exchange of views on high-level maritime security issues of an operational, legal, policy or regulatory nature, such as the implementation of the maritime security regime and changes to the regime.

The **National Committee on Critical Infrastructure Protection** is the formal standing committee coordinating critical infrastructure policy development across all levels of government. The committee comprises the Australian and state and territory government representatives on the Critical Infrastructure Advisory Council, as well as representatives from the Australian Local Government Association, ASIO, the Department of Defence, the Australian Government Information Management Office and any other agencies wishing to participate. Matters to be considered by the committee include intergovernmental issues related to critical infrastructure policy.

The **Australia and New Zealand Counter Terrorism Committee** (ANZCTC), chaired by the Deputy National Security Adviser, contributes to the security of the Australian community by coordinating a nationwide cooperative framework for counter-terrorism matters. The Committee produces and maintains the National Counter-Terrorism Plan.

The **National Plan Management Committee**, chaired by AMSA, manages the National Plan to Combat Pollution of the Sea by Oil and other Noxious and Hazardous Substances.

The **NSC** considers matters related to Australia's domestic and international security. This committee is supported by the **Secretary's Committee on National Security (SCNS)**. SCNS is the peak interagency committee which considers national security policy and operational matters of an ongoing nature in addition to all matters to be put before the NSC.

The **Non-Proliferation Coordination Group**, chaired by DFAT, aims to tighten domestic arrangements and inform participation in international efforts to curb the proliferation of weapons of mass destruction.

The **Regional Maritime Security Cooperation Interdepartmental Committee**, led by DFAT, aims to strengthen maritime security cooperation and capacity-building in the Asia-Pacific region.

The **Sub-Antarctic Management Advisory Committee** is chaired by AFMA. The committee is concerned with managing subantarctic fisheries stocks.

The **Trusted Information Sharing Network (TISN)** is a forum in which the owners and operators of critical infrastructure work together by sharing information on security issues that affect critical infrastructure. It is made up of a number of infrastructure assurance advisory groups. Those relevant to maritime security include transport, energy, health, food chain, emergency services and communications.

The **Critical Infrastructure Advisory Council** oversees the operation of the Trusted Information Sharing Network (TISN) and advises the Attorney-General on the national approach for a resilient critical infrastructure. Its members include TISN group chairs, State and Territory officials, relevant Australian Government agencies, and the Australia-New Zealand Counter-Terrorism Committee.

National guides and handbooks

Some plans listed above have their own associated handbooks, which are not listed in this section. The following standalone handbooks exist.

The **Australian Emergency Manuals** series, produced by **Emergency Management Australia**, has been developed to assist in the management and delivery of support services in a disaster context. The series of manuals comprises principles, strategies and actions compiled by practitioners with experience in management and service delivery in a range of disaster events.

The **Australian Seafarers Handbook** is an official nautical publication, produced by the Australian Hydrographic Office, providing mariners with a description of the Australian physical and jurisdictional maritime environment. It combines information from various government agencies under the cover of one official nautical publication updated by Notices to Mariners.

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Note: There may be some changes to legislation or State/Federal organization that are not reflected in this chapter. Please use as a guide only.

Annex C – Queensland

Queensland legislation

Generic legislation

The **Acts Interpretation Act 1954** is an Act which assists in the interpretation of Queensland Acts. Part 12 clarifies that Queensland laws, with the exception of the laws provided in the **Crimes at Sea Act 2001** and **Crimes At Sea Act 2000** (Cth), have extraterritorial application in the waters adjacent to the state which are waters of the sea on the landward side of the TSB which are not part of Queensland and out to 3 nautical miles seaward of the TSB.

The **Crime and Misconduct Act 2001** is an Act to combat and reduce the incidence of major crime and to continuously improve the integrity of, and to reduce the incidence of misconduct in, the public sector.

The **Criminal Code** is the primary Act for the Criminal law of Queensland and sets out the relevant practice and procedural requirements.

The **Crimes at Sea Act 2001** is an Act that provides for the extraterritorial application of Queensland's 'substantive criminal law' and the 'law of criminal investigation, procedure and evidence' to the waters adjacent to the state on the landward side of the TSB which are not part of Queensland and out to 12 nautical miles seaward of the TSB.

The **Disaster Management Act 2003** is an Act to provide for disaster management in the state. The main objects of this Act are to mitigate the potential adverse effects of an event, effectively respond to and recover from a disaster or an emergency situation.

The **Public Safety Preservation Act 1986** is an Act to provide protection for members of the public in chemical, biological, radiological or other emergencies, including terrorism emergencies, which create or may create danger of death, injury or distress to any person, loss of or damage to any property or pollution of the environment.

The **Off-shore Facilities Act 1986** is an Act to confer jurisdiction on the courts of Queensland to hear and determine all matters that arise by reason of the

application of the provisions, rules and doctrines of the laws of the state at the site where an offshore facility is, or is to be, moored or fixed.

The **Transport Infrastructure Act 1994** establishes a regime under which a ports system is provided and can be managed within an overall strategic framework of government-owned corporations in accordance with the principles specified in the **Government Owned Corporations Act 1993**. The **Transport Infrastructure (Ports) Regulation 2005** and **Government Owned Corporations Regulation 2004** also apply.

Legislation relating to illegal activity in protected areas

The **Marine Parks Act 2004** is an Act to provide for marine parks and the conservation of the marine environment. The **Marine Parks Regulation 2006** and **Marine Parks (Great Barrier Reef Coast) Zoning Plan 2004** also apply.

The **Offshore Minerals Act 1998** is an Act to provide for the declaration of a safety zone around a structure or equipment in coastal waters and may extend not more than 500 metres from the outer edge of the structure or equipment. The Act also provides for penalties if a vessel enters or remains in a safety zone in contravention of the Act.

The **Queensland Heritage Act 1992** is an Act that provides for the conservation of Queensland's cultural heritage. It contains broad protection provisions for shipwrecks (older than 75 years) in Queensland waters that do not otherwise come under the jurisdiction of the **Historic Shipwreck Act 1975** (Cth). The **Queensland Heritage Act** also contains compulsory reporting provisions for the discovery of all other forms of historic archaeological artefacts within Queensland waters, such as aircraft, maritime infrastructure and submerged relics.

The **Nature Conservation Act 1992** is an Act which provides for the conservation of nature through a range of measures, including the dedication, declaration and management of protected areas that are representative of the biological diversity, natural features and wilderness of the state. The subordinate legislation, including the

Nature Conservation (Administration) Regulation 2006, Nature Conservation (Protected Areas Management) Regulation 2006 and Nature Conservation (Protected Areas) Regulation 1994 also apply.

Legislation relating to illegal exploitation of natural resources

The **Fisheries Act 1994** is an Act to provide for the use, conservation and enhancement of the community's fisheries resources and fish habitats in a way that seeks to apply and balance the principles of ecologically sustainable development and promote ecologically sustainable development. The **Fisheries Regulation 2008** also applies.

The **Mineral Resources Act 1989** is an Act to provide for the assessment, development and utilisation of mineral resources to the maximum extent practicable consistent with sound economic and land use management. The **Mineral Resources Regulation 2003** also applies.

The **Nature Conservation Act 1992** is an Act which provided for the conservation of nature through a range of measures including the protection of lands, wildlife and habitat. The subordinate legislation under that Act, including the **Nature Conservation (Protected Areas Management) Regulation 2006, Nature Conservation (Protected Plants) Conservation Plan 2000, Nature Conservation (Whales and Dolphins) Conservation Plan 1997, Nature Conservation (Wildlife Management) Regulation 2006, Nature Conservation (Koala) Conservation Plan 2006, Nature Conservation (Macropod) Conservation Plan 2005, Nature Conservation (Estuarine Crocodile) Conservation Plan 2007, Nature Conservation (Dugong) Conservation Plan 1999 and Nature Conservation (Administration) Regulation 2006** also apply.

The **Petroleum and Gas (Production and Safety) Act 2004** is an Act about exploring for, recovering and transporting by pipeline, petroleum and fuel gas and ensuring the safe and efficient carrying out of those activities.

The **Torres Strait Fisheries Act 1984** is an Act to promote the good order, management, development and welfare of the fishing industry, to provide for the protection, conservation and management of the fisheries

resources and to implement the provisions of the Torres Strait Treaty in the Torres Strait area.

Legislation relating to marine pollution

The **Coastal Protection and Management Act 1995** is an Act about the protection and management of the coast through the protection, conservation, rehabilitation and management of the coast. The **Coastal Protection and Management Regulation 2003** also applies.

The **Dangerous Goods Safety Management Act 2001** is an Act about the safe management of the storage and handling of hazardous materials, particularly dangerous goods and combustible liquids, and the management of major hazard facilities and emergencies involving hazardous materials. The **Environmental Protection Regulation 1998** also applies.

The **Environmental Protection Act 1994** protects Queensland's environment while allowing for development that improves the total quality of life, both now and in the future. The **Nature Conservation (Wildlife) Regulation 2006 and Transport Operations (Marine Pollution) Act 1995** also apply.

The **Maritime Safety Queensland Act 2002** provides for the establishment of MSQ. MSQ has a safety role in relation to licensing and registration of vessels, particularly in relation to the temporary registration of foreign-flagged vessels wishing to undertake intra-state voyages between Queensland ports.

The **Transport Operations (Marine Pollution) Act 1994** is an Act to provide for the regulation of vessels and their operations and the safety of vessel movements in Queensland waters and to enable the effectiveness and efficiency of the Queensland maritime industry to be developed.

Legislation relating to prohibited imports and exports

No applicable state legislation.

Legislation relating to irregular maritime arrivals

No applicable state legislation.

Legislation relating to compromise to biosecurity

The ***Exotic Diseases in Animals Act 1981*** provides for the control, eradication and prevention of exotic diseases in animals, and the compensation of owners for loss or destruction of animals and property during outbreaks of exotic diseases.

The ***Public Health Act 2005*** protects and promotes the health of the Queensland public through responding to public health emergencies, inquiring into serious public health matters and providing for the identification of, and response to, notifiable conditions.

Legislation relating to piracy, robbery or violence at sea

Chapter 11 of the ***Criminal Code*** provides for the offence and punishment of crimes of piracy.

Legislation relating to maritime terrorism

The ***Terrorism (Preventative Detention) Act 2005*** authorises preventative detention in connection with terrorist acts. The object of this Act is to allow a person to be taken into custody and detained for a short period of time in order to prevent a terrorist act occurring in the near future; or preserve evidence of, or relating to, a recent terrorist act.

Roles of government agencies related to maritime security—Queensland Government²⁹

Department of Justice and Attorney-General

The department delivers a diverse range of services that help to build a safe, just and supportive society. As the name implies, the department has two broad functions: justice administration, with the court system as its focus; and the Attorney-General's role as the state's chief law officer and the legal representative for the community at large. The department's mission is to deliver a fair, open and accessible justice system for all Queenslanders. The DPP which resides within the department is an independent body responsible for instituting, conducting and supervising criminal and related proceedings within courts.

Department of Employment, Economic Development and Innovation

The Department of Employment, Economic Development and Innovation assists Queensland food and fibre industries to increase productivity, sustainability, market growth and adaptability. The department's mission is to maximise the economic potential for Queensland's primary industries on a sustainable basis which it delivers through the outputs Biosecurity Queensland, industry development business group, delivery business group, fisheries business group and corporate capability business group. The department includes Fisheries Queensland (responsible for fisheries management) and Biosecurity Queensland (responsible for biosecurity).

²⁹ Correct as at time of writing.

Department of the Premier and Cabinet

The Department of the Premier and Cabinet supports and advises the Premier and Cabinet, provides leadership across government and advances government policy priorities. The department supports the Premier in administering legislative duties as well as managing policy and executive governance in Queensland.

The department's key functions include:

- » providing policy advice and coordination for the Premier and Cabinet
- » detailed briefings for the Premier on all matters before Cabinet
- » corporate support to executive government
- » ensuring community members are involved in decision-making
- » communicating the government's key messages and priorities
- » business services to ensure maximum efficiency
- » freedom of information.

Department of Environment and Heritage Protection

The Department of Environment and Heritage Protection is a key stakeholder under the Queensland Coastal Contingency Action Plan and with the Department of National Parks, Recreation, Sport and Racing is responsible for providing environmental and scientific support, including strategic environmental advice and support, oiled wildlife response, traditional owner liaison support, shoreline assessment, waste management advice and geographic information system (GIS) support for incidents in both Queensland waters and the Great Barrier Reef Marine Park.

Department of National Parks, Recreation, Sport and Racing

The Queensland Parks and Wildlife Services (QPWS), a division of the Department of National Parks, Recreation, Sport and Racing is responsible for the field management of marine parks on the east coast of Queensland. This includes three state marine parks and the jointly managed Great Barrier Reef Marine Park. Key field management

actions delivered by QPWS include compliance; marine ecosystem protection; island ecosystem protection; management of protective visitor facilities; environmental assessments for sustainable use and public contact and education. QPWS also assists the Department of Environment and Heritage Protection (DEHP) with oiled wildlife response and stranded wildlife.

Queensland Health

Queensland Health is currently responsible for the management, administration and delivery of public sector health services and is committed to providing safe, sustainable, efficient, quality and responsive health services for all Queenslanders. This responsibility is discharged through a network of 17 health service districts.

Queensland Police Service

The Queensland Police Service is committed to serving the people of Queensland by protecting life and property, preserving peace and safety, preventing crime and upholding the law in a manner which has regard for the public good and the rights of the individual.

Department of Transport and Main Roads

The department works to ensure a coordinated, consultative and integrated approach to addressing and resolving transport challenges. The department aims to create and manage a world-class transport system for all our communities and industries, to prosper locally and internationally, and enhance the quality of transport now and in the future. The rail, ports and freight division of the department is responsible for overseeing the port authorities and provides strategic policy advice on port network issues and general maritime and shipping policy.

Maritime Safety Queensland

Maritime Safety Queensland (MSQ) is an agency of the Department of Transport and Main Roads. The department's role is to protect Queensland's waterways and the people who use them, providing safer, cleaner seas. MSQ is responsible for:

- » improving maritime safety for shipping and small craft through regulation, education, and enforcement
- » minimising the risk of vessel-sourced pollution and responding to marine pollution incidents
- » providing essential maritime services, such as pilotage for regional ports, vessel traffic services and aids to navigation
- » encouraging and supporting innovation in the maritime industry.

Queensland specific regional arrangements

Great Barrier Reef Marine Park

The Great Barrier Reef Marine Park is a culturally, environmentally and economically significant part of Australia. The economic value alone is estimated to be in the order of \$6 billion annually. The entire marine park is a protected area with a range of restrictions which is dependent on the specific zone within the park. See Figure 13 for a pictorial representation of the Great Barrier Reef Marine Park. More detailed maps can be obtained from the Great Barrier Reef Marine Park Authority (GBRMPA).

Management and enforcement of illegal activity in the Great Barrier Reef Marine Park is shared between the Commonwealth Government (through GBRMPA) and the Queensland Government (through the Queensland Parks and Wildlife Services (QPWS), a division of the Department of National Parks, Recreation, Sport and Racing. For marine pollution incidents in the Great Barrier Reef Marine Park GBRMPA, QPWS and the Department of Environment and Heritage Protection (DEHP) are responsible for environmental and scientific support, including strategic environmental support, oiled wildlife response, traditional owner liaison support, shoreline assessment, waste management advice and GIS support.

Funding for the management of the Great Barrier Reef Marine Park is shared equally between the Commonwealth and the Queensland governments and administered operationally through the Field Management Program.

Torres Strait

A vitally important international shipping channel runs through the treacherous internal waters of the Torres Strait, a situation unique in Australian waters. The Torres Strait Treaty provides for certain specific arrangements in this region, such as:

- » the freedom of movement by traditional people, who live in a specified zone, within the Torres Strait region who are either Australia or PNG nationals without the use of passports or formal travel documentation
- » allowing traditional people to fish for protected species (in particular dugong and turtle) within the Torres Strait using traditional means within a specified area.

Figure 14 provides a pictorial representation of the Torres Strait maritime zones.

Coral Sea Islands Territory

The Coral Sea Islands Territory is an external territory to the east of the Great Barrier Reef Marine Park waters and is managed by the Territories Division of the Department of Regional Australia, Local Government, Arts and Sport. This territory consists of reefs, cays and a number of islands (mostly uninhabited). All of the Coral Seas waters are territorial seas, contiguous zones or part of the EEZ.

The Coral Sea Territory is unique among external territories managed by the Commonwealth in that Queensland laws apply under certain circumstances by virtue of the **Crimes at Sea Act** Cooperative Scheme Adjacent Areas Arrangements. Figure 7 shows the area.

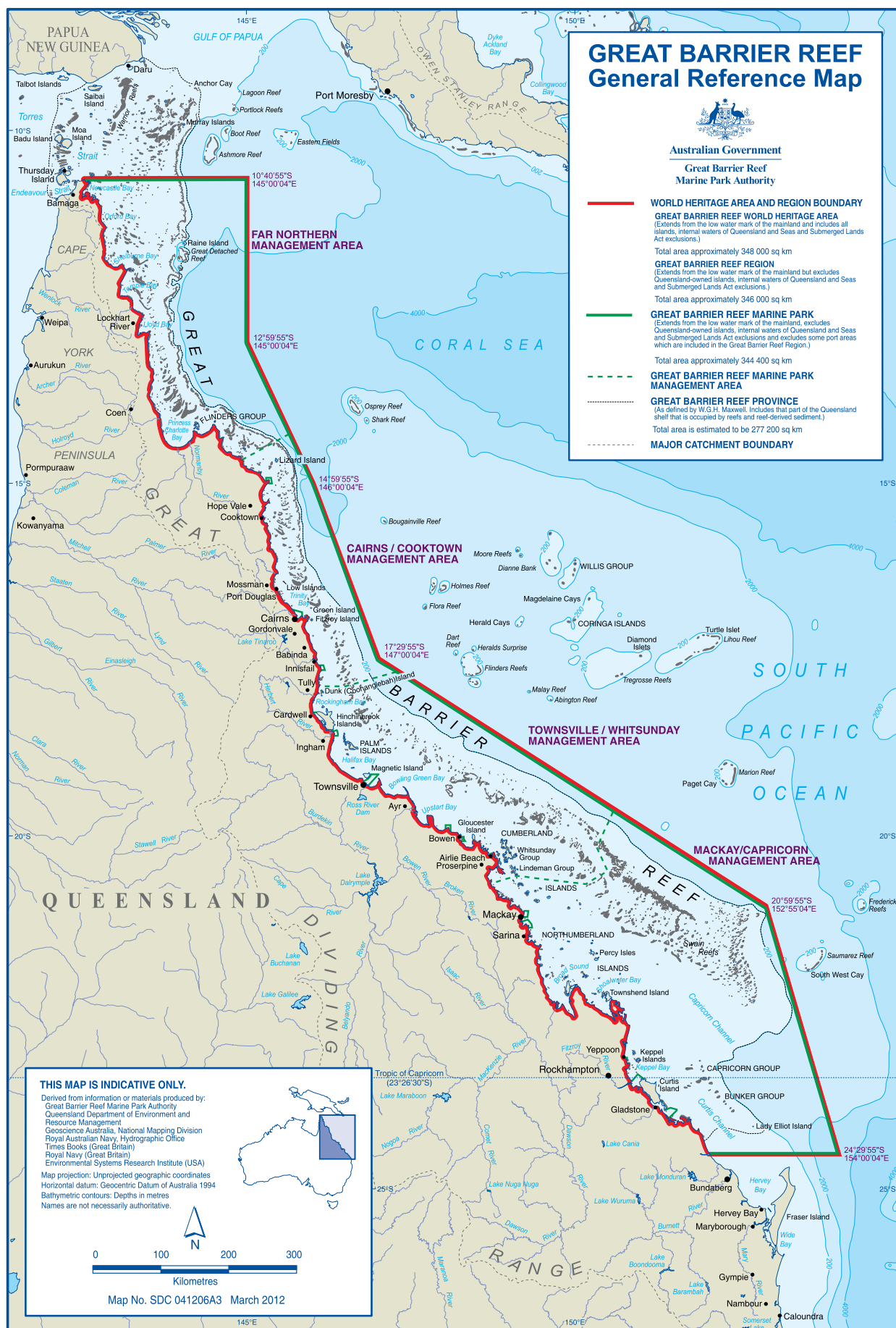


Figure 13 Great Barrier Reef Marine Park

Map courtesy of the Great Barrier Reef Marine Park Authority.

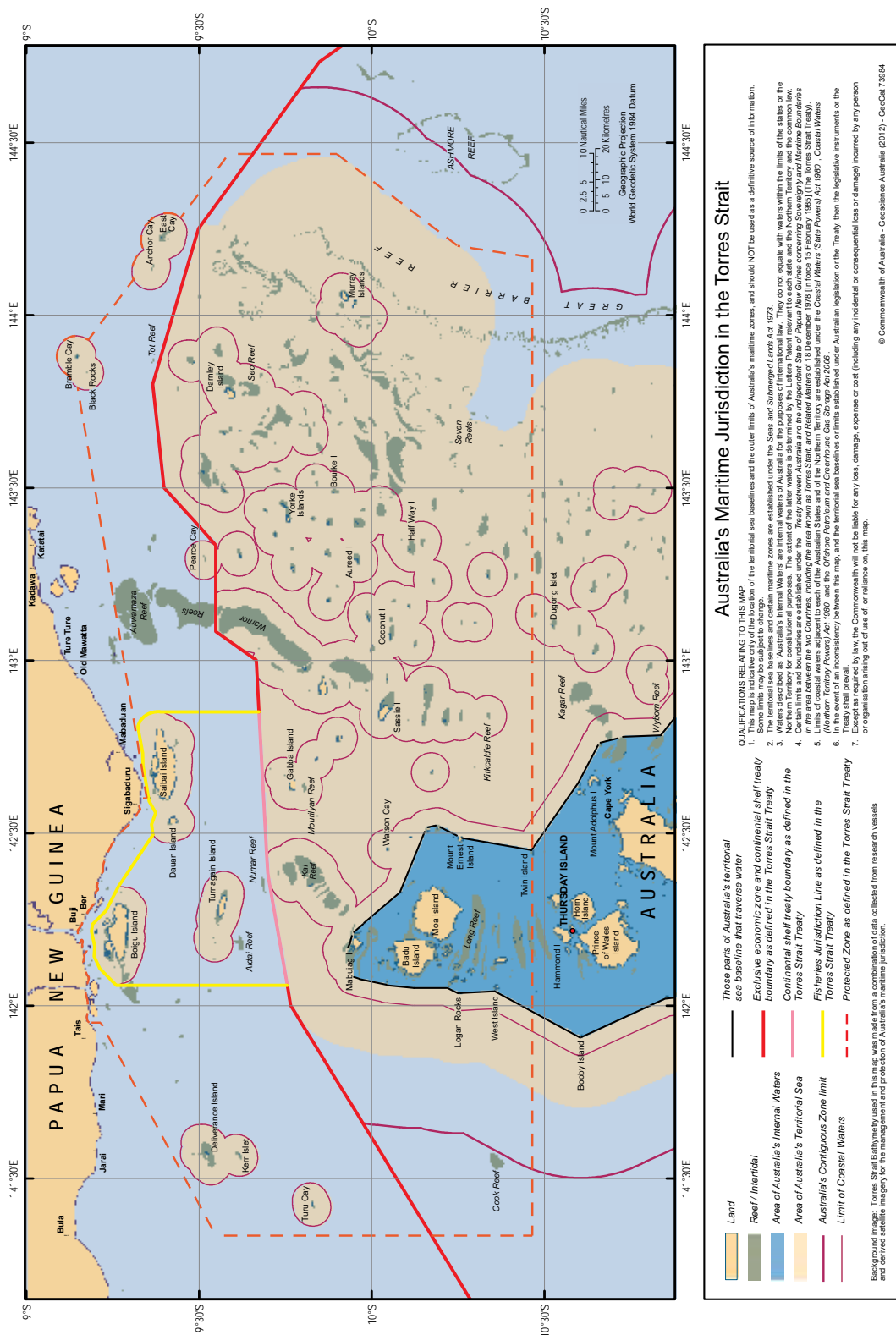


Figure 14 Torres Strait maritime zones

Map courtesy of Geoscience Australia.

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Note: There may be some changes to legislation or State/Federal organization that are not reflected in this chapter. Please use as a guide only.

Annex D – New South Wales

New South Wales legislation

Generic legislation

The **Application of Laws (Coastal Sea) Act 1980** provides that the laws in force in the state, whether written or unwritten, and whether substantive or procedural, other than criminal laws and laws of the Commonwealth, apply to and in relation to the coastal sea, and so apply as if the coastal sea were part of the state.

The **Crimes at Sea Act 1998** gives effect to a cooperative scheme for dealing with crimes at sea and provides for an application of state criminal law on the seaward side, but within 12 nautical miles from the baseline for the state.

The **Marine Safety Act 1998** relates to the safe operation of vessels in ports and other waterways and provides for the investigation of marine accidents and for appropriate action following any such investigation.

The **Navigation Act 1901** relates to ships and the navigation of ships, including provisions for the court of marine inquiry and safety and the prevention of accidents.

The **Ports and Maritime Administration Act 1995** is an Act that establishes mechanisms for the management of New South Wales ports. The **Ports and Maritime Administration Regulation 2007** also applies.

The **Protection of the Environment Operations Act 1997** includes the protection, restoration and enhancement of the quality of the environment. It focuses on the need to maintain ecologically sustainable development and to reduce threats to human health and prevent the degradation of the environment by the use of mechanisms that promote pollution prevention.

The **Protection of the Environment Legislation Act 2011** makes provisions with respect to the notification and management of pollution incidents.

Legislation relating to illegal activity in protected areas

The **Marine Parks Act 1997** aims to conserve marine biological diversity and marine habitats by declaring and providing for the management of a comprehensive system of marine parks. It also aims to provide for ecologically sustainable use of fish, including commercial and recreational fishing, and marine vegetation in marine parks. The **Marine Parks Regulation 1999** also applies.

The **National Parks and Wildlife Act 1974** includes the conservation of nature, habitat, ecosystems and ecosystem processes; the conservation of biological diversity and the conservation of objects, places or features, including biological diversity, of cultural value within the landscape and providing for the management of land reserved under this Act.

The **Wilderness Act 1987** provides for the identification of wilderness and the protection and management of wilderness areas in the state.

The **Impounding Act 1993** provides for the impounding of certain animals, motor vehicles and other things, to provide for their release or disposal, and to provide for related matters.

Legislation relating to illegal exploitation of natural resources

The **Fisheries Management Act 1994** aims to conserve, develop and share the fishery resources of the state for the benefit of present and future generations. The Act includes provisions relating to noxious fish and marine vegetation, and diseased fish and marine vegetation.

The **Natural Resources Commission Act 2003** establishes an independent body for the purposes of establishing a sound scientific basis for the management of natural resources of the state, including coastal protection and the marine environment.

The **Offshore Minerals Act 1999** enables the administration of the Commonwealth–state offshore area and regulation of offshore exploration and mining. The **Offshore Minerals Regulation 2006** also applies.

The **Petroleum (Submerged Lands) Act 1982** relates to the exploration for and the exploitation of the petroleum resources and certain other resources of certain submerged lands adjacent to the coasts of New South Wales. The **Petroleum (Submerged Lands) Regulation 2006** also applies.

Legislation relating to marine pollution

The **Coastal Protection Act 1979** provides for the protection of the state's coastal environment for the benefit of both present and future generations.

The **Marine Pollution Act 1987** relates to the discharge of oil or oily mixture into state waters, pollution by noxious substances, pollution relating to transfer operations and ships carrying or using oil or carrying noxious liquid substances. The **Marine Pollution Regulation 2006** also applies.

Legislation relating to prohibited imports and exports

The **New South Wales Crime Commission Act 1985** enables the establishment of the Crime Commission and its Powers. One of its objectives is to reduce the incidence of illegal drug trafficking and organised and other crime.

The **Sea-Carriage Documents Act 1997** reforms the law relating to bills of lading, sea waybills and ship's delivery orders.

The **Weapons Prohibition Act 1998** prohibits and controls the possession and use of certain weapons.

Legislation relating to irregular maritime arrivals

No applicable state legislation.

Legislation relating to compromise to biosecurity

The **Plant Diseases Act 1924** makes provisions to prevent the introduction into New South Wales of diseases and pests affecting plants or fruit and to provide for the eradication of such diseases and pests. It also provides for the eradication of such diseases and pests, and includes measures to stop their spread.

The **Fisheries Management Act 1994** aims to conserve, develop and share the fishery resources of the state for the benefit of present and future generations. The Act includes provisions relating to noxious fish and marine vegetation and diseased fish and marine vegetation.

The **Public Health Act 1991** makes provisions for orders and directions during a state of emergency and public health orders.

Legislation relating to piracy, robbery or violence at sea

The **Piracy Punishment Act 1902** consolidates the statutes relating to the punishment for piracy.

Legislation relating to maritime terrorism

The **Terrorism (Commonwealth Powers) Act 2002** refers certain matters relating to terrorist acts to the Parliament of the Commonwealth. The Act has a definition of 'terrorist act'.

The **Terrorism (Police Powers) Act 2002** gives special powers to police officers to deal with terrorist acts.

Roles of government agencies related to maritime security—New South Wales Government³⁰

Department of Attorney-General and Justice

The New South Wales Department of Attorney-General and Justice administers the courts, tribunals, laws and justice programs of the state. The department assists the New South Wales Government, judiciary, parliament and the community to promote social harmony through programs that protect human rights and community standards, and reduce crime.

The department assists the New South Wales Attorney-General in his role as the First Law Officer of the state. It also provides support services to enable the Attorney's legislative and advisory responsibilities to parliament and to the Cabinet to be carried out. The DPP, which resides within the department, is an independent body responsible for instituting, conducting and supervising criminal and related proceedings within courts.

Environment Protection Authority

The Environment Protection Authority (EPA) is the New South Wales Government authority responsible for licensing and regulating air emissions, contaminated sites, hazardous materials—including dangerous goods and radiation—noise, pesticides, forestry activities, waste, water quality and state of the environment reporting.

The EPA has statutory responsibilities in relation to hazardous incidents response and a role in state emergency management planning and emergency response as Environmental Services Functional Area Coordinator. Staff from across the EPA and the Office of Environment and Heritage are available to assist in an incident and include laboratory and analytical staff, ecotoxicology specialists, dangerous goods and radiation

specialists, specialist investigators, public affairs officers and specialists in chemicals, water pollution and waste management.

Department of Premier and Cabinet

The Department of Premier and Cabinet supports the Premier in achieving government objectives and provides leadership and direction to the New South Wales public sector.

Ministry for Police and Emergency Services

The Ministry for Police and Emergency Services provides a single source of advice and coordination in the police and emergency services portfolio. The ministry is responsible for the development and coordination of law enforcement and emergency management policy and advice to the Minister for Police and Emergency Services. The ministry is also responsible for the coordination of recovery functions, including disaster welfare services. The role of the ministry also encompasses operational and planning issues which affect the economic, environmental and social wellbeing of the state, by providing the framework to prepare for and recover from disasters caused by natural means or a terrorist incident.

Department of Primary Industries

The Department of Primary Industries acts in partnership with industry and other public sector organisations to foster profitable and sustainable development of primary industries in New South Wales. The department also places primary industries in a stronger position to influence environmental and natural resource access debates.

The Agriculture New South Wales division is responsible for developing and sustaining diverse, profitable food and fibre industries, and ensuring best practice management of the state's natural resource base. The Fisheries New South Wales division is responsible for maintaining profitable and sustainable fisheries and aquaculture, and conserving aquatic biodiversity.

³⁰ Correct as at time of writing.

New South Wales Health

New South Wales Health is responsible for ensuring that the people of New South Wales are provided with the best possible health care. The department monitors the performance of the New South Wales public health system.

New South Wales Police Force

The New South Wales Police Force remains fully committed to driving down crime and reducing the fear of crime through the provision of a range of services designed to ensure a safe New South Wales. It aims to protect the community and property by preventing, detecting and investigating crime; monitoring and promoting road safety; maintaining social order; and performing and coordinating emergency and rescue operations. Other major services include traffic control; communications; intelligence analysis; and anti-terrorist negotiation.

Roads and Ports portfolio

The Roads and Ports portfolio includes a number of state government bodies responsible for the ports and waterways including sections within Transport for New South Wales, Roads and Maritime Services, the Newcastle Port Corporation, New South Wales Maritime, Port Kembla Corporation and the Sydney Ports Corporation. Additionally, the Office of Transport Safety Investigation, which reports to the Minister for Transport and is an independent body, investigates safety occurrences involving bus, ferry and rail transportation.

Roads and Maritime Services

Roads and Maritime Services is a statutory government body. It is classified by New South Wales Treasury as a non-budget dependent general government agency and is responsible for:

- » recreational boating
- » commercial vessels and asset management.

Transport for New South Wales is the primary transport agency responsible for shipping, security and environment. The department works in conjunction with the three port corporations who have safety and environment protection responsibilities as part of their respective port safety operating licences. Responsibility for maritime security is directly applied to the port corporations, as a port operator, via Commonwealth legislation.

New South Wales specific regional arrangements

Lord Howe Island is part of New South Wales while Norfolk Island and surrounding islands are managed by the Department of Regional Australia, Local Government, Arts and Sport.

The Jervis Bay Territory is a Commonwealth territory and managed by the Department of Regional Australia, Local Government, Arts and Sport.

Note: There may be some changes to legislation or State/Federal organization that are not reflected in this chapter. Please use as a guide only.

Annex E – Victoria

Victorian legislation

Generic legislation

The **Coastal Management Act 1995** establishes the Victorian Coastal Council; and provides for coordinated strategic planning and management for the Victorian coast.

The **Constitutional Powers (Coastal Waters) Act 1980** extends the legislative powers of the state in and in relation to coastal waters.

The **Crimes Act 1958** lists crimes and penalties and consolidates the law relating to crimes and criminal offenders.

The **Crimes at Sea Act 1999** gives legal force to a cooperative scheme for dealing with crimes at sea and provides for consequential vesting of judicial and other powers.

The **Emergency Management Act 1986** provides for the organisation of emergency management in Victoria.

The **Marine Act 1988** governs the registration of vessels and the pollution of state waters, and implements certain international conventions to provide for the efficient and safe operation of vessels on state waters. The **Marine Regulations 2009** also apply.

The **Port Services Act 1995** establishes mechanisms for the management of Victorian ports. The **Port Services (Local Ports) Regulations 2004** also apply.

Legislation relating to illegal activity in protected areas

The **Heritage Act 1995** provides for the protection and conservation of places and objects of cultural heritage significance and the registration of such places and objects.

The **National Parks Act 1975** provides for marine national parks and marine sanctuaries to preserve and protect the natural environment.

Legislation relating to illegal exploitation of natural resources

The **Environment Protection Act 1970** aims to protect the environment in Victoria through the conservation of biological diversity and ecological integrity, waste management and enforcement.

The **Mineral Resources (Sustainable Development) Act 1990** provides a coordinated assessment and approval process for extractive industries and ensures that extractive industry operations are carried out with safe operating standards.

The **Fisheries Act 1995** provides a modern legislative framework to regulate, manage and conserve Victorian fisheries, including aquatic habitats. The **Fisheries Regulations 1998** also apply.

The **Gas Safety Act 1997** provides for the safe conveyance, sale, supply, measurement, control and use of gas. The Act also regulates gas safety in general.

The **Petroleum Act 1998** regulates petroleum exploration and production in Victoria.

The **Pipelines Act 2005** regulates the construction and operation of pipelines in Victoria.

The **OPGGSA** relates to the exploration for and the exploitation of the petroleum resources of submerged lands in Victorian coastal waters (up to 3 nautical miles offshore).

The **Underseas Mineral Resources Act 1963** encourages the exploration and exploitation of the mineral resources of the seabed within the territorial limits of Victoria.

The **Victorian Environmental Assessment Council Act 2001** establishes the Victorian Environmental Assessment Council to conduct investigations and make recommendations relating to the protection and ecologically sustainable management of the environment and natural resources of public land, including national parks.

Legislation relating to marine pollution

The **Environment Protection Act 1970** aims to protect the environment in Victoria including through the conservation of biological diversity and ecological integrity, waste management and enforcement.

The **Gas Safety Act 1997** provides for the safe conveyance, sale, supply, measurement, control and use of gas. The Act also regulates gas safety in general.

The **National Environment Protection Council (Victoria) Act 1995** ensures that, by means of the establishment and operation of the National Environment Protection Council, people enjoy the benefit of equivalent protection from air, water or soil pollution and from noise, wherever they live in Australia.

The **Pollution of Waters by Oil and Noxious Substances Act 1986** makes certain provisions for the protection of the sea and certain waters from pollution by oil and other noxious substances and to implement the MARPOL Convention. The **Pollution of Waters by Oil and Noxious Substances Regulations 2002** also apply.

Legislation relating to prohibited imports and exports

The **Control of Weapons Act 1990** regulates weapons other than firearms and body armour.

The **Dangerous Goods Act 1985** regulates dangerous goods; prohibits or regulates the import, export, supply or disposal of high-consequence dangerous goods; and prohibits or regulates the export or supply of explosives. The **Dangerous Goods (Explosives) Regulations 2000** also apply.

The **Drugs, Poisons and Controlled Substances Act 1981** amends the law relating to drugs, poisons and controlled substances.

The **Firearms Act 1996** gives effect to the principle that the possession, carriage, use, acquisition and disposal of firearms is conditional on the need to ensure public safety and peace.

The **Plant Health and Plant Products Act 1995** provides for the prevention, monitoring, control and eradication of plant pests and diseases.

The **Sea-Carriage Documents Act 1998** reforms the law relating to bills of lading, sea waybills and ship's delivery orders.

Legislation relating to irregular maritime arrivals

No applicable state legislation.

Legislation relating to compromise to biosecurity

The **Catchment and Land Protection Act 1994** establishes management and protection of catchments and sets up a system of controls on noxious weeds and pest animals.

The **Conservation, Forests and Lands Act 1987** aims to conserve the state's lands, waters, flora and fauna; and to provide for the use of the state's lands, waters, flora and fauna in ways which are environmentally sound.

The **Flora and Fauna Guarantee Act 1988** establishes a legal and administrative structure to enable and promote the conservation of Victoria's native flora and fauna and provides for a range of procedures that can be used to conserve, manage or control flora and fauna.

The **Gene Technology Act 2001** aims to protect the health and safety of people, and to protect the environment, by identifying threats posed by or resulting from gene technology, and by managing those threats through regulating certain dealings with genetically modified organisms.

The **Public Health and Wellbeing Act 2008**, the **Radiation Act 2005** and the **Food Act 1984** include provisions for the prevention and response to human illness and infectious diseases.

The **Livestock Disease Control Act 1994** provides for the prevention, monitoring and control of livestock diseases and provides compensation for losses caused by certain livestock diseases.

The **Occupational Health and Safety Act 2004** includes provisions to secure the health, safety and welfare of

employees and other persons at work; and to ensure that the health and safety of members of the public are not placed at risk by the conduct of employers and self-employed persons. The **Occupational Health and Safety Regulations 2007** also apply.

The **Plant Health and Plant Products Act 1995** provides for the prevention, monitoring, control and eradication of plant pests and diseases and facilitates the movement of plants and plant products into and out of Victoria.

The **Wildlife Act 1975** promotes the protection and conservation of wildlife and the sustainable use of wildlife, and prohibits and regulates people engaged in activities concerning or related to wildlife. The **Wildlife (Whales) Regulations 1998** and **Wildlife Regulations 2002** also apply.

Legislation relating to piracy, robbery or violence at sea

The **Major Crime (Investigative Powers) Act 2004** provides a regime for the authorisation and oversight of the use of coercive powers to investigate organised crime offences.

The **Seamen's Act 1958** establishes the policing of vessels within Victorian waters, including boarding vessels.

The **Transport (Compliance and Miscellaneous) Act 1983** includes public transport offences and enforcement of transport safety laws. The **Marine Act 1988** governs the registration of vessels, the pollution of state waters and implements certain international conventions to provide for the efficient and safe operation of vessels on state waters.

Legislation relating to maritime terrorism

The **Terrorism (Community Protection) Act 2003** provides for certain powers and obligations regarding the prevention of and response to terrorist acts. The **Terrorism (Community Protection) (Chemicals and Substances) Regulations 2006** also apply.

Roles of government agencies related to maritime security—Victorian Government³¹

Department of Health

The Department of Health is committed to achieving the best health and wellbeing for all Victorians. This is accomplished through planning, policy development, funding and regulation of health service providers and activities which promote and protect Victorians' health, including:

- » health care services provided through the public hospital system, community health services, ambulance services, dental services and public mental health, drug and alcohol services
- » residential and community care for older people, support and assistance to enable people to function independently in their own homes, positive ageing programs, healthy and active living and seniors card
- » health promotion and protection through emergency management, public health and related preventative services, education and regulation
- » in relation to emergencies, the Department of Health has responsibilities in prevention, preparedness, response and recovery capability across the hospital, primary health and aged care sectors for an emergency with major health consequences
- » providing whole-of-health leadership and direction in planning and preparing for emergencies with major health consequences
- » implementation of legislation, programs and monitoring procedures to minimise public health risk from:
 - infectious diseases
 - contaminated food
 - contaminated water supplies
 - radiation and chemicals
- » exercising delegated authorities as agents for the Commonwealth under the **Quarantine Act 1908** as quarantine officers.

³¹ Correct as at time of writing.

The Department of Health is the control agency for human disease/epidemics, food/drinking water contamination and incidents involving radiological substances and intentional biological releases.

Department of Human Services

The Department of Human Services is committed to improving people's lives and reducing their experience of disadvantage. To achieve this, the Department of Human Services provides housing and community services to support and protect Victorians most in need.

In relation to emergencies, the Department of Human Services is responsible for state and regional coordination of emergency relief and recovery including state/Commonwealth departments, local government, non-government organisations and agencies in consideration of:

- » the people, social, health and community environment
- » the economic environment
- » the natural environment
- » the built environment.

The Department of Human Services also:

- » coordinates provision of personal support (including psychological first aid) at incident sites and across the community
- » provides community information and facilitate community redevelopment programs
- » supports councils, municipal emergency management planning committees and community recovery committees in relief and recovery planning and managing relief and recovery activities
- » provides advice, information and assistance to affected individuals, communities, funded agencies and municipal councils
- » coordinates provision of interim accommodation following emergencies with major housing impacts.

Department of Transport

The Department of Transport leads, in collaboration with stakeholders and the community, the strategic planning for, and integration, development and management of, transport services and infrastructure. The department delivers specified major projects, facilitates effective

freight and logistics operations, and provides oversight of security of transport critical infrastructure.

Security and Emergency Management Division

The department's Security and Emergency Management Division coordinates arrangements for the department and input to whole-of-government processes in relation to emergency management planning, marine pollution preparedness and response, and the coordination for major incidents.

It is responsible for promoting and driving organisational preparedness for high-impact security risks and emergencies, including marine pollution, within the critical infrastructure sectors of public transport, the road and rail system and ports and marine environments. The division also manages administrative arrangements for compliance of Declared Essential Services transport operators under Part 6 of the ***Terrorism (Community Protection) Act 2003***.

The division includes the Marine Pollution Team, responsible for supporting the state Marine Pollution Controller in fulfilling the department's responsibility as Control Agency for marine pollution, prescribed under the ***Marine Act 1988***. Note that although the Department of Transport is responsible for marine pollution incidents and other emergencies, the Commonwealth Government has regulatory responsibility for the security of Victoria's principal commercial ports.

Department of Justice

The Department of Justice consists of business units and statutory entities aligned under nine key functions. This includes all police and prosecution functions, administration of the court system, provision of the prison and community corrections services, administration of various tribunals and agencies established to protect citizens' rights, emergency management, provision of emergency services, policy on racing and gaming issues and the provision of legal advice to government.

The DPP which resides within the department is an independent body responsible for instituting, conducting and supervising criminal and related proceedings within courts.

Department of Premier and Cabinet

The Department of Premier and Cabinet leads the Victorian public service and plays a key role in identifying and implementing the government's strategic direction. The department supports the Premier as head of the Victorian Government as well as providing policy advice to Cabinet and its committees. The department is responsible for managing issues that affect the government as a whole, including coordinating Victoria's response to major policy challenges, oversight of disaster response and ensuring the government's messages are consistent. It is also responsible for managing relationships with other governments across Australia and overseas.

Department of Primary Industries

The Department of Primary Industries supports the agriculture, fisheries, petroleum, minerals, energy and forest industries in Victoria. The department's objective is to enable transformation in Victoria's primary and energy industries to sustainably increase wealth and wellbeing, while protecting and enhancing public safety, the community, animal welfare and the environment. The department meets this objective by using its expertise in science and technology to provide information and advice on the use and management of the state's primary resources. Fishing, agriculture, mining, petroleum, and forestry are all primary industries. The department works with these industries so that they generate wealth and employment, and also take their environmental and social responsibilities seriously.

Fisheries Victoria is a division of the department. Fisheries Victoria manages the fisheries resource by developing and implementing policies and projects and delivering a wide range of services such as fishing regulation.

The Energy and Earth Resources Group of the Department of Primary Industries is responsible for promoting and regulating the extractive, oil and gas,

pipelines, geothermal energy, minerals exploration and mining industries in Victoria. The group maintains an efficient licensing and permitting administration system to provide secure title for exploration, production and pipeline activities, and also ensures that industry health, and environmental management standards meet community needs.

Department of Sustainability and Environment

The Department of Sustainability and Environment is responsible for promoting and managing the sustainability of Victoria's natural and built environments.

The department's responsibilities include:

- » sustainable water management and supply
- » sustainable catchment management
- » services for management and governance of Victoria's parks
- » services for biodiversity, conservation, ecosystem, heritage recreation and tourism
- » public land and sustainable forest management services
- » fire prevention operations and planning environment
- » urban and regional strategies and programs
- » sustainability and greenhouse policy
- » sustainable cities, regions and heritage conservation
- » land information
- » policy frameworks, regulations and services to protect the environment.

The Department of Sustainability and Environment is also responsible for four commercial ports and 13 local ports.

Environmental Protection Authority

Environmental Protection Authority Victoria's purpose is to protect, care for and improve Victoria's environment. It is responsible for Acts, state environment protection policies, waste management policies, regulations and notifiable chemical orders administered by the authority.

Parks Victoria

Parks Victoria is the custodian of a diverse range of significant parks in Victoria and of the recreational management of Port Phillip Bay, Western Port and Port Campbell and the Yarra and Maribyrnong rivers.

Victoria has:

- » 45 national parks
- » 13 marine national parks
- » 11 marine sanctuaries
- » 3 wilderness parks
- » 25 state parks
- » 30 metropolitan parks
- » 60 other parks (including regional and reservoir parks).

These assets, both parks and reserves, cover more than 4 million hectares (17 per cent of Victoria).

Transport Safety Victoria

Transport Safety Victoria is the integrated safety regulator for bus, maritime and rail transport. This regulatory function is exercised through the establishment of the independent statutory office of the Director, Transport Safety.

Transport Safety Victoria coordinates waterway management, and develops and implements vessel standards and operator competencies.

Transport Safety Victoria's purpose is, amongst other things, to provide for the efficient and safe operation of vessels on state waters through the administration of the relevant provisions of the **Marine Act 1988** and associated **Marine Regulations 2009**.

Victoria Police

Victoria Police contributes to the quality of life for individuals in the community by ensuring a safe and secure society and underpins the economic, social and cultural wellbeing of Victoria.

The Water Police has the primary role of coordinating all marine incidents involving recreational vessels, yachts and fishing vessels and commercial vessels in port. Such incidents often involve overdue vessels, flare sightings, broken down boats, missing divers, injured crewmembers and distress calls. The Water Police also liaises with the following key marine agencies:

- » Australian Search and Rescue
- » Australian Volunteer Coast Guard
- » Transport Safety Victoria (Maritime)
- » various volunteer and professional rescue and water safety stakeholder groups.

Note: There may be some changes to legislation or State/Federal organization that are not reflected in this chapter. Please use as a guide only.

Annex F – Tasmania

Tasmanian legislation

Generic legislation

The **Coastal and Other Waters (Application of State Laws) Act 1982** provides for Tasmanian law to have effect in the areas adjacent to the coastal areas of Tasmania with respect to subterranean mining.

The **Crimes at Sea Act 1999** applies the criminal law of the states extraterritorially in the areas adjacent to the coast of Australia.

The **Criminal Code Act 1924** declares, consolidates, and amends the criminal law, and establishes a code of criminal law.

The **Emergency Management Act 2006** provides for the protection of life, property and the environment in the event of an emergency and establishes emergency management arrangements to provide for certain rescue.

The **Environmental Management and Pollution Control Act 1994** provides for the management of the environment and the control of pollution in the state.

The **Marine and Safety Authority Act 1997** establishes the Marine and Safety Authority.

The **Offshore Waters Jurisdiction Act 1976** declares the law relating to offences committed in, on, under, or over waters adjacent to the coast of the state.

The **Tasmanian Ports Corporation Act 2005** provides for the control of, and other matters relating to, the Tasmanian Ports Corporation Pty Ltd, for the transfer to that corporation or the Crown of the assets and liabilities of the four port companies formed under two previous acts.

Legislation relating to illegal activity in protected areas

The **National Parks and Reserves Management Act 2002** provides for the management of national parks and other reserved land. The **National Parks and Reserved Land Regulations 2009** also apply.

The **Nature Conservation Act 2002** makes provision for the conservation and protection of the fauna and flora of the state and to provide for the declaration of national parks and other reserved land.

Legislation relating to illegal exploitation of natural resources

The **Fishing (Licence Ownership and Interest) Registration Act 2001** establishes a system of registration of ownership and interests in fishing licences. The **Fisheries Penalties Regulations 2001** also apply.

The **Gas Pipelines Act 2000** and **Gas Pipelines Access (Tasmania) Act 2000** facilitate the development of a natural gas supply industry to ensure that pipelines and pipeline facilities in Tasmania are constructed, maintained and operated to a high standard of safety and in a manner that protects people and property. The **Gas Pipelines Regulations 2002** also apply.

The **Living Marine Resources Management Act 1995**, **Living Marine Resources Management Amendment Act 2009** and the **Fisheries Rules (Validation) Act 1997** promote the sustainable management of living marine resources, provide for management plans relating to fish resources and protect marine habitats.

The **Marine Farming Planning Act 1995** provides for the planning of marine waters for marine farming and the allocation of marine farming leases.

The **Natural Resource Management Act 2002** establishes the Tasmanian Natural Resource Management Council and regional committees for natural resource management and provides for the development of regional strategies for natural resource management.

The **Petroleum (Submerged Lands) Act 1982** makes provisions about the exploration for and the exploitation of the petroleum resources, and certain other resources, of certain submerged lands adjacent to the coast of the state of Tasmania. The **Petroleum (Submerged Lands) (Management of Environment) Regulations 2002** and **Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations 2002** also apply.

The **Whales Protection Act 1988** provides for the protection of whales.

Legislation relating to marine pollution

The **National Environment Protection Council (Tasmania) Act 1995** ensures that, by means of the establishment and operation of the National Environment Protection Council, people enjoy the benefit of equivalent protection from air, water or soil pollution and from noise, wherever they live in Australia. The **Environmental Management and Pollution Control (Environmental Infringement Notices) Regulations 2006** also apply.

The **Pollution of Waters by Oil and Noxious Substances Act 1987** protects the state waters from pollution by oil and other substances and gives effect to certain parts of the MARPOL Convention.

Legislation relating to prohibited imports and exports

The **Dangerous Goods and Substances Act 2008** regulates the manufacture, transport and sale of dangerous goods and substances and regulates other activities in relation to such goods. The **Dangerous Goods (General) Regulations 1998** also apply.

The **Firearms Act 1996** and **Firearms Amendment Act 2007** provide for the regulation, registration and control of firearms. The **Firearms Regulations 2006** also apply.

The **Misuse of Drugs Act 2001** prohibits the misuse of drugs and activities associated with the misuse of drugs.

The **Sale of Hazardous Goods Act 1977** prohibits or regulates the sale of products likely to give rise to danger.

The **Sea-Carriage Documents Act 1997** reforms the law relating to bills of lading, sea waybills and ship's delivery orders.

The **Security-Sensitive Dangerous Substances Act 2005** and **Amendment Act 2008** restricts and regulates access to certain dangerous substances whose deliberate misuse would constitute a special threat to state security and public safety.

See also **Threatened Species Protection Regulations 2006**.

Legislation relating to irregular maritime arrivals

No applicable state legislation.

Legislation relating to compromise to biosecurity

The **Genetically Modified Organisms Control Act 2004** provides for the whole or any part of Tasmania to be declared to be a genetically modified organisms free area for the purpose of preserving the identity of non-genetically modified crops and animals for marketing purposes.

The **Plant Quarantine Amendment Act 2005** provides for the quarantine of plants and the control of pests and diseases. The **Plant Quarantine Regulations 2007** also apply.

The **Public Health Act 1997** protects and promotes the health of communities in the state and reduces the incidence of preventable illness.

The **Radiation Protection Act 2005** ensures the health and safety of people by protecting them from the harmful effects of radiation, and protects the environment from the harmful effects of radiation.

See also **Wildlife Regulations 2010**.

Legislation relating to piracy, robbery or violence at sea

See **Crimes at Sea Act 1999** and **Criminal Code Act 1924**. The **Criminal Rules 2006** and the **Marine and Safety (Collision) Regulations 2007** also apply.

Legislation relating to maritime terrorism

The **Terrorism (Commonwealth Powers) Act 2002** refers certain matters relating to terrorist acts to the Parliament of the Commonwealth.

The **Terrorism (Preventative Detention) Act 2005** allows persons to be taken into custody and detained in order to prevent an imminent terrorist act occurring or preserve evidence of, or relating to, a recent terrorist act.

Roles of government agencies related to maritime security— Tasmanian Government³²

Department of Health and Human Services

The department is responsible for providing a wide range of health and community services to the Tasmanian public. These services are delivered across Tasmania through a network of acute and community facilities.

Department of Infrastructure, Energy and Resources

The activities of the Department of Infrastructure, Energy and Resources include land transport safety, mineral resources, roads and traffic, infrastructure policy, energy planning and conservation, and passenger transport. The department also provides support to the operations of Private Forests Tasmania, Racing Services Tasmania and the Forest Practices Authority. Each division of the department has core responsibilities that contribute to Tasmania's social and economic development.

Department of Justice

The Department of Justice contributes to a just and safe society by providing systems and services for the promotion and maintenance of rights and responsibilities and the resolution of disputes, for the benefit of the Tasmanian community. The DPP which resides within the department is an independent body responsible for instituting, conducting and supervising criminal and related proceedings within courts.

Department of Police and Emergency Management

The department has the goals of reducing crime and working with communities and organisations to make Tasmania the safest state in the nation. The department has oversight of the (agencies) Tasmania Police, State Emergency Service, Forensic Science Service Tasmania and Tasmania Fire Service.

Department of the Premier and Cabinet

The Department of the Premier and Cabinet is a central agency of the Tasmanian Government. The department provides a broad range of services to the Cabinet, other members of parliament, government agencies and the community.

Department of Primary Industries, Parks, Water and Environment

The Department of Primary Industries, Parks, Water and Environment is responsible for the sustainable management and protection of Tasmania's natural and cultural assets for the benefit of Tasmanian communities and the economy.

The department's activities guide and support the use and management of Tasmania's land and water resources and protect its natural, built and cultural assets. The department is also responsible for delivering the services that support primary industry development and for the protection of the state's relative disease- and pest-free status.

Department of Economic Development, Tourism and the Arts

The mission of the Department of Economic Development, Tourism and the Arts is to create and promote and lead industry and community development. The department delivers marketing and development programs for Tasmanian tourism and providing policy and planning for Tasmanian arts and culture.

³² Correct as at time of writing.

Environmental Protection Authority

The Environmental Protection Authority is an integral part of Tasmania's resource management and planning system. Its jurisdiction includes environmental management and pollution control under the ***Environmental Management and Pollution Control Act 1994***.

Marine and Safety Tasmania

Marine and Safety Tasmania is a statutory authority that manages all the functions relating to the safe operation of recreational boats and commercial vessels in Tasmania.

Two of the authority's primary roles are to ensure the safe operation of vessels in all Tasmanian waters and to manage its marine facilities. The third role, which is to manage environmental issues relating to the operation of vessels, only relates to the specific issues relating to ensuring commercial vessels comply with the ***Pollution of Waters by Noxious Substances Act***. The general management of environmental issues is governed by the ***Environmental Management and Pollution Control Act 1994***, which is managed by the Department of Primary Industries, Parks, Water and Environment.

Tasmania Police

Tasmania Police sits within the Department of Police and Emergency Management. Its responsibilities include detecting and investigating crime and managing emergency situations. It is also responsible for enforcing fisheries and marine safety laws, as well as providing a water-borne capability for search and rescue operations.

Tasmania specific regional arrangements

Macquarie Island is part of Tasmania for the purposes of most arrangements; however, the AAD has a significant responsibility for a number of maritime security threats at Macquarie Island.

While it is part of Tasmania, Macquarie Island is remote. A continuous presence is maintained by a small staff from the AAD.

Macquarie Island is a Tasmanian state reserve managed by the Tasmanian Parks and Wildlife Service. Australia operates a research station at the northern end of the island, from which a wide range of research is carried out. The island lies just to the north of an oceanic boundary, the Antarctic Polar Frontal Zone or Antarctic Convergence, where cold polar water to the south meets the warmer subantarctic water to the north.

Macquarie Island is managed by the Tasmanian Department of Primary Industries, Parks, Water and Environment, through the Tasmanian Parks and Wildlife Service.

Note: There may be some changes to legislation or State/Federal organization that are not reflected in this chapter. Please use as a guide only.

Annex G – South Australia

South Australian legislation

Generic legislation

The **Constitutional Powers (Coastal Waters) Act 1979** requests that the Parliament of the Commonwealth enacts an Act to extend the legislative powers of the states in and in relation to coastal waters.

The **Crimes at Sea Act 1998** gives effect to a cooperative scheme for dealing with crimes at sea.

The **Emergency Management Act 2004** establishes strategies and systems for managing emergencies in the state.

The **Harbours and Navigation Act 1993** provides for the administration, development and management of harbours and provides for safe navigation in South Australian waters. The **Harbours and Navigation Regulations 1994** also apply.

The **Off-shore Waters (Application of Laws) Act 1976** applies the civil and criminal law of the state to certain offshore waters in the vicinity of the state.

The **South Australian Ports (Disposal of Maritime Assets) Act 2000** provides for the disposal of assets of the South Australian Ports Corporation. The **South Australian Ports (Bulk Handling Facilities) Act 1996** authorises the sale of bulk handling facilities at South Australian ports.

Legislation relating to illegal activity in protected areas

The **Adelaide Dolphin Sanctuary Act 2005** establishes a sanctuary to protect the dolphin population of the Port Adelaide River estuary and Barker Inlet and its natural habitat.

The **Historic Shipwrecks Act 1981** relates to the protection of certain shipwrecks and relics of historic significance. The **Historic Shipwrecks Regulations 1999** also apply.

The **National Parks and Wildlife Act 1972** provides for the establishment and management of reserves for public benefit and enjoyment and provides for the conservation of wildlife in a natural environment. The **National Parks and Wildlife (National Parks) Regulations 2001** and the **National Parks and Wildlife (Whales and Dolphins) Regulations 2000** also apply.

The **Wilderness Protection Act 1992** provides for the protection of wilderness and the restoration of land to its condition before European colonisation. The **Wilderness Protection Regulations 2006** also apply.

Legislation relating to illegal exploitation of natural resources

The **Aquaculture Act 2001** regulates marine and inland aquaculture. This Act applies within the state and state waters and to waters beyond and adjacent to state waters to the full extent of the extraterritorial power of the parliament. The **Aquaculture Regulations 2005** also apply.

The **Coast Protection Act 1972** makes provision to conserve and protect South Australia's beaches and coast. The **Coast Protection Regulations** (of various specific areas) also apply.

The **Environment Protection Act 1993** provides for the protection of the environment. The **Environment Protection (General) Regulations 1994** also apply.

The **Fisheries Management Act 2007** provides for the conservation and management of the aquatic resources of the state. The **Fisheries Management (General) Regulations 2007** apply, along with regulations specific to particular types of fish stock.

The **Natural Resources Management Act 2004** promotes sustainable and integrated management of the state's natural resources and makes provision for their protection. The **Natural Resources Management (General) Regulations 2005** also apply.

The **Offshore Minerals Act 2000** relates to exploration for and the recovery of minerals (other than petroleum) in the

first 3 nautical miles of the territorial sea of South Australia. The **Offshore Minerals Regulations 2002** also apply.

The **Petroleum Act 2000** regulates exploration for and the recovery or commercial utilisation of petroleum and certain other resources. The **Petroleum Regulations 2000** also apply.

The **Petroleum (Submerged Lands) Act 1982** makes provision with respect to the exploration for and the exploitation of the petroleum resources, and certain other resources, of certain submerged lands adjacent to the coasts of South Australia. The **Petroleum (Submerged Lands) Regulations 2005** also apply.

Legislation relating to marine pollution

The **Protection of Marine Waters (Prevention of Pollution from Ships) Act 1987** relates to the protection of the sea and certain waters from pollution by oil and other substances. The **Protection of Marine Waters (Prevention of Pollution from Ships) Regulations 2001** also apply.

Legislation relating to prohibited imports and exports

The **Controlled Substances Act 1984** regulates or prohibits the manufacture, production, sale, supply, possession, handling or use of certain poisons, drugs, therapeutic and other substances, and of certain therapeutic devices. The **Controlled Substances (General) Regulations 2000** also apply.

The **Dangerous Substances Act 1979** regulates the keeping, handling, transporting, conveyance, use and disposal, and the quality, of dangerous substances.

The **Firearms Act 1977** controls the possession, use and sale of firearms. The **Firearms Regulations 2008** also apply.

The **Sea-Carriage Documents Act 1998** reforms the law relating to bills of lading, sea waybills and ships' delivery orders.

Legislation relating to irregular maritime arrivals

The **Maritime Services (Access) Act 2000** provides for access to South Australian ports and maritime services on fair commercial terms and provides for price regulation of essential maritime services. The **Maritime Services (Access) Regulations 2001** also apply.

Legislation relating to compromise to biosecurity

The **Plant Health Act 2009** provides for the protection of plants from pests, the regulation of the movement of plants into, within and out of the state, and the control, destruction and suppression of pests. The **Plant Health Regulations 2009** also apply.

The **Public and Environmental Health Act 1987** deals with public and environmental health, including disease control. The **Public and Environmental Health (General) Regulations 2006** and the **Public and Environmental Health (Notifiable Diseases) Regulations 2004** also apply.

See also the **Fisheries Management Act 2007**, the **Fisheries (Exotic Fish, Fish Farming and Fish Diseases) Revocation Regulations 2007** and the **Gene Technology Regulations 2002**.

Legislation relating to piracy, robbery or violence at sea

The **Crimes at Sea Act 1998** applies.

Legislation relating to maritime terrorism

The **Terrorism (Commonwealth Powers) Act 2002** refers certain matters relating to terrorist acts to the Parliament of the Commonwealth.

The **Terrorism (Police Powers) Act 2005** gives special powers to police officers to prevent and investigate terrorist acts. The **Terrorism (Police Powers) Regulations 2006** also apply.

The ***Terrorism (Preventative Detention) Act 2005*** authorises temporary detention in order to prevent the occurrence of a terrorist act or preserve evidence of, or relating to, a recent terrorist act.

Roles of government agencies related to maritime security—South Australian Government³³

Attorney-General's Department

The Attorney-General's Department provides a range of legal and civil justice functions for government and the people of South Australia. The DPP within the department is an independent body responsible for instituting, conducting and supervising criminal and related proceedings within courts. The department also coordinates comprehensive support services such as human resources, information technology and financial administration for the Justice Portfolio.

Department of Environment, Water and Natural Resources

The Department of Environment, Water and Natural Resources is responsible for environment policy, biodiversity conservation, heritage conservation, environmental sustainability and animal welfare, and is a custodian of information and knowledge about the state's environment. The department includes the Biodiversity, Coasts and Marine divisions.

The department makes an important contribution to the economic and environmental health of the state by:

- » driving strategies for sustainability across government
- » creating the basis for nature-based tourism industry
- » providing essential environment and land information
- » generating employment opportunities in regional areas.

Department of Planning, Transport and Infrastructure

The department has an important role in the management of the state's transport system. It contributes to providing a transport network that is safe, meets community expectations, makes a positive contribution to the economy and has minimal impact on the environment. The department's functions include maritime transport policy development and regulation of commercial and recreational marine activities to achieve marine safety outcomes.

Department for Health and Ageing

The Department for Health and Ageing provides leadership in health reform, policy development and planning. The department believes in health for all, with a focus on wellbeing, illness prevention, early intervention and quality care.

Department of Primary Industries and Regions

The Department of Primary Industries and Regions South Australia (PIRSA) is committed to the economic development of the state and the sustainable use of the state's food, fibre and minerals industries.

The department contributes to the sustainable planning and development of South Australia's natural, industrial and community assets. It works with industry to manage resources sustainably and enhance their value chains. The department also works with communities to enhance the amenity and sustainability of their built environments. Divisions within the department include Industries (including aquaculture and fisheries) and Biosecurity.

The efforts of the agency are directed towards:

- » reducing barriers to industry investment and exports
- » facilitating priorities for the use of land and planning optimal community development
- » facilitating the application of new technologies, services, products and knowledge through its strong partnerships with industry sectors, market intelligence and regional communities.

³³ Correct as at time of writing.

PIRSA Fisheries is responsible for administering the **Fisheries Management Act 2007** (South Australia). PIRSA Fisheries have 27 small and mid-size vessels at its disposal, including a 23-metre offshore patrol vessel. Staff are trained in maritime investigation and compliance matters, including boarding vessels.

Department of the Premier and Cabinet

The Department of the Premier and Cabinet is a progressive agency that drives the premier's initiatives through a range of services to the community and government.

Department of Water, Land and Biodiversity Conservation

The Department of Water, Land and Biodiversity Conservation was established to improve sustainability through the integration and management of all of the state's natural resources and to achieve improved health and productivity of South Australia's biodiversity, water, land and marine resources. Divisions within the department include Biodiversity (which includes estuaries and coastal marine) and Natural Resource Management.

Environment Protection Authority

The Environment Protection Authority is an independent statutory authority within the Environment and Conservation portfolio. The authority is South Australia's primary environmental regulator, responsible for the protection of air and water quality, and the control of pollution, waste, noise and radiation.

The authority provides leadership to protect and enhance our environment by administering the **Environment Protection Act 1993** and the **Radiation Protection and Control Act 1982**. The authority encourages environmental responsibility by working with the community, industry and governments.

South Australia Police

South Australian Police is within the Justice portfolio and provides a broad range of police and community services to ensure the safety and security of the South Australian community.

To achieve the organisation's vision and mission, South Australian Police has core functions as prescribed in the **Police Act 1998**. They are to:

- » uphold the law
- » preserve the peace
- » prevent crime
- » assist the public in emergency situations
- » coordinate and manage responses to emergencies.

Note: There may be some changes to legislation or State/Federal organization that are not reflected in this chapter. Please use as a guide only.

Annex H – Western Australia

Western Australian legislation

Generic legislation

The **Crimes at Sea Act 2000** gives effect to the cooperative scheme for extra-territorial jurisdiction over crimes committed at sea.

The **Emergency Management Act 2005** provides for prompt and coordinated organisation of emergency management in the state.

The **Off-shore (Application of Laws) Act 1982** applies state laws, with the exception of the criminal law, to coastal waters.

The **Port Authorities Act 1999** relates to port authorities, their functions, the areas that they are to control and manage, and the way in which they are to operate.

The **Western Australian Marine Act 1982** regulates navigation and shipping.

Legislation relating to illegal activity in protected areas

The **Conservation and Land Management Act 1984** makes provision for the use, protection and management of certain public waters, flora and fauna. The **Conservation and Land Management Regulations 2001** also apply.

The **Heritage of Western Australia Act 1990** provides for and encourages the conservation of places, including coastal areas, which have significance to the cultural heritage in the state.

Legislation relating to illegal exploitation of natural resources

The **Fish Resources Management Act 1994** relates to the management and conservation of fish resources,

ensuring that related activities are carried out in a sustainable manner. The **Fish Resources Management Regulations 1995** also apply.

The **Fuel, Energy and Power Resources Act 1972** provides for the conservation and use of the current and future sources and supplies of fuel, energy, and power in and to Western Australia.

The **Energy Arbitration and Review Act 1998** provides for the regulation of third-party access to gas pipeline systems.

The **Gas Standards Act 1972** regulates the standards of quality, pressure, purity and safety of gas supplied and the standards and safety of gas installations and gas appliances; and provides for the supervision and control of persons concerned in, and regulates the practice of, gasfitting.

The **North West Gas Development (Woodside) Agreement Act 1979** ratifies an agreement between the State of Western Australia and a number of companies relating to the production of natural gas and condensate and the establishment of a treatment and liquefaction plant.

The **Offshore Minerals Act 2003** relates to exploration for, and the recovery of, minerals (other than petroleum) in the first 3 nautical miles of the territorial sea in respect of Western Australia.

The **Pearling Act 1990** regulates pearling and pearl oyster hatchery activities and provides for the conservation and management of pearl oyster fisheries. The **Pearling (General) Regulations 1991** also apply.

The **Petroleum (Submerged Lands) Act 1982** makes provision for the exploration and exploitation of petroleum resources, and certain other resources, of certain submerged lands adjacent to the coast of Western Australia. The **Petroleum (Submerged Lands) Regulations 1990** also apply.

The **Wildlife Conservation Act 1950** provides for the conservation and protection of wildlife. The **Wildlife Conservation Regulations 1970** also apply.

Legislation relating to marine pollution

The **Environmental Protection Act 1986** provides for the prevention, control and abatement of pollution and environmental harm and for the conservation, preservation, protection, enhancement and management of the environment. The **Environmental Protection Regulations 1987** also apply.

The **Harbours and Jetties Act 1928** amends the law relating to the liability of owners of ships for damage to harbours and jetties, and related works.

The **Pollution of Waters by Oil and Noxious Substances Act 1987** relates to the protection of the sea and certain waters from pollution by oil and other noxious substances discharged from ships and places on land. The **Pollution of Waters by Oil and Noxious Substances Regulations 1993** also apply.

The **Western Australian Marine (Sea Dumping) Act 1981** provides for the protection of the environment by regulating the dumping into the sea, and the incineration at sea, of wastes and other matter and the dumping into the sea of certain other objects. The **Western Australian Marine (Sea Dumping) Regulations 1982** also apply.

Legislation relating to prohibited imports and exports

The **Dangerous Goods Safety Act 2004** relates to the safe storage, handling and transport of dangerous goods.

The **Marine and Harbours Act 1981** provides for the advancement of efficient and safe shipping and effective boating and port administration through the provision of certain facilities and services.

The **Radiation Safety Act 1975** relates to the safe storage, handling, use and transport of radioactive substances. The **Radiation Safety (General) Regulations 1983** and **Radiation Safety (Transport of Radioactive Substances) Regulations 2002** also apply.

The **Sea-Carriage Documents Act 1997** reforms the law relating to bills of lading, sea waybills and ships' delivery orders.

The **Shipping and Pilotage Act 1967** relates to shipping and pilotage in and about the ports, fishing boat harbours and mooring control areas of the state.

The **Weapons Act 1999** prohibits bringing or sending into the state, carriage, possession, purchase, sale, supply and manufacture of certain weapons and controls the carriage and possession of other weapons.

The **Wildlife Conservation Act 1950** provides for the conservation and protection of wildlife. The **Wildlife Conservation Regulations 1970** also apply.

Legislation relating to compromise to biosecurity

The **Biosecurity and Agriculture Management Act 2007** provides for the control of certain organisms, the use of agricultural and veterinary chemicals and the identification and attainment of standards of quality and safety for agricultural products. The **Agriculture and Related Resources (Declared Plants and Restricted Animals) Regulations 1982** also apply.

The **Exotic Diseases of Animals Act 1993** provides for the detection, containment and eradication of certain diseases affecting livestock and other animals. The **Exotic Diseases of Animals Regulations 2011** also apply.

The **Health Act 1911** consolidates and amends the law relating to public health. This Act includes provisions for the management of infectious diseases.

The **Fish Resources Management Act 1994** provides powers to protect the state's waters against aquatic pest incursions and establishments.

The **Plant Diseases Act 1914** prevents the introduction into Western Australia of diseases affecting plants, provides for the eradication of such diseases and prevents their spread.

The **Poisons Act 1964** provides for the sale and use of poisons, including agricultural and veterinary chemicals. The **Poisons Regulations 1965** also apply.

Legislation relating to piracy, robbery or violence at sea

The ***Criminal Code Act Compilation Act 1913*** prescribes criminal offences under which offenders may be prosecuted.

See ***Crimes at Sea Act 2000***. The ***Prevention of Collisions at Sea Regulations 1983***, the ***Western Australia Marine (Emergency Procedures and Safety of Navigation) Regulations 1983*** and the ***Western Australian Marine (Infringements) Regulations 1985*** also apply.

The ***Firearms Act 1973*** makes provision for the control and regulation of firearms and ammunition, and the licensing of persons possessing, using, dealing with, or manufacturing firearms and ammunition.

Legislation relating to the investigation of crimes committed at sea

The ***Criminal Investigation Act 2006*** provides powers for the investigation and prevention of offences, including those committed at sea.

The ***Criminal Investigation (Identifying People) Act 2002*** enables personal details and identifying particulars of people to be obtained by police and other officers for forensic purposes.

Legislation relating to maritime terrorism

The ***Terrorism (Commonwealth Powers) Act 2002*** refers certain matters relating to terrorist acts to the Parliament of the Commonwealth.

The ***Terrorism (Extraordinary Powers) Act 2005*** provides powers to prevent and respond to terrorist acts.

The ***Terrorism (Preventative Detention) Act 2006*** authorises temporary detention to prevent the occurrence of a terrorist act, and to preserve evidence relating to such an act.

Roles of government agencies related to maritime security—Western Australian Government³⁴

Department of Agriculture and Food

The Department of Agriculture and Food assists the state's agriculture, food and fibre sector to be sustainable and profitable. The department enhances the international competitiveness of the state's agribusinesses by working with them to meet the increasingly demanding standards for safety and quality of food and fibre products produced in an environmentally sustainable way.

The department's role is effective pre-border, border and post-border management of biosecurity risks in partnership with industry. The department's border biosecurity role involves plant and animal quarantine obligations for Western Australia.

Department of Environment and Conservation

The department has responsibility for protecting and conserving the state's environment and biodiversity on behalf of the people of Western Australia. Its responsibilities include managing the state's national parks, nature reserves, conservation parks, state forests and timber reserves, as well as managing the marine environment through the creation of marine parks, marine nature reserves and marine management areas. It has eight key objectives that include protecting, managing, regulating and assessing many aspects of the use of the state's natural resources.

The department contributes to developing environmental protection policies, managing the environmental impact assessment process and carrying out regulatory functions to achieve improved environmental outcomes. It is also responsible for managing contaminated sites

³⁴ Correct as at time of writing.

and coordinating responses to pollution incidents. The department also provides support to numerous other state authorities within the environment portfolio.

Department of Fisheries

The Department of Fisheries sustainably manages Western Australia's fish, marine and aquatic resources. The ***Fish Resources Management Act 1994*** gives the department powers to protect the state's waters against aquatic pest incursions and establishments.

The department's jurisdiction extends to the EEZ, where it may manage fish and aquatic resources on behalf of the Commonwealth. It also extends to fish and aquatic resources in estuaries and rivers.

The department also undertakes research, management, surveillance, enforcement and education in the marine parks and reserves established under the ***Conservation and Land Management Act 1984***, and provides at-sea marine safety compliance services on behalf of the Department of Transport.

Department of Health

Western Australia's public health system aims to ensure healthier, longer and better lives for all Western Australians and to protect the health of the Western Australian community by providing a safe, high-quality, accountable and sustainable health care system. The department has two major functions under the ***Emergency Management Act 2005*** and the ***Emergency Management Regulations 2006***. The first and most commonly utilised function is Health's role as a combat agency in major incidents; the second function is that of a hazard management agency for human epidemic and heatwave.

Health is also the hazard management agency for the prevention of actual or impending spillage, release or escape of a radiological substance, and the prevention of, preparedness for and response to actual or impending spillage, release or escape of biological substances.

In the context of marine safety, Health's role is as a combat agency to assist with mass casualty response, as a hazard management agency for human epidemics and as an advisory agency on the health aspects of hazardous material, including chemical, biological, radiological and nuclear exposure, environmental hazards and maritime casualties.

Department of Mines and Petroleum

The Department of Mines and Petroleum is the state's lead agency in attracting private investment in resources exploration and development. It provides geoscientific information on mineral and energy resources, and manages the titles systems for the mining, petroleum and geothermal industries.

The department has prime responsibility for regulating these industries and dangerous goods in Western Australia, including controls over imports and exports of dangerous goods, explosives and security risk substances.

Department of the Premier and Cabinet

The department supports the Premier and Cabinet through leadership and coordination in the public sector. Within the department, the Office of State Security and Emergency Coordination provides leadership to enhance the coordination of the state's relationships across government and the private sector to maximise Western Australia's response to terrorism and other significant emergencies.

Department of Transport

The department's key focus is on operational transport functions and strategic transport planning and policy across the range of public and commercial transport systems that service Western Australia. Marine Safety, within the department, is the hazard management agency for marine transport and oil spillage emergencies.

Environmental Protection Authority

The Environmental Protection Authority was established as an independent authority with the broad objective of protecting the state's environment. The authority provides overarching environmental advice to the Minister for Environment by preparing environmental protection policies and assessing development proposals and management plans, as well as providing public statements about matters of environmental importance.

The Office of the Environmental Protection Authority is a government agency that is accountable to the Minister

for Environment and the Environmental Protection Authority. The agency manages the environmental impact assessment process and the development of environmental policies on behalf of the Environmental Protection Authority and carries out compliance audits against ministerial conditions of approval to ensure environmental protection outcomes are achieved.

State Solicitor's Office

The state Solicitor's Office provides legal advice to the Government of Western Australia, including all departments and agencies, and provides counsel to appear on behalf of the state and its agencies in a wide range of courts and tribunals. Maritime security issues can prompt requests for legal advice relating to jurisdiction, investigative powers, emergency response powers and preparation of prosecutions.

Western Australia Police

Western Australia Police have a duty to protect the security and wellbeing of the Western Australian community. This includes investigation of criminal offences and prevention and disruption of terrorist activity in maritime areas deemed the responsibility of Western Australia Police through legislation and national agreement.

Western Australia Police counter-terrorism activities not only complement national policies, legislation and plans, they are also done in an environment that values cooperative, coordinated and consultative relationships with the other national and state governments, agencies, the community and industry, with the overriding aim of making our region safer.

Western Australia specific regional arrangement

The territories of Cocos (Keeling) Islands, Christmas Island and Ashmore and Cartier Islands are not part of Western Australia but are external territories managed by the Department of Regional Australia, Local Government, the Arts and Sport. The Territory of Heard Island and McDonald Islands is not part of Western Australia but is managed by the Australian Antarctic Division for the Commonwealth.

Joint Petroleum Development Area

The JPDA adjoins both Western Australia and Northern Territory waters along with Timor-Leste's maritime zones. Figure 15 is a map of this zone.

The Timor Strait Treaty specifies the shared arrangements for the management of this area. The treaty provides a continuing basis for petroleum activities in an area of seabed between Australia and Timor-Leste. The JPDA defined by this treaty is where Australia and Timor-Leste jointly control, manage and facilitate the exploration, development and exploitation of the petroleum resources of the area for the benefit of the peoples of both countries. The Treaty on Certain Maritime Arrangements in the Timor Sea (CMATS Treaty) states that neither Australia nor Timor-Leste shall assert its claims to sovereign rights and jurisdiction and maritime boundaries for the period of the treaty (50 years). The CMATS Treaty also prescribes the arrangements for distributing revenue derived from exploitation of the JPDA.

March 2012



Note: There may be some changes to legislation or State/Federal organization that are not reflected in this chapter. Please use as a guide only.

Annex I – Northern Territory

Northern Territory legislation

Generic legislation

The **Crimes at Sea Act 2000** gives effect to a cooperative scheme for dealing with crimes at sea. The purpose of the Act is to give legal force to the cooperative scheme, so far as it depends on the legislative power of the Northern Territory, and to provide for consequential vesting of judicial and other powers.

The **Criminal Code Act** as in force at 17 May 2007 is an Act to establish a code of criminal law.

The **Darwin Port Corporation Act**, which entered into force in March 2005, provides for the establishment of the Darwin Port Corporation for the control and management of the Port of Darwin. The Port By-Laws and the Darwin Port (Handling and Transport of Dangerous Cargoes) By-Laws apply to this act.

The **Disasters Act**, which entered into force in October 2007, provides for the adoption of measures necessary to protect life and property from the effects of disasters and emergencies and for other purposes. The **Marine Act**, which entered into force in May 2007, regulates shipping within the Northern Territory and provides for the application to the Northern Territory of the Uniform Shipping Laws Code and applicable regulations.

The **Off-shore Waters (Application of Territory Laws) Act**, which entered into force in March 2001, makes provision for and in relation to the application of the laws of the Northern Territory to the coastal waters of the Northern Territory.

The **Environmental Offences and Penalties Act** commenced January 1997. The Act was set up to establish penalties for certain offences relating to the protection of the environment, and for related purposes. It relates specifically to a hierarchy of levels of serious environmental harm and/or material environmental harm with the lowest, environmental offence level 4, relating to environmental nuisance.

The **Work Health and Safety (National Uniform Legislation) Act 2011**, which entered into force on 1 January 2012, makes provision for work health and safety at workplaces.

Legislation relating to illegal activity in protected areas

The **Cobourg Peninsula Aboriginal Land, Sanctuary and Marine Park Act**, which entered into force in 1996, acknowledges and secures the right of Aboriginal people to occupy and use certain land on the Cobourg Peninsula, to vest that land in trustees for Aboriginal people, and to declare that land to be a national park, making certain provisions relating to the management of adjacent marine areas.

The **Heritage Conservation Act**, which entered into force in December 2000, is an Act relating to the natural and cultural heritage of the Northern Territory. The principal object of the Act is to provide a system for the identification, assessment, recording, conservation and protection of places and objects of value, including geological structures, fossils, coastlines and plant and animal communities or ecosystems of the Northern Territory.

The **Parks and Wildlife Commission Act**, which entered into force in September 2004, establishes a commission to establish and manage, or assist in the management of, parks, reserves, sanctuaries and other land, to encourage the protection, conservation and sustainable use of wildlife.

The **Territory Parks and Wildlife Conservation Act**, which entered into force in October 2007, makes provision for and in relation to the establishment of Northern Territory parks and other parks and reserves and the study, protection, conservation and sustainable utilisation of wildlife.

The **Trespass Act**, which entered into force in July 2004, amends the law relating to trespass, including trespass on Crown land and prohibited land.

Legislation relating to illegal exploitation of natural resources

The **Energy Pipelines Act**, which entered into force in 2007, makes provision for the construction, operation, maintenance and cessation of use or abandonment of pipelines for the conveyance of energy-producing hydrocarbons.

The **Fisheries Act**, which entered into force in 2005, is an Act to provide for the regulation, conservation and management of fisheries and fishery resources to maintain their sustainable use and to regulate the sale and processing of fish and aquatic life. Also included is the **Fishery Management Plan** of the Northern Territory and the **Fisheries Regulations** as in force from 2007.

The **Petroleum Act**, which entered into force in 2007, regulates the exploration for and the production of petroleum.

The **Petroleum (Submerged Lands) Act**, which entered into force in 2007, makes provision with respect to the exploration for and the exploitation of the petroleum resources, and certain other resources, of certain submerged lands adjacent to the coasts of the Northern Territory and, in accordance with international law, the continental shelf beyond the limits of Australian territorial waters. The **Fisheries Regulations** as in force at 1 August 2007 also apply.

The **Radioactive Ores and Concentrates (Packaging and Transport) Act**, which entered into force in 2002, makes provision for the packaging, storage and transport of radioactive ores and concentrates.

The **Trans-Territory Pipeline and Blacktip Gas Projects (Special Provisions) Act 2005** makes special provisions for the Trans-Territory Pipeline Project and the Blacktip Gas Project.

Legislation relating to marine pollution

The **Marine Pollution Act**, which entered into force in 2004, is an Act to protect the marine and coastal environment by minimising intentional and negligent discharges of ship-sourced pollutants into coastal waters.

The **Marine Pollution Regulations**, which entered into force in 2003, also apply.

The **National Environment Protection Council (Northern Territory) Act**, which entered into force in 2004, provides for the establishment of a National Environment Protection Council. The object of this Act is to ensure that, by means of the establishment and operation of the council, people enjoy the benefit of equivalent protection from air, water or soil pollution and from noise, wherever they live in Australia.

The **Waste Management and Pollution Control Act**, which commenced in 1998, provides for the protection of the environment through; the establishment of an environmental ethic outlining collective environmental duties, accreditation of national legislation, establishment of regulatory powers giving rise to enforcement, licensing and approvals, and development of environmental pollution objectives. The **Waste Management and Pollution Control (Administration) Regulations**, which commenced in January 1999, deals with administrative issues such as fees for licensing and approvals and payment of 'on the spot fines'.

Legislation relating to prohibited imports and exports

The **Firearms Act**, which entered into force in 2007, provides for the regulation, control and registration of firearms.

The **Sea Carriage Documents Act 1998**, which entered into force in June 1998, reforms the law relating to bills of lading, sea waybills and ships' delivery orders.

The **Weapons Control Act**, which entered into force in 2006, regulates weapons (other than firearms) and body armour, including bringing weapons into the Northern Territory.

The **Marine (Safety) Regulations**, which entered into force in 2001, include provisions governing the shipping of dangerous goods.

Legislation relating to irregular maritime arrivals

The **Darwin Port Corporation Act**, which entered into force in 2005, provides for the establishment of the Darwin Port Corporation for the control and management of the Port of Darwin.

The **Dangerous Goods Act** includes provisions governing the import and export of dangerous goods (explosives).

Legislation relating to compromise to biosecurity

The **Biological Resources Act 2006** provides for and regulates bioprospecting in the Northern Territory and for related purposes. The objects of the Act include promoting the conservation of biological resources in the Northern Territory and the ecologically sustainable use of those biological resources.

The **Plant Diseases Control Act**, which entered into force in 2000, relates to the prevention and eradication of diseases in plants, including the prohibition of the importation or introduction into or possession in the Northern Territory or any part of the Northern Territory of certain plants, fruits or packaging.

The **Public Health Act**, which entered into force in 2005, relates to public health, including regulations about the control of infectious diseases.

The **Stock Diseases Act**, which entered into force in 2005, relates to the control of diseases in stock and other purposes, including the import and export of stock.

Legislation relating to piracy, robbery or violence at sea

See **Crimes at Sea Act 2000**, which has specific provisions for this activity.

Legislation relating to maritime terrorism

The **Terrorism (Emergency Powers) Act**, which entered into force in 2007, provides powers to prevent and respond to terrorist acts.

Roles of government agencies related to maritime security—Northern Territory Government³⁵

Department of Health

The Department of Health provides services for health and wellbeing, including physical, mental, social and environmental aspects. The department is also responsible for the National Critical Care and Trauma Response Centre located at Royal Darwin Hospital. The centre provides Australia with a national health emergency response point to deal with disasters and major incidents in our region.

Department of Justice

The department incorporates all elements of the public justice system, with the exception of policing, and also has a strong regulatory role. The department delivers a range of services to build a safe, fair and just Northern Territory. The DPP within the department is an independent body responsible for instituting, conducting and supervising criminal and related proceedings in courts.

Department of Natural Resources, Environment, the Arts and Sport

The Department of Natural Resources, Environment, the Arts and Sport is responsible for conserving, enhancing and ensuring access to and enjoyment of the Northern Territory's natural and cultural assets. From a maritime perspective, the role is essentially threefold in providing coordination through the Environmental Operations Unit, of environmental mitigation towards oil and chemical spill contingency planning in the marine environment; through overseeing coordination of the Darwin Harbour Advisory Committee, which provides the Northern

³⁵ Correct as at time of writing.

Territory Government with advice on land use, planning, development and the use of natural resources within the catchment of the Darwin Harbour; and through the responsibilities of the Aquatic Health Unit conducting marine, estuarine and freshwater monitoring and interpretation in the Darwin Harbour and other selected catchments in the Top End of the Northern Territory.

The committee's focus is on sustainable development and the long-term protection of the Darwin Harbour environs. Members are appointed by the Minister for Natural Resources, Environment and Heritage to ensure that the committee is broadly representative of the community and stakeholders of the Darwin Harbour region.

Department of Resources

The Department of Resources is the government agency responsible for facilitating industry development in three vital economic sectors: fisheries; primary industries; and mineral and energy resources—and ensuring the optimal use of the resources in those sectors. The department delivers strategic services that support profitable and sustainable primary production, and works in partnership with commercial and recreational fishing industries, the aquaculture industry, Indigenous communities and other stakeholders to achieve optimum sustainable utilisation of the Northern Territory's valuable aquatic resources. It is also responsible for the enforcement of compliance issues associated with the **Mining Management Act**.

Department of the Chief Minister

Under Northern Territory emergency management arrangements, the Department of the Chief Minister is responsible for the coordination of public information and recovery following a disaster event. The department has a central role within government to coordinate and maintain a whole-of-government approach to security and emergency management in the Northern Territory, and represents the interests of the Northern Territory in the broader national security and emergency management context.

Environment Protection Authority

The Environment Protection Authority provides independent strategic and practical advice to government, businesses and the community about ecologically sustainable development, focusing on environment protection.

Northern Territory Police

The Northern Territory Police are part of the Northern Territory Police, Fire and Emergency Services, which is responsible for protecting life and property and providing disaster and emergency management to communities throughout the Northern Territory.

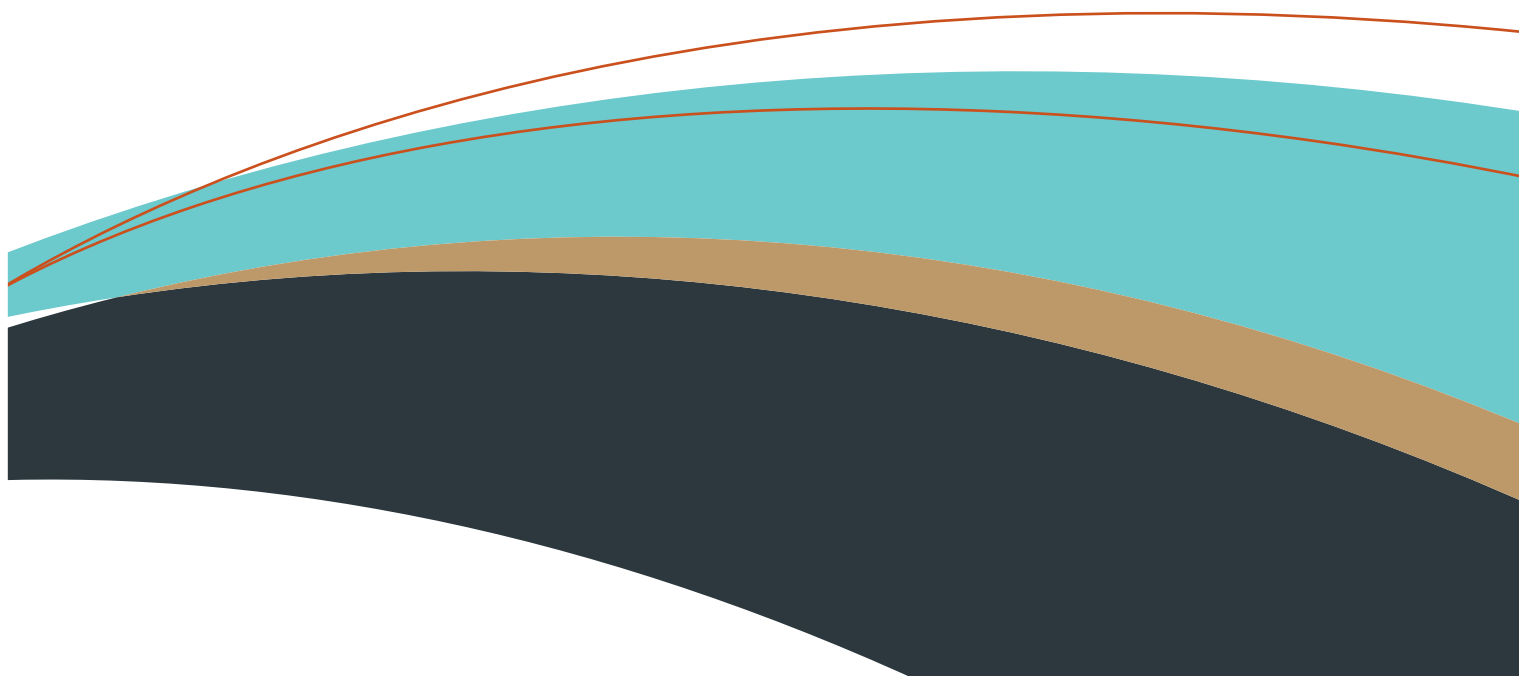
The Northern Territory Police are committed to working to reduce crime and provide a safer Northern Territory. Its strategic priorities include controlling domestic and personal violence, terrorism prevention and preparedness, emergency management and criminal investigation.

Department of Lands and Planning

The Department of Lands and Planning is responsible for providing safe and effective transport systems and services that meet community and Northern Territory Government needs. It is responsible for regulation of marine activity within Northern Territory waters. It administers the **Marine Act** and associated regulations which regulate shipping within the Northern Territory and provide for the application to the Northern Territory of the uniform shipping laws code.

The Department of Lands and Planning also administers the **Marine Pollution Act** and associated regulations and the Marine Branch is the statutory authority for marine pollution in Northern Territory waters.

GLOSSARY



Glossary

Agency (government) means any governmental, semigovernmental, administrative, fiscal, judicial or quasijudicial body, department, commission, authority, tribunal, agency or entity.

Australian Fishing Zone (AFZ) is that region where Australia can legally take action against illegal fishing activities.

Coastal waters are a belt of water between the limits of the Australian states and of the Northern Territory and a line 3 nm seaward of the baseline. The adjacent states and territory have the same right and title in the subjacent seabed as if that seabed were in waters that formed part of that state or territory.

Contiguous zone The contiguous zone is an area adjacent to the territorial sea, which extends up to 24 nautical miles from the Territorial Sea Baseline. Within this zone, as a matter of international law, Australia may exercise control necessary to prevent and punish infringement of its customs, fiscal, immigration and sanitary laws and regulations within its Territory or territorial sea.

Continental shelf The continental shelf is the area of the seabed and subsoil which extends beyond the territorial sea throughout the natural prolongation of Australia's land territory and up to a distance as permitted in the United Nations Convention on the Law of the Sea.

Critical infrastructure are those physical facilities, supply chains, information technologies and communication networks whose destruction, degradation or unavailability would have a significant impact on the social or economic wellbeing of the nation, or would affect Australia's ability to conduct national defence and ensure national security. Some elements in these sectors are not strictly infrastructure; however, they form part of the network or supply chains that support the delivery of an essential product or service.

Exclusive economic zone (EEZ) is the area beyond and adjacent to Australia's territorial sea, the outer limit of which does not extend beyond 200 nm from the baseline. Within the EEZ, Australia exercises sovereign rights for the purpose of exploring, exploiting, conserving and managing all natural resources of the waters immediately above the seabed, and of the seabed and its subsoil, together with other activities such as the production of energy from water, currents and wind. Australia's jurisdiction also extends to the establishment and use of artificial islands, installations and structures, marine scientific research and the protection and preservation of the marine environment.

Intelligence is the product resulting from the processing of information about maritime security threats and the maritime environment that supports the conduct of planning and operations.

Internal waters are those waters that lie landward of the TSB and typically comprise bays, estuaries and ports. Internal waters are also considered to be coastal waters under the Offshore Constitutional Settlement.

Lead agency is the government-designated agency responsible for leading the management of the security threat. For a given threat, the lead agency may change depending on the phase of the threat management (prevention, preparedness, response or recovery). The lead agency might not be the agency that actually executes the response.

Maritime security zone is an area within a port, on and around a ship, or on and around an offshore facility subject to additional security requirements and measures.

Planning is the process of identifying future maritime security threats, assessing their likelihood, estimating their potential consequences and then determining objectives, policies and strategies for employing resources to mitigate the risks posed by those security threats.

Prevention and preparedness are the risk mitigation measures that government agencies and other stakeholders take to either deter, disrupt or prevent security threats, or to minimise the adverse consequences if prevention is unsuccessful.

Primary stakeholders have some responsibility for the management of a maritime threat as a support for a lead agency or for a specific, specialised aspect to the threat.

Reconnaissance is targeted surveillance.

Response is the actions taken within the stakeholder's jurisdiction to mitigate or eliminate the risk posed by detected maritime security threats.

Recovery is the coordinated process of supporting individuals and communities affected by the consequences of the threat. Recovery involves a range of government services, including health, social and financial services, provided to individuals.

Search and Rescue Region (SRR) is that part of the world in which a nation has responsibility for the safety of life at sea (for maritime components of the SRR) and for assistance to people in distress.

Secondary or supporting stakeholders have limited responsibility for the management of a threat and may provide aspects such as high level policy advice for threat management. Unexpected implications or supporting requirements may also drive the need to involve secondary stakeholders.

Security Forces Authority (SFA) is the international arrangements by which a designated agency is to be informed of a security incident within the SFA region for that nation. The area for which Australia has obligations under the SFA corresponds to the maritime component of the Australian SRR region; MBC is the designated agency to be informed.

Security threat is any action, device or event that has potential to cause consequences adverse to Australia's interests.

Statutory authorities are established under specific government legislation that defines the purpose for which they are established and the general functions for which they are responsible.

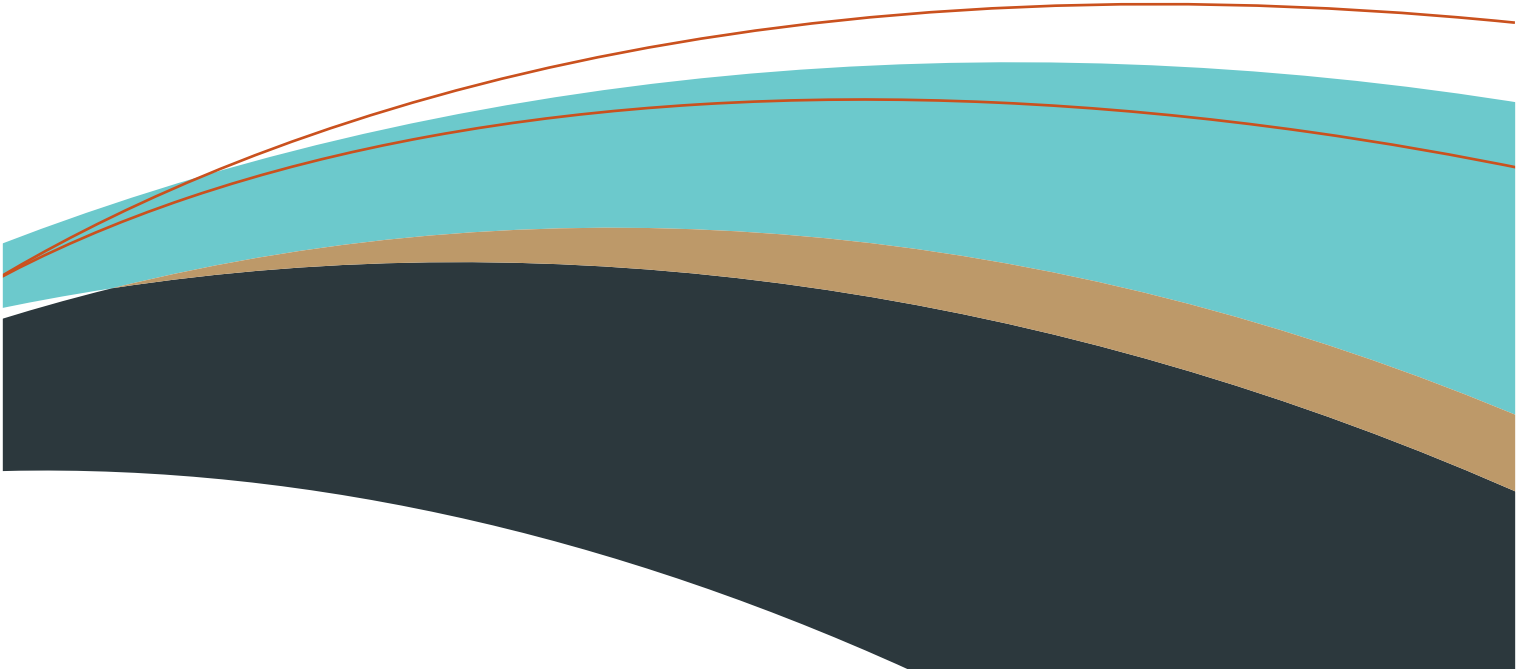
Surveillance is systematic observation by visual, electronic, photographic or other means.

Territorial sea is the belt of water not exceeding 12 nm in width as measured from the territorial sea baseline. Australia's sovereignty extends to the territorial sea, its bed and subsoil, and to the airspace above it. The sovereignty is exercised in accordance with international law, and is subject to the right of innocent passage for foreign ships.

Territorial sea baseline is the line from which seaward limits of Australia's maritime zones are measured. The baseline normally corresponds with the low-water line along the coast and includes the coasts of islands. There are exceptions to the normal baselines, including straight baselines and bay closing lines.

Note: There have been changes throughout the document that may not correspond to the exact page number. Please use as a guide only.

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