HEARD ISLAND AND MCDONALD ISLANDS MARINE RESERVE MANAGEMENT PLAN

Australian Antarctic Division on behalf of Director of National Parks 2005
HEARD ISLAND AND MCDONALD ISLANDS MARINE RESERVE MANAGEMENT VISION

The Heard Island and McDonald Islands Marine Reserve is a truly wild and naturally dynamic area of the world.

Spectacular geographical features and natural processes and ecosystems make it a uniquely inspiring place of immense value to current and future generations.

This outstanding place will be accorded the utmost respect and protection and will be managed, on the basis of sound understanding, as a place where humans are thoughtful, responsible and privileged visitors.
Foreword

Isolated in subantarctic waters approximately 4000 km south–west of Perth, Western Australia, the Heard Island and McDonald Islands (HIMI) Marine Reserve is Australia’s most remote Commonwealth reserve. Heard Island, the nearby McDonald Islands and the surrounding marine areas of the Reserve have an incredibly dynamic environment dominated by natural processes such as vulcanism, glacial action, major ocean currents and seasonal influxes of abundant wildlife.

The HIMI Territory–comprising the islands, offshore rocks and shoals, and the territorial sea–has been managed as an IUCN category 1a strict nature reserve since 1996, in accordance with the provisions of the Heard Island Wilderness Reserve Management Plan made under the Territory’s Environment Protection and Management Ordinance (the EPMO). In October 2002, the Territory and parts of the surrounding marine area were declared a Commonwealth reserve under the Environment Protection and Biodiversity Conservation Act 1999 (the EPBC Act). This meant that those areas—which together now comprise the HIMI Marine Reserve—are to be managed in accordance with the EPBC Act and the regulations made under it. This is not to say that the EPMO will no longer apply. As explained in this Plan, the EPMO will continue to be relied upon as a management and conservation tool to protect the Territory and its values.

The islands provide important breeding locations for seabird and seal species such as the southern giant petrel and southern elephant seal, listed because of their conservation status under the EPBC Act and under international conventions. The surrounding waters provide valuable foraging grounds for land–based marine predators including king penguins, macaroni penguins, black–browed albatross and Antarctic fur seals. The marine areas of the Reserve also contain important benthic habitats and unique and vulnerable marine species that collectively make an outstanding contribution to Australia’s National Representative System of Marine Protected Areas.

As well as HIMI’s great value to the people of Australia, recognised through the islands’ inclusion on the Register of the National Estate in 1983 and through the declaration of the Reserve, Australia also manages the outstanding natural universal values of the Territory on behalf of the global community. In recognition of these values, the Territory was inscribed on the World Heritage List in 1997. Consideration is also being given to nominating the Territory as a wetland of international importance under the Convention on Wetlands of International Importance Especially as Waterfowl Habitat (the Ramsar Convention).
This management plan includes measures to ensure that the Reserve's values are identified, protected and communicated to the public, most of whom will never visit this remote, wild and special place. In particular the Plan includes comprehensive measures designed to prevent the introduction of alien species from human activities, to ensure protection of important terrestrial and marine species, habitats and ecosystems, and to interpret the cultural heritage values associated with 19th century sealing activities and the earliest Australian National Antarctic Research Expedition.

This plan was prepared by the Australian Antarctic Division (AAD) of the Department of the Environment and Heritage, and takes into account submissions received during two public comment periods. The Director of National Parks has delegated his responsibilities under the EPBC Act in respect of the Reserve to the AAD. This is in recognition of the AAD’s considerable Antarctic and subantarctic experience and expertise, its lead role in the region’s environmental management and conservation to date, and its continuing responsibilities for the administration of the Territory on behalf of the Australian Government.

The extreme isolation and severe climate have meant that human visitation and associated environmental disturbance has been minimal, resulting in the Reserve being one of the most biologically pristine areas in the world. The Australian Government is committed to maintaining this important quality of the Reserve; this draft management plan describes how human activities will be managed over the next seven years with the aim to ensure that it does.

AJ Press
Director, Australian Antarctic Division
Acknowledgments

This Plan was prepared by the Australian Antarctic Division (AAD) of the Department of the Environment and Heritage. The AAD is grateful for the support of many organisations and individuals who provided information and assistance during the preparation of this Plan, including:

- Staff of the Australian Antarctic Division, Department of the Environment and Heritage
- Staff of the Approvals and Wildlife Division, Department of the Environment and Heritage
- Staff of the Heritage Division, Department of the Environment and Heritage
- Staff of the Land, Water and Coasts Division, Department of the Environment and Heritage
- Staff of Parks Australia, Department of the Environment and Heritage
- Members of the Commonwealth Marine Protected Areas Committee
- Members of the Subantarctic Fisheries Management Advisory Committee
- Prof Steven Chown, Terrestrial Ecologist, Department of Zoology, University of Stellenbosch
- Max Downes, Historian
- Dr Andrew Forbes, CSIRO Marine Research
- Dr Penny Greenslade, Entomologist
- Prof Patrick Quilty, University of Tasmania
- Dr Jenny Scott, University of Tasmania
- Prof Rod Simpson, National Marine Science Centre
- Robert Vincent, Cultural Heritage Officer

The submissions received were incorporated into the Plan where appropriate, and AAD also gratefully acknowledges the input from these submissions.
# Table of Contents

Management Vision iii
Foreword iv
Acknowledgments vi
Table of Contents vii
List of Figures x
List of Tables x

**Part 1. Introduction** 1

1 Introductory Background 3
   1.1 Proclamation of the Reserve 3
   1.2 Conservation Significance of the Reserve 3
       International Conservation Significance 4
       National Conservation Significance 7
   1.3 Previous Management Plan 9
   1.4 Structure of this Management Plan 9

2 Introductory Provisions 10
   2.1 Short title 10
   2.2 Commencement and Termination 10
   2.3 Interpretation (including Acronyms) 10
   2.4 Legislative Context 13
       The EPBC Act 13
       The EPBC Regulations 16
       The EPMO 16
       Delegation of Management Responsibilities Under the EPBC Act to AAD 17
   2.5 Purpose and Content of the Management Plan 18
   2.6 IUCN Category and Zoning 19
   2.7 Inclusion of Conservation Zone 19
   2.8 International Agreements 19
   2.9 National Agreements and Strategies 24
   2.10 Other Relevant Legislation 25

**Part 2. How the Reserve will be Managed** 28

3 Zoning and IUCN Category 29
4 Environmental Assessment and Approval 38
5 Visitor Management and Reserve Use
   5.1 Access and Transport
   5.2 Management of Facilities
   5.3 Visitor Management and Commercial Activities
   5.4 Communicating Reserve Values

6 Natural Heritage Management
   6.1 Flora and Fauna
   6.2 Natural Asset Use
   6.3 Waste Management
   6.4 Prevention and Management of Alien Species and Disease
   6.5 Research and Monitoring

7 Cultural Heritage Management

8 Stakeholders and Partnerships

9 Business Management
   9.1 Operational Management
   9.2 Compliance and Enforcement
   9.3 Financial Management
   9.4 Emergency Management

10 Performance Assessment

Part 3. A Description of the Heard Island and McDonald Islands Marine Reserve

Heard Island and McDonald Islands Region
   History
      Heard Island and McDonald Islands Marine Reserve
   Climate
   Terrestrial Environment
      Geology and Geomorphology
      Glaciology
      Terrestrial and Coastal Flora
      Wetlands
      Terrestrial, Freshwater and Coastal Invertebrates
      Birds
      Seals
   Marine Environment
      Oceanography
      Fish
      Cetaceans
Appendix 12. National Heritage Management Principles 165
Appendix 13. Routine Operations 166
Appendix 14. Environmental Code of Conduct for Visitors to Heard Island 168
Appendix 15. Vascular Plants Recorded at Heard Island 171
Appendix 16. Bryophyte Species Recorded from Heard Island 172
Appendix 17. Marine Macro–algae Recorded at Heard Island 175
Appendix 18. Terrestrial Invertebrates Recorded at Heard Island 176
Appendix 19. Breeding Birds of Heard Island and the McDonald Islands 182
Appendix 20. Physical/Biological Characteristics of Local Units in the HIMI Marine Reserve 184
Appendix 21. Nearshore Fishes recorded at HIMI 187
Appendix 22. Risks and Prescriptions 189

Bibliography and Further Reading 192

List of Figures
Figure 1. Location of Heard Island and McDonald Islands 2
Figure 2. HIMI Marine Reserve boundaries 2
Figure 3. Terrestrial zones in the HIMI Marine Reserve 35
Figure 4. Atlas Cove Zones 36
Figure 5. Spit Bay Zones 37
Figure 6. Long Beach Visitor Access Zone 37
Figure 7. General map of Heard Island and the McDonald Islands 100
Figure 8. Geological sketch map of Heard Island 108
Figure 9. Satellite image of McDonald Island taken in 2004 overlaid with a shaded area indicating the island’s extent in 1980 109
Figure 10. Biophysical local units around HIMI 119
Figure 11. Surface currents in the HIMI region 121

Note: Larger, more detailed versions of the maps included in this Plan are available by contacting the Australian Antarctic Division, or by visiting www.heardisland.aq

List of Tables
Table 1. HIMI Marine Reserve research and monitoring priorities 77
Table 2. Key scientific values and drivers for research in the HIMI region 126
Table 3. Summary of potential impacts from human activities in the Reserve 137
Part 1 Introduction
Figure 1. Location of Heard Island and McDonald Islands (not to scale)

Figure 2. HIMI Marine Reserve boundaries
1. Introductory Background

1.1 Proclamation of the Reserve

The Heard Island and MacDonal Island Marine Reserve (the Reserve) is a Commonwealth reserve under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). The Reserve was declared by Proclamation under s.344 of the Act on 16 October 2002 for the purpose of ‘protecting the conservation values of Heard Island and McDonald Islands and the adjacent unique and vulnerable marine ecosystems’.

The management objectives for the Reserve outlined in the Reserve proposal were to:

– protect conservation values of Heard Island and McDonald Islands (HIMI), the territorial sea and the adjacent EEZ including:
  • the World Heritage and cultural values of the HIMI Territory;
  • the unique features of the benthic and pelagic environments;
  • representative portions of the different marine habitat types; and
  • marine areas used by land-based marine predators for local foraging activities.

– provide an effective conservation framework which will contribute to the integrated and ecologically sustainable management of the HIMI region as a whole;

– provide a scientific reference area for the study of ecosystem function within the HIMI region; and

– add representative examples of the HIMI EEZ to the National Representative System of Marine Protected Areas.

The Proclamation declaring the Reserve is reproduced at Appendix 1, and includes the Schedule outlining its boundaries.

1.2 Conservation Significance of the Reserve

The area encompassed by the Reserve is of outstanding national and international conservation significance. Declared as Commonwealth reserve assigned to the IUCN category strict nature reserve, and covering an area of 6.5 million hectares (65,000 km²), the Reserve is the world’s second largest marine reserve with full protection from fisheries resource activities (behind the Great Barrier Reef Marine Park which includes ‘no take’ Green Zones covering approximately 114,500 km²).

Heard Island and the MacDonal Islands is the only major subantarctic island group believed to contain no species directly introduced by humans, making it among the most biologically pristine areas on the planet. Its terrestrial and marine ecology and oceanographic conditions are quite distinct from other Southern Ocean islands, including Australia’s other subantarctic island, Macquarie Island.
The islands and surrounding waters provide crucial breeding habitat for a range of birds and marine mammals, including several species listed as threatened and/or migratory under the international conservation agreements and the EPBC Act (see Appendix 2). Two species of bird, the Heard Island sheathbill and the Heard Island cormorant, are endemic to the Reserve.

The terrestrial environment displays distinctive geographical features such as permanent glaciers, Australia’s only active volcanoes, and Australia’s highest mountain (Mawson Peak 2750 m) outside the Australian Antarctic Territory. Heard Island also contains significant cultural relics and heritage sites from 19th and early 20th century sealing activities and from the first Australian Antarctic research expeditions.

The marine environment surrounding the islands features diverse and distinctive benthic habitats that support a range of slow growing and vulnerable species including corals, sponges, barnacles and echinoderms. The waters of the Reserve also include prime foraging areas for a number of land–based marine predators, and provide nursery areas for a range of fishes, including commercially harvested fish species. Areas of highly productive nutrient rich waters in the Reserve, created by the confluence of key oceanographic fronts such as the Antarctic Polar Front, are believed to provide suitable feeding grounds for a range of cetaceans.

The key conservation values of the HIMI region were documented in the report Conservation of marine habitats in the region of Heard Island and McDonald Islands. The following sections summarise the conservation values of the Reserve, which are variously recognised both nationally and internationally. A more detailed description of the Reserve is given in Part 3.

**International Conservation Significance**

**World Heritage – outstanding universal natural heritage values**

The Territory, including the islands, adjacent offshore rocks and shoals and the territorial sea to 12 nm, was inscribed on the World Heritage List during the twenty–first session of the World Heritage Committee in 1997, on the basis of its outstanding natural universal values. The statement of significance given in the World Heritage nomination reads:

> HIMI is a unique wilderness, a place of spectacular beauty which contains outstanding examples of biological and physical processes continuing in an essentially undisturbed environment. Significant biological processes include colonisation and speciation, while the island group’s physical processes provide valuable indicators of the role of crustal plates in the formation of ocean basins and continents and of atmospheric and oceanic warming.

The Committee noted that the site ‘is the only volcanically active sub–Antarctic island and illustrates the ongoing geomorphic processes and glacial dynamics in the coastal and submarine environment and sub–Antarctic flora and fauna, with no record of alien species’. The site was considered by the Committee to meet two of the criteria for listing as a natural World Heritage property, as:
i. an outstanding example representing major stages of earth’s history, including the record of life, significant on-going geological processes in the development of land forms, or significant geomorphic or physiographic features

Heard Island and McDonald Islands contain outstanding examples of physical and biological processes continuing in an essentially undisturbed environment. The physical processes provide an understanding of the role of crustal plates in the formation of ocean basins and continents and of atmospheric and oceanic warming. Biological processes of significance include colonisation and speciation. Examples of the World Heritage Values are given in Appendix 3.

ii. an outstanding example representing significant on-going ecological and biological processes in the evolution and development of terrestrial, fresh water, coastal and marine ecosystems and communities of plants and animals

The Heard Island and McDonald Islands group is the only major subantarctic island group free of human-introduced species and with negligible modification by humans. It provides a classic example of a subantarctic island group with low species diversity and large populations of certain species. Examples of the World Heritage Values are given in Appendix 3.

**Migratory species**

The Reserve provides important habitat for a number of migratory birds and marine mammals. Many of these are listed under international agreements for the protection and conservation of migratory species, including the Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention), the Agreement between the Government of Australia and the Government of the People’s Republic of China for the Protection of Migratory Birds and their Environment (CAMBA), the Agreement between the Government of Australia and the Government of Japan for the Protection of Migratory Species and Birds in Danger of Extinction and their Environment (JAMBA), and the Agreement on the Conservation of Albatrosses and Petrels (ACAP).

Migratory bird species recorded as breeding in the Reserve include the wandering albatross, black-browed albatross, southern giant petrel, Wilson’s storm petrel and the light-mantled sooty albatross. Several species of cetaceans and non-breeding birds recorded in the Reserve are also listed under these international agreements. A summary of the migratory species recorded in the Reserve and their protection status is given in Appendix 2.

**Wetlands – ecological character**

Some areas of HIMI exhibit significant wetland features and processes, and provide habitat for a number of wetland species. These are the moist, low-level terrestrial, freshwater and shallow near-shore marine environments.
HIMI was rated as the most important Commonwealth–managed wetland in *A Strategic Assessment of nationally important wetlands management by the Commonwealth*, when assessed against criteria for wetlands of international importance as defined under the Ramsar Convention. The Strategic Assessment found the HIMI wetland to satisfy six of the Ramsar criteria for wetlands of international importance.

At the time of preparing this Plan, a draft Ramsar Information Sheet (RIS) has been prepared and consideration is being given to nominating the Territory as a wetland of international importance (see Appendix 4). A summary of the qualities of the proposed wetlands site against the relevant criteria is given below:

**Criterion 1 – contains representative, rare or unique example of a natural or near–natural wetland type found within the appropriate biogeographic region.**

The islands are the only landmasses in the Kerguelen Province, defined using the Interim Marine and Coastal Regionalisation for Australia.

**Criterion 2 – supports vulnerable, endangered, or critically endangered species or threatened ecological communities.**

Heard Island's wetlands support substantial populations of three species listed as threatened under the EPBC Act: the southern elephant seal (vulnerable), the southern giant petrel (endangered) and the Heard Island cormorant (vulnerable).

** Criterion 3 – supports populations of plant and/or animal species important for maintaining the biological diversity of a particular biogeographic region.**

Heard Island and McDonald Islands are the only land masses within the Kerguelen Province and therefore provide the only habitat for a range of wetland flora and fauna within the bioregion.

**Criterion 4 – supports plant and/or animal species at a critical stage in their life cycles, or provides refuge during adverse conditions.**

The HIMI wetland supports large breeding colonies of four species of penguin: macaroni, gentoo, king and southern rockhopper. The king penguin, which suffered major depredations early last century, is reported to be doubling its numbers on Heard Island every five years. The Heard Island shag and the Heard Island sheathbill (a shorebird) are subspecies endemic to HIMI. Heard Island is also a major moulting area for southern elephant seals.

**Criterion 5 – regularly supports 20,000 or more waterbirds.**

The HIMI wetland regularly supports more than four million waterbirds, with the majority being penguins. In particular, the macaroni penguin colonies on Heard Island and the McDonald Islands are estimated to total two million birds.
Criterion 6 – regularly supports 1% of the individuals in a population of one species or subspecies of waterbird.

The HIMI wetland supports the entire world population of the endemic subspecies of the Heard Island cormorant and the Heard Island sheathbill. The HIMI population remains the only sheathbills of any species unaffected by introduced predators such as cats and rats. Gentoo penguins are believed to be present all year round, and the breeding population on Heard Island in 1987 comprised 16 600 pairs, representing approximately 6% of the global population. The largest two macaroni penguin colonies are estimated to contain 2 million birds each, which represent approximately 21% of the world population.

National Conservation Significance

National Representative System of Marine Protected Areas

The HIMI region overall remains in a close to pristine state due to the only very recent opening of fisheries in waters adjacent to the Reserve and the low level of other human activities, and associated environmental interference, to date. The region was identified in Australia’s Oceans Policy as one of five priority areas for the declaration of a marine reserve, due to its relatively untouched features and processes, distinctive location in highly productive cold waters south of the Antarctic Polar Front, unique benthic and pelagic environmental features, variety of marine habitat types, and importance as foraging grounds for land-based marine predators from the World Heritage area. The declaration of the Reserve contributes to the protection of Australia’s unique marine biodiversity by ensuring that temperate and subantarctic waters are incorporated in the comprehensive and representative national system of marine parks.

Natural and cultural heritage

Register of the National Estate

The islands of the Territory were listed on the Register of the National Estate in 1983. The statement of significance is reproduced at Appendix 5. The heritage amendments to the EPBC Act, which entered into force on 1 January 2004, replaced the previous Commonwealth heritage protection legislation under which the Register of the National Estate was established. The Register will be retained and maintained by the Australian Heritage Council.

Commonwealth Heritage List

The Commonwealth Heritage List, established under the heritage provisions of the EPBC Act, is a list of natural and cultural heritage places owned or controlled by the Australian Government and identified as having Commonwealth heritage values. At the time of preparing this Plan the Territory was noted on the Australian Heritage Database as an ‘Indicative Place’ to be considered for inclusion on the list.
National Heritage List

This National Heritage List established under the EPBC Act is intended to contain Australian places with outstanding heritage value. At the time of preparing this Plan the Territory has also been noted on the Australian Heritage Database as an 'Indicative Place' to be considered for inclusion on the list.

Atlas Cove ANARE Station

The Atlas Cove, Heard Island Cultural Heritage Management Plan was prepared by the AAD to identify the heritage significance of the Atlas Cove ANARE station site and to guide future management. This document indicates that the Atlas Cove ANARE Station site, and the adjacent foundations of the seismic and absolute magnetic huts are significant because they demonstrate the sheer difficulties, tenacity, ingenuity, remoteness and isolation experienced by the 87 expeditioners based at the station between 1947-55. In particular, the site:

– demonstrates innovative approaches to building technology;

– demonstrates the nature of the experience of expeditioners living in remote and difficult conditions; and

– bears testimony to lessons learnt by expeditioners in establishing Mawson station on the Antarctic mainland and closely parallels Macquarie Island station and its activities.

The Statement of Cultural Significance for the site, comprising an assessment against the National Estate criteria, is given at Appendix 6.

Important Wetlands

The HIMI wetland is listed on the Directory of Important Wetlands in Australia, a comprehensive inventory of Australia’s nationally important wetlands, for meeting the following criteria:

– it is a good example of a wetland type occurring within a biogeographic region in Australia;

– it is a wetland that plays an important ecological or hydrological role in the natural functioning of a major wetland system/complex;

– it is a wetland that is important as the habitat for animal taxa at a vulnerable stage in their life cycles, or provides a refuge when adverse conditions such as drought prevail;

– the wetland supports 1% or more of the national populations of any native plant or animal taxa; and

– the wetland supports native plant or animal taxa or communities which are considered important endangered or vulnerable at the national level.
1.3 Previous Management Plan

This is the second management plan for the Territory, and replaces the previous Heard Island Wilderness Reserve Management Plan, prepared under the Territory’s Environment Protection and Management Ordinance 1987 (the EPMO), and in force from 14 February 1996. There are no previous management plans covering the marine areas of the Reserve beyond the 12 nm territorial sea.

This management plan, prepared under the EPBC Act, builds on the Heard Island Wilderness Reserve Management Plan by:

– providing for the management of a substantial marine protected area component beyond the previous area of application (the Territory);

– addressing the requirements of the current legislative framework for the HIMI region, chiefly arising from the EPBC Act;

– addressing requirements arising from the Territory’s inscription on the World Heritage list in 1997 and its possible Ramsar listing; and

– incorporating relevant information and experience gained from a number of AAD and other visits to the HIMI region since 1996.

1.4 Structure of this Management Plan

This management plan has been structured to reflect the Parks Australia Strategic Planning and Performance Assessment Framework. The Framework sets down, within the broader context of the Department of the Environment and Heritage Corporate Plan, a set of outcomes based on government policy, legislative requirements and the management requirements of the protected area estate that is the responsibility of the Director of National Parks (the Director). The outcomes are developed in the following seven Key Result Areas (KRA):

**KRA1:** Natural Heritage Management

**KRA2:** Cultural Heritage Management

**KRA3:** Joint Management

**KRA4:** Visitor Management and Park Use

**KRA5:** Stakeholders and Partnerships

**KRA6:** Business Management

**KRA7:** Biodiversity Knowledge Management

**Note:** KRA 3 is not relevant to the Reserve and is not addressed in this Plan.
The Director has developed outcomes for each KRA under the Framework. The outcomes relevant to the Reserve are reproduced at Appendix 7.

Each section of this Plan contains an 'Aim' or list of 'Aims' that describe the desired result of Reserve management activity, and a series of 'Prescriptions' that represent the controls on activities in the Reserve and strategies for managing the Reserve to meet the Aim(s). The aims have been formulated to encapsulate the desired results of management of the Reserve while, at the same time, contributing to the achievement of the outcomes listed above.

In addition to annual reporting on implementation of the prescriptions contained in this Plan, it is proposed that progress against identified aims also be measured periodically, although the remoteness of the Reserve and uncertainty over the timing of Government visits place practical limitations on research and monitoring for performance assessment. This approach will provide a basis for measuring achievement and public accountability and a feedback mechanism that, in line with the principle of adaptive management, will identify areas where management may need to be altered in order to reach the desired aims.

Progress on each aim will be assessed using the appropriate performance indicators included in each section of the Plan. These indicators may be varied in light of experience with their use to ensure that they are the most appropriate or efficient.

2. Introductory Provisions

2.1 Short title

This management plan may be cited as the Heard Island and McDonald Islands Marine Reserve Management Plan.

2.2 Commencement and Termination

This management plan will come into operation following approval under section 370 of the Environment Protection and Biodiversity Conservation Act 1999 and will cease to have effect seven years after commencement, unless sooner revoked and replaced by a new management plan.

2.3 Interpretation (including Acronyms)

In this Plan unless a contrary intention appears:

AAD means the Australian Antarctic Division of the Department of the Environment and Heritage.

AFMA means the Australian Fisheries Management Authority.
Approved purpose means scientific research, environmental monitoring, Reserve management and other purposes consistent with this Plan and the reserve management principles.

Australian Fishing Zone (AFZ) means the area established by the *Fisheries Management Act 1991* in which Australia exercises jurisdiction over all Australian and foreign fishing. The AFZ comprises waters adjacent to Australia and its external territories (excluding the Torres Strait and the Australian Antarctic Territory) which extend from defined baselines to 200 nautical miles seawards but not including coastal waters or excepted waters under the Act.

Authorised official means:

(a) an authorised officer for the purposes of the EPBC Act;
(b) an inspector appointed under the EPMO;
(c) an inspector for the purposes of the *Antarctic Marine Living Resources Act 1981*;
(d) a constable for the purposes of the Criminal Procedures Ordinance 1993;
(e) an officer for the purposes of the *Fisheries Management Act 1991*; or
(f) a person authorised in writing by the Director for the purposes of this Plan.


CCAMLR means the Convention on the Conservation of Antarctic Marine Living Resources.

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

Director means the Director of National Parks as referred to in section 514A of the EPBC Act or a person to whom the Director has delegated all or any of the Director's powers and functions under the EPBC Act in so far as they or their exercise relates to the Reserve.

Ecological character, when used in relation to a wetland, means the sum of the biological, physical, and chemical components of the wetland ecosystem, and their interactions, which maintain the wetland and its products, functions, and attributes.

Environment has the meaning given in section 528 of the EPBC Act, and includes:

(a) ecosystems and their constituent parts, including people and communities;
(b) natural and physical resources;
(c) the qualities and characteristics of locations, places and areas;
(d) heritage values of places; and
(e) the social, economic and cultural aspects of a thing mentioned in (a), (b) or (c).
Environmental damage includes disturbance of wildlife, damage to vegetation, burrows, wallows, nesting areas and wildlife corridors, wetlands, waterbodies and catchments, sensitive geological features, research sites and cultural heritage sites.

EPMO means the Environment Protection and Management Ordinance 1987 made under the Heard Island and McDonald Islands Act 1953.


Exclusive Economic Zone (EEZ) means the Exclusive Economic Zone declared under the Seas and Submerged Lands Act 1973, and in relation to HIMI commences at the outer limit of the territorial sea (12 nautical miles from the territorial sea baselines established under the Act) and extends to 200 nautical miles from the baselines except where it is less to take account of the treaty line defined by the Maritime Delineation Treaty between the Government of Australia and the Government of the French Republic.

Facility means something that is built, installed or established in the Reserve, including structures to be used for accommodation, scientific equipment and communications equipment.

GIS means geographical information system.

Heard Island and McDonald Islands Marine Reserve means the areas declared as a Commonwealth reserve by that name under the EPBC Act on 16 October 2002.

HIMI means Heard Island and the McDonald Islands.

Issuer of a permit means the person deciding whether to issue a permit under the EPBC Regulations or the EPMO.

IUCN means the World Conservation Union.

KRA means Key Result Area, which is explained in section 1.4 of this Plan.


NRSMPA means the National Representative System of Marine Protected Areas.

Ramsar Convention means the Convention on Wetlands of International Importance Especially as Waterfowl Habitat.
Reproductive material means seeds, spores, cuttings or any other part, or product of a plant, from which another plant could be produced; and embryos, eggs, sperm or any other part, or product of an animal, from which another animals could be produced.

Reserve means the Heard Island and McDonald Islands Marine Reserve.

Reserve management principles means the Australian IUCN reserve management principles set out in Schedule 8 of the EPBC Regulations (see Appendix 8).

Territorial sea means the water surrounding Heard Island and McDonald Islands to a distance offshore of 12 nautical miles.

The Territory means the Australian external Territory of Heard Island and McDonald Islands, and the territorial sea around the Territory.


Wise use, when used in relation to a wetland, involves maintenance of their ecological character, as a basis not only for nature conservation, but for sustainable development.

World Heritage Convention means the Convention Concerning the Protection of the World Cultural and Natural Heritage

### 2.4 Legislative Context

**The EPBC Act**

Proclamation of the Territory and surrounding waters as a Commonwealth reserve under the EPBC Act has had the effect of applying to those areas the provisions of that Act relating to Commonwealth reserves. These and other provisions of the EPBC Act now provide the main legislative framework for the management and conservation of the Territory and other parts of the Reserve.

**Provisions relating to management of Commonwealth reserves**

The EPBC Act vests general responsibility for the administration and management of Commonwealth reserves in the Director (see s.514B).

The EPBC Act requires the Director to prepare management plans for each reserve which must be approved by the Minister for the Environment and Heritage. A management plan is a ‘legislative instrument’ for the purposes of the Legislative Instruments Act 2003 and must be registered under that Act. Following registration the plan is tabled in each House of the Commonwealth Parliament and may be disallowed by either House on a motion moved within 15 sitting days of the House after tabling.

A management plan for a Commonwealth reserve has effect for seven years, subject to being revoked or amended earlier by another management plan for the Reserve.
The Director must give effect to a management plan in operation for a Commonwealth reserve. The Commonwealth and Commonwealth agencies must also not perform functions or exercise powers in relation to the reserve inconsistently with the plan (s.362).

Under the EPBC Act (s.367) a management plan for a Commonwealth reserve must provide for the protection and conservation of the reserve and must assign the reserve to one of the following IUCN categories (which correspond to the six distinct categories of protected areas identified by the IUCN):

- strict nature reserve;
- wilderness area;
- national park;
- natural monument;
- habitat/species management area;
- protected landscape/seascape; or
- managed resource protected area.

In preparing a management plan the EPBC Act (s.368) requires account to be taken of various matters. In relation to the Reserve these matters include:

- the regulation of the use of the Reserve for the purpose for which it was declared;
- the protection of the special features of the Reserve, including objects and sites of biological, historical, palaeontological, archaeological, geological and geographical interest;
- the protection, conservation and management of biodiversity and heritage within the Reserve;
- the protection of the Reserve against damage; and
- Australia’s obligations under agreements between Australia and one or more other countries relevant to the protection and conservation of biodiversity and heritage.

**Provisions relating to activities within Commonwealth reserves**

The EPBC Act (s.354) states that, despite any other law, certain actions can only be undertaken in a Commonwealth reserve if authorised by and undertaken in accordance with a management plan made for that reserve under the EPBC Act. These actions are:

- kill, injure, take, trade, keep or move a member of a native species;
- damage heritage;
– carry on an excavation;
– erect a building or other structure;
– carry out works; or
– take an action for commercial purposes

The EPBC Act also prohibits mining operations in Commonwealth reserves unless they have been authorised in accordance with the EPBC Act and are carried out in accordance with a management plan made under that Act (s.355).

The EPBC Act contains provisions (Part 13) that prohibit and regulate actions taken in Commonwealth areas—such as the Reserve—in relation to listed threatened species and ecological communities, listed migratory species, cetaceans (whales and dolphins) and listed marine species. Appendix 2 to this Plan lists fauna species of significance to the Reserve, including species that are listed under the EPBC Act.

**Provisions relating to environmental impact assessment**

Under the EPBC Act, actions that are likely to have an impact on a matter of national environmental significance subject to rigorous referral, assessment, and approval processes. An action includes a project, development, undertaking, activity, or series of activities. The EPBC Act currently identifies seven matters of national environmental significance:

– World Heritage properties;
– National Heritage places (from 1 January 2004);
– Ramsar wetlands of international importance;
– listed threatened species and ecological communities;
– listed migratory species;
– the Commonwealth marine area; and
– nuclear actions (including uranium mining).

The EPBC Act’s assessment and approval provisions also apply to actions that are likely to have a significant impact on the environment of Commonwealth land (even if taken outside Commonwealth land) and actions taken by the Commonwealth that will have a significant impact on the environment anywhere in the world.

It is important to appreciate that, for the purposes of the above, land within the Reserve constitutes ‘Commonwealth land’ and the marine component of the Reserve constitutes part of a ‘Commonwealth marine area’.

Further information on the EPBC Act’s referral, assessment and approval requirements and processes is available from DEH. See also the DEH website at: [http://www.deh.gov.au/epbc/index.html](http://www.deh.gov.au/epbc/index.html)

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

The EPBC Regulations control, or allow the Director to control, a range of activities in Commonwealth reserves, such as use of vehicles and vessels, littering, commercial activities, commercial fishing, recreational fishing and research. Many of these activities are prohibited unless certain exemptions apply, for example where the Director has issued a permit that authorises the activity, or where a management plan in force for the Commonwealth reserve allows the activity (see r.12.06(1)). The Regulations are applied by the Director subject to, and in accordance with, the EPBC Act and management plans.

The EPMO

Prior to the proclamation of the Reserve under the EPBC Act, the EPMO was the primary legislative instrument for the environmental management and conservation of the Territory, including the territorial sea. This management plan is premised on the continued existence of the EPMO and its application to the Territory, notwithstanding that the Territory now comprises part of a Commonwealth reserve established under the EPBC Act. The EPBC Act expressly allows for continued application of the EPMO (see sections 10 and 356(3)).

There are advantages to the continued application of and reliance on the EPMO as a management and conservation tool in the Reserve. These include the following:

– the provisions of the EPMO apply to and govern a broader range of activities and conduct than the EPBC Act or the EPBC Regulations do. As such, the EPMO can allow for more comprehensive protection of the Reserve and its values. For example, unlike the EPBC Act or EPBC Regulations, the EPMO imposes a broad prohibition on the introduction of any ‘organism’ (as defined) into the Territory without a permit issued under that Ordinance. It also prohibits entry to the Territory without a permit.

– the EPMO provides greater sanctions than are available under the EPBC Regulations. The EPBC Act provides that the maximum penalty that can be imposed under the EBPC Regulations is 50 penalty units (or $5500) (s.520(2)). In contrast, the sanctions available under the EPMO for similar or the same conduct include the option of imposing significant terms of imprisonment. The continued availability of this sanction or deterrence—through the application of the EPMO—is warranted given the national and international importance of the Reserve.

Parts of the EPBC Regulations also have little relevance to the management of the Reserve. The EPBC Regulations are designed more to provide a regime for the day to day management of activities within Commonwealth reserves generally, many of which have vastly different levels and types of visitation and activities.
For the purposes of this Plan, the EPMO will generally be relied upon or invoked to regulate activities occurring within that part of the Reserve that is comprised of the Territory, whereas the EPBC Regulations will generally be invoked to regulate activities within the other part of the Reserve, namely the Outer Marine Zone (see section 3 Zoning and IUCN Category). Permits or authorisations issued under the EPMO or the Regulations will include conditions requiring compliance with the prescriptions of this Plan.

The EPBC Act and EPBC Regulations will prevail over the EPMO to the extent of any inconsistency (s.10 and 356(3)). As mentioned above, section 354 of the EPBC Act also provides that certain activities in a reserve can only be carried out if they are authorised by and undertaken in accordance with a management plan made under the EPBC Act for that reserve. This is despite any other inconsistent Commonwealth, State or Territory law—such as the EPMO, the EPBC Regulations and other provisions of the EPBC Act. Similarly, EPBC Regulation 12.06(1)(a) provides that activities otherwise prohibited by those Regulations may be carried on in a reserve if provided for by, and carried out in accordance with, a management plan in force for that reserve.

In view of the above, this Plan includes prescriptions which expressly provide that an activity that is otherwise prohibited by section 354(1) of the EPBC Act, or by the EPBC Regulations, may be carried on in the Territory if authorised by and undertaken in accordance with an EPMO permit (see section 4 Environmental Assessment and Approval). As mentioned above, activities in that part of the Reserve that does not form part of the Territory will be regulated through reliance on the EPBC Regulations.

At the time of preparing this Plan it is intended that the EPMO will be examined to determine whether action should be taken to repeal provisions that have been made redundant by the application to the Territory of the EPBC Act provisions concerning Commonwealth reserves (such as those relating to the Heard Island Wilderness Reserve Management Plan made under the EPMO).

**Delegation of Management Responsibilities Under the EPBC Act to AAD**

At the time of preparing this Plan the Reserve is being managed for and on behalf of the Director by the staff of the AAD, and the Director has delegated all of the powers and functions of the Director under the EPBC Act and Regulations in relation to the Reserve to the Director of the AAD and other AAD officers. These arrangements reflect the AAD’s continuing role and responsibilities for management and administration of HIMI as a Territory of Australia. They also reflect the AAD’s long and significant historic involvement in the HIMI region and in the protection and conservation of its environment.

Accordingly, references to requirements of, or actions by, the Director within this Plan should generally be read as including the staff of the AAD (see the definition of Director in section 2.3 Interpretation (including Acronyms)).
2.5 Purpose and Content of the Management Plan

The purpose of this Plan is to guide the management of the Reserve for the next seven years, in accordance with the EPBC Act. As is the case for most protected areas, it is recognised that knowledge of the Reserve is incomplete. This Plan aims to weigh options in line with current information and best practice approaches, and provide a decision making framework to facilitate the orderly management of sometimes competing interests and a basis to determine resource allocation priorities for management purposes.

Under s.367(1) of the EPBC Act, a management plan for a Commonwealth reserve must provide for the protection and conservation of the reserve. In particular, the plan must:

(a) assign the reserve to an IUCN category (whether or not a proclamation has assigned the reserve or a zone of the reserve to that IUCN category);
(b) state how the reserve, or each zone of the reserve, is to be managed;
(c) state how the natural features of the reserve, or of each zone of the reserve, are to be protected and conserved;
(d) if the Director holds land or seabed included in the reserve under lease, be consistent with the Director’s obligations under the lease;
(e) specify any limitation or prohibition on the exercise of a power, or performance of a function, under an Act in or in relation to the reserve;
(f) specify any mining operation, major excavation or other works that maybe carried on in the reserve, and the conditions under which it may be carried on;
(g) specify an operation or activity that may be carried on in the reserve;
(h) indicate generally the activities that are to be prohibited or regulated in the reserve, and the means of prohibiting or regulating them;
(i) indicate how the plan takes account of Australia’s obligations under each international agreement with one or more other countries that is relevant to the reserve;
(j) if the reserve includes a National Heritage place:
   (i) not be inconsistent with the National Heritage management principles; and
   (ii) address any matters prescribed by the EPBC regulations.
(k) if the reserve includes a Commonwealth Heritage place:
   (i) not be inconsistent with the Commonwealth Heritage management principles; and
   (ii) address any matters prescribed by the EPBC regulations.
A management plan may divide a Commonwealth reserve into zones and assign each zone to an IUCN category. The category to which a zone is assigned may differ from the category to which the reserve is assigned (s.367(2)).

The provisions of a management plan must not be inconsistent with the management principles for the IUCN category to which the reserve or a zone of the reserve is assigned (s.367(3)).

2.6 IUCN Category and Zoning

As outlined in sections 2.4 and 2.5 a management plan for a Commonwealth reserve or a zone within a Commonwealth reserve must be assigned to an IUCN category. This management plan divides the Reserve into seven zones and assigns each zone and the Reserve to the IUCN category strict nature reserve (see section 3 Zoning and IUCN Category).

The EPBC Act (section 347(2)) lists the characteristics for each IUCN category. The characteristics of a strict nature reserve are that it must contain some outstanding or representative ecosystems, geological or physiological features or species.

Appendix 8 to this Plan reproduces the reserve management principles for the IUCN category strict nature reserve, as prescribed in Schedule 8 to the EPBC Regulations.

2.7 Inclusion of Conservation Zone

The EPBC Act (s367) provides that a management plan for a Commonwealth reserve may include provisions relating to an area that is proposed to be included in the Reserve. At the time of preparing this Plan the conservation zone adjacent to the Reserve is undergoing assessment for possible later inclusion in the Reserve. As the conservation zone areas are outside the Territory, and therefore beyond the area of application of the EPMO, any areas of the conservation zone added to the Reserve would be subject to the Commonwealth reserve provisions of the EPBC Act (see section 2.4) and would be managed by application of the EPBC Regulations, with due regard to the Australian IUCN reserve management principles for the category to which those areas were assigned.

2.8 International Agreements

As noted in sections 2.4 and 2.5, this Plan must take account of Australia’s obligations under relevant international agreements. The following agreements are relevant to the Reserve.

Convention Concerning the Protection of the World Cultural and Natural Heritage (World Heritage Convention)

In 1972 the Member States of the United Nations Educational, Scientific & Cultural Organization (UNESCO) adopted the Convention concerning the Protection of the World Cultural and Natural Heritage (the World Heritage Convention) with the aim of ensuring the proper identification, protection, conservation and presentation of cultural and natural heritage with outstanding universal value to all mankind.
The Convention provides for properties exhibiting cultural and/or natural heritage of ‘outstanding universal value’ and meeting at least one of a set of World Heritage criteria to be included on the World Heritage List.

The Territory of Heard Island and McDonald Islands was inscribed on the World Heritage List on 3 December 1997 for its outstanding natural universal values (see Appendix 3). Australian World Heritage management principles are prescribed by the EPBC Regulations (Schedule 5). An extract from the principles is at Appendix 9.

**Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention)**

The Ramsar Convention is an international agreement that provides the framework for national action and international cooperation for the conservation and wise use of wetlands and their resources. The HIMI wetland is listed on the Directory of Important Wetlands in Australia7 and, in a Strategic Assessment of nationally important wetlands management by the Commonwealth, was rated as the most highly ranked Commonwealth–managed wetland for nomination to the Ramsar list of Wetlands of International Importance3. The Territory is being considered for nomination to the List of Wetlands of International Importance under the Ramsar Convention and a copy of the required draft Ramsar information sheet is at Appendix 4. Australian Ramsar management principles are prescribed by the EPBC Regulations (Schedule 6). An extract from the principles is at Appendix 10.

**Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention)**

The Bonn Convention aims to conserve terrestrial, marine and avian migratory species throughout their range. Parties to this Convention work together to conserve migratory species and their habitats. Appendix 2 to this Plan lists migratory species recorded from the Reserve that are covered by the Bonn Convention.


CAMBA provides for cooperation between China and Australia on the protection of migratory birds listed in the Annex to the Agreement, and their environment, and requires each country to take appropriate measures to preserve and enhance the environment of migratory birds. Appendix 2 to this Plan lists migratory species recorded from the Reserve that are covered by CAMBA.

JAMBA provides for cooperation between Japan and Australia on measures for the management and protection of migratory birds, birds in danger of extinction, and the management and protection of their environments, and requires each country to take appropriate measures to preserve and enhance the environment of birds protected under the provisions of the agreement. Appendix 2 to this Plan lists migratory species recorded from the Reserve that are covered by JAMBA.

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

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 was signed on 24 November 2003, but has not yet entered into force. The Treaty is intended to facilitate cooperation between Australia and France to tackle illegal, unreported and unregulated (IUU) fishing by establishing a framework for information exchange and cooperative surveillance and research activity by France and Australia in the Area of Cooperation, which includes the HIMI territorial sea and exclusive economic zone and the territorial sea and exclusive economic zone of the French territories of Kerguelen Islands, Crozet Islands, Saint–Paul Island and Amsterdam Island.

Convention on Biological Diversity (the Biodiversity Convention)

Establishment of the Reserve assists Australia in meeting its obligations under the 1992 Convention on Biological Diversity and its commitments under the Jakarta Mandate on the Conservation and Sustainable Use of Marine and Coastal Biological Diversity. The Convention requires parties to pursue the conservation of biological diversity and the sustainable use of its components. A key feature of the Convention is the establishment of a system of protected areas where special measures need to be taken to conserve biological diversity.

Agreement on the Conservation of Albatrosses and Petrels (ACAP)

Australia is a signatory to the Agreement on the Conservation of Albatrosses and Petrels, established under the Convention on the Conservation of Migratory Species of Wild Animals and which entered into force on 1 February 2004. The objective of the Agreement is to achieve and maintain a favourable conservation status of albatrosses and petrels by seeking concerted action by Parties to protect important breeding habitat; control non–native species detrimental to albatrosses and petrels; implement measures to reduce the incidental catch of seabirds in longline fisheries; and support research into the effective conservation of albatrosses and petrels. Appendix 2 to this Plan lists albatross and petrel species recorded from the Reserve.
Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR)

The Convention on the Conservation of Antarctic Marine Living Resources was established in 1980 under the Antarctic Treaty system to provide a management regime for conserving the Antarctic marine ecosystem. The Commission for the Conservation of Antarctic Marine Living Resources was established under this convention as a policy and regulatory body to implement the objective of the conservation of Antarctic marine living resources; conservation was defined to include rational use. The Commission determines conservation measures regulating harvesting and associated activities in the pursuit of this objective; such measures may include setting precautionary catch limits, harvesting methods and fishing seasons for species, regulating waste disposal and catch reporting. The HIMI EEZ and the HIMI fishery lie within the Convention area.

International Convention for the Prevention of Pollution from Ships (MARPOL Convention)

The International Convention for the Prevention of Pollution of Ships was adopted on 2 November 1973, and was subsequently modified in 1978 by a Protocol that introduced stricter regulations for the survey and certification of ships. The combined instrument, which entered into force on 2 October 1983, is usually referred to as the MARPOL Convention or MARPOL 73/78 and is the main international convention covering prevention of pollution of the marine environment by ships due to operational or accidental causes. Regulations covering the various sources of ship–generated pollution are contained in six technical Annexes; Annexes I and II, governing oil and chemicals are compulsory but annexes III, IV, V and VI on packaged materials, sewage, garbage and air pollution are optional. Australia has legislated to adopt the Convention and its Technical Annexures I, II, III, IV and V (oil, bulk noxious liquid substances, harmful substances in packaged forms, sewage and garbage, respectively). It is expected legislation to implement MARPOL Annexure VI (control of sewage and air pollution) will be passed in 2005.

Convention on the International Trade of Endangered Species (CITES)

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) entered into force on 1 July 1975, and aims to ensure that international trade in specimens of wild animals and plants does not threaten their survival. CITES works by placing controls on international trade in specimens of selected species. Several species of marine mammal found in the Reserve or recorded from waters in the HIMI region are listed under CITES Annex II, including the southern elephant seal, subantarctic fur seal, Antarctic fur seal, strap–toothed beaked whale, Commerson’s dolphin, southern bottlenose whale and spectacled porpoise.
International Convention for the Regulation of Whaling

The International Convention for the Regulation of Whaling, signed in 1946, was initially developed to provide for the proper conservation of whale stocks to make possible the orderly development of the whaling industry. It provides for the complete protection of certain species, for promoting relevant research and for designating specific areas as whale sanctuaries. The Reserve lies within the Indian Ocean Sanctuary, which was established under the Convention in 1979 to provide freedom from disturbance for migrating and breeding great whales in an area where whales were once hunted to the brink of extinction. Australia has declared its entire EEZ, including that around HIMI, as a whale sanctuary under the EPBC Act. Appendix 2 to this Plan lists cetacean species recorded in the Reserve.


UNCLOS was made in 1982 and entered into force for Australia in 1994. It provides a framework to regulate many aspects of the uses of the sea and the conservation of marine environment. UNCLOS provides for the right of innocent passage of foreign ships through the territorial sea.

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

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

*Australia's Oceans Policy and National Representative System of Marine Protected Areas*

The need to protect marine biodiversity through marine protected areas was reaffirmed in *Australia's Oceans Policy*, which made commitments to “accelerate the development of the National Representative System of Marine Protected Areas (NRSMPA)” and to “accelerate declaration and management of marine protected areas in Commonwealth waters including the declaration of new parks... around Macquarie Island and around Australia's subantarctic territory of Heard and McDonald Islands”. The declaration of the Macquarie Island Marine Park on 27 October 1999 and the HIMI Marine Reserve on 16 October 2002 has contributed to this policy objective.

The primary goal of the NRSMPA is to establish and manage a comprehensive, adequate and representative system of marine protected areas to contribute to the long–term ecological viability of marine and estuarine systems, to maintain ecological processes and systems and to protect Australia’s biological diversity at all levels. Protected areas within the NRSMPA are established especially for the conservation of biological diversity, are classified into one or more IUCN protected area categories, have secure conservation status and contribute to the representativeness, comprehensiveness or adequacy of the national system.

Other goals of the NRSMPA–of relevance to the Reserve– include promoting integrated ecosystem management, providing for the formal management of a range of human activities, providing scientific reference sites, providing for the special needs of rare, threatened and migratory species and the conservation of special groups of organisms, and protecting areas of high conservation value including those containing high species diversity, natural refugia for flora and fauna and centres of endemism.

The Reserve falls within the Kerguelen Province of the Interim Marine and Coastal Regionalisation for Australia (IMCRA) version 3.3. The Kerguelen Province is described as a broad region of the Indian Ocean, including deep submarine ridges and subantarctic islands (Kerguelen, Crozet, Heard and McDonald), which contains widely distributed Antarctic species and a few endemics but lacks cool temperate elements.

*Register of the National Estate/National and Commonwealth Heritage Lists*

The Register of National Estate is a national inventory of natural and cultural heritage places to be preserved for future generations. The islands and associated rocks of the Territory were listed on the Register in 1983, for their importance (see Appendix 5):

– for association with events, developments or cultural phases which have had a significant role in the human occupation and evolution of the nation, State or community;
– in demonstrating a distinctive way of life, custom process, land-use, function or design no longer practiced, in danger of being lost, or of exceptional interest; and

– for information contributing to a wider understanding of the history of human occupation of Australia.

As noted in section 1.2, the Territory is also listed as an ‘Indicative Place’, to be considered for entry on both the Commonwealth Heritage List and National Heritage List. Commonwealth Heritage management principles (Schedule 7B) (see Appendix 11) and National Heritage management principles (Schedule 5B) (see Appendix 12) are prescribed by the EPBC Regulations.

Recovery Plans, Action Plans and Threat Abatement Plans

A number of EPBC Act recovery plans and threat abatement plans for listed threatened species, and other national actions plans, are relevant to the protection and management of species found in the Reserve, including:

– Recovery Plan for Albatrosses and Giant Petrels 2001

– Sub-antarctic Fur Seal and Southern Elephant Seal Recovery Plan


– Threat Abatement Plan for the Incidental Catch (or By-catch) of Seabirds During Oceanic Longline Fishing Operations

– Action Plan for Australian Birds 2000

– Action Plan for Australian Cetaceans 1999

– Action Plan for Australian Seals 1999

Other Agreements and Strategies

The Reserve’s declaration and ongoing management contribute to meeting the Commonwealth Government’s objectives in relation to protected areas and networks of protected areas as stated in the National Strategy for the Conservation of Australia’s Biological Diversity and the National Strategy for Ecologically Sustainable Development.

2.10 Other Relevant Legislation

The Heard Island and McDonald Islands Act 1953 (HIMI Act) ratifies Australia’s acceptance of sovereignty over the Territory and provides for the Territory’s legal regime, including the application to the islands of:

– Commonwealth laws which 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 Australian Capital Territory 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 Act also provides for the Governor-General to make ordinances for administration of the islands.

The EPMO provides for protection of the Territory's environment and its indigenous plants and animals. Obligations arising from the Ordinance include:

– the requirement for a permit to enter the Territory; and

– the requirement for a permit to undertake activities in the Territory which may have a damaging effect on the environment or the indigenous plants and animals.

The EPMO also provides for the appointment of inspectors to deal with breaches of the Ordinance.

The Criminal Procedures Ordinance 1993 provides mechanisms for law enforcement in the Territory, including the designation of special constables, who have powers to deal with persons who have breached the laws of the Territory including those laws that carry criminal sanctions.

The Weapons Ordinance 2001 provides for the implementation of the National Firearms Agreement in the Territory. The Ordinance restricts the possession and use of weapons to approved scientific projects, with some minor exceptions. Storage and registration of weapons is also provided for and a register must be compiled and kept to enable weapons to be traced.

The Protection of the Sea (Prevention of Pollution from Ships) Act 1983, administered by the Australian Maritime Safety Authority (AMSA), deals with the protection of the marine environment from ship-sourced pollution. The Act implements MARPOL 73/78 and regulates normal operational discharges from ships. MARPOL 73/78 annexes regulate the discharge of oil (Annex I), noxious liquid substances (Annex II), the disposal from ships of sewage (Annex IV) and garbage (Annex V) and prohibit the disposal of harmful substances carried by sea in packaged forms (Annex III).

The Environment Protection (Sea Dumping) Act 1981 regulates the dumping at sea of controlled material (including certain wastes and other matter), the incineration at sea of controlled material, loading for the purpose of dumping or incineration, export for the purpose of dumping or incineration, and the placement of artificial reefs. The Act gives effect to Australia’s obligations under the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (thereby also fulfilling Australia’s international obligations under the London Dumping Convention).
Permits are required for any sea dumping activities. Operational discharges from vessels are not defined as 'dumping' under the 1996 Protocol and are therefore not regulated under the Act.

The *Fisheries Management Act 1991* regulates fishing activities (taking etc of fish, including all species of bony fish, sharks, rays, crustaceans, molluscs and other marine organisms, but not including marine mammals or marine reptiles) in the Australian Fishing Zone (AFZ) which is, generally speaking, the waters adjacent to Australia between three and 200 nautical miles of Australia's territorial sea baselines, the latter figure corresponding to the outer limits of the exclusive economic zone. The Act also regulates fishing by Australians on the high seas, including in the CCAMLR area.

The *Antarctic Marine Living Resources Conservation Act 1981* (AMLRC Act) implements Australia’s obligations under the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR). The Reserve falls within statistical subdivision 58.5.2 of the Convention area; a small part of the EEZ extends into division 58.4.3. The Act is administered by the AAD and provides for a system of permits and inspectors, and allows for the implementation of conservation measures adopted by the CCAMLR Commission. The *Fisheries Management Act 1991* takes precedence over the AMLRC Act in some respects (e.g. managing commercial harvesting).

The *Historic Shipwrecks Act 1976* provides for the protection of historic shipwrecks and associated relics, and provides for the establishment of protected zones around historic shipwrecks. All shipwrecks and associated relics more than 75 years old have been protected under the Act by Ministerial declaration. A wreck less than 75 years old may also be protected by a declaration of the Minister. The Act prohibits conduct in relation to historic shipwrecks and relics, including conduct that destroys or causes damage to an historic shipwreck or relic, causes interference with an historic shipwreck or relic, causes the disposal of an historic shipwreck or relic, or causes an historic shipwreck or relic to be removed from Australia.