Appendix B An overview of the legislative framework for environmental protection and biodiversity conservation in Commonwealth waters

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), streamlines national environmental assessment and approvals processes, protects Australian biodiversity and integrates the management of important natural and cultural places. Alongside the EPBC Act, the *Environment Protection (Sea Dumping) Act 1981* (Sea Dumping Act) and the *Historic Shipwrecks Act 1976* are the main pieces of legislation that give effect to the Australian Government's responsibilities to protect and conserve the environmental and heritage assets that exist in Commonwealth waters. Like the EPBC Act, these Acts are also the responsibility of the Minister for the Environment, Heritage and the Arts.

Other key pieces of legislation and regulations that include provisions for the protection of the environment are the *Petroleum (Submerged Lands) (Management of Environment) Regulations 1999*, made under the *Petroleum (Submerged Lands) Act 1967*, the *Fisheries Management Act* 1992, the *Great Barrier Reef Marine Park Act 1975*, the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* and the *Sea Installations Act 1987*. In addition, the *Native Title Act 1993* interacts with the EPBC Act in areas of environmental protection.

Appendix B summarises the legislative context in which marine bioregional planning takes place.

The EPBC Act

Marine Bioregional Planning

Marine Bioregional Plans are being developed for the Commonwealth marine area under section 176 of the EPBC Act. The Commonwealth marine area generally stretches from three nautical miles to 200 nautical miles from the coast, see Box B1.

The States and the Northern Territory are responsible for managing the marine environment in State and Northern Territory coastal waters. Coastal waters are a belt of water between the territorial sea baseline (normally the low water mark along the coast), and a line three nautical miles seaward of the territorial sea baseline. As many ecological processes occur across both State and Commonwealth waters, the Australian Government aims to work cooperatively with the States and the Northern Territory in developing and implementing Marine Bioregional Plans.

Box B1: The Commonwealth marine area

The Commonwealth marine area is defined in the EPBC Act as any part of the sea, including the waters, seabed and airspace, within Australia's EEZ and/or over the continental shelf of Australia, excluding State and Northern Territory coastal waters. Generally, the Commonwealth marine area stretches from three nautical miles from the territorial sea baseline (normally the low water mark) to the outer limit of the EEZ, 200 nautical miles from the baseline. It may extend further than 200 nautical miles, to the edge of the continental shelf if this extends beyond the outer limits of the EEZ.

A person must not take an action within the Commonwealth marine area that has, will have, or is likely to have, a significant impact on the environment without approval from the Commonwealth Minister for the Environment, Heritage and the Arts. A person must not take an action outside the Commonwealth marine area that has, will have, or is likely to have, a significant impact on the Commonwealth marine area without approval.

Marine Bioregional Plans will bring together comprehensive information and provide guidance to sectoral managers and industry in relation to decisions made under the EPBC Act about key conservation issues and priorities in each marine region. The EPBC Act requires the Minister for the Environment, Heritage and the Arts where relevant, to have regard to Bioregional Plans when making any decision under the Act. Marine Bioregional Plans also aim to streamline conservation and environmental management and to create Marine Protected Areas in Commonwealth waters that will further the development of the National Representative System of Marine Protected Areas.

The marine bioregional planning program is being undertaken by the Department of the Environment, Water, Heritage and the Arts in consultation with all Commonwealth agencies responsible for marine-based activities, with input from other stakeholders.

Referral, Assessment and Approval

Central to the EPBC Act is the concept of *matters of national environmental significance*. Matters of national environment significance 'trigger' the referral, assessment and approval of activities under the EPBC Act. The EPBC Act requires proposals for actions that have, will have, or are likely to have, a significant impact on a matter of national environmental significance to be referred to the Minister for the Environment, Heritage and the Arts for assessment and approval. This occurs unless some other provision of the EPBC Act allows the action to be taken without this assessment and approval.

The EPBC Act identifies seven matters of national environmental significance:

- World Heritage properties;
- National Heritage places (from 1 January 2004);
- Ramsar wetlands of international significance;
- listed threatened species and ecological communities (excluding species listed as extinct or conservation-dependant);
- listed migratory species;
- the Commonwealth marine environment; and
- nuclear actions (including uranium mining).

Of these, three are particularly relevant to marine bioregional planning: listed threatened species, listed migratory species and the Commonwealth marine environment. Further information on the Commonwealth marine area and its status as a matter of national environmental significance is provided in box B1.

A number of EPBC Act Policy Statements have been developed to provide guidance on when actions should be referred to the Minister for the Environment, Heritage and the Arts. The following EPBC Act Policy Statements provide guidance about the types of actions that should be referred for assessment and approval:

- *EPBC Act Policy Statement 1.1 Significant Impact Guidelines – Matters of National Environmental Significance* (May 2006). These provide proponents of activities in Commonwealth Marine Areas with guidance about whether or not the actions they propose to take will require assessment and approval under the EPBC Act;
- *EPBC Act Policy Statement 1.2 Significant Impact Guidelines – Actions on, or impacting upon, Commonwealth Land and Actions by Commonwealth Agencies* (May 2006). These provide guidance on land-based actions which should be referred for approval under the EPBC Act and should be read in conjunction with the *EPBC Act Policy Statement 1.1 Significant Impact Guidelines – Matters of National Environmental Significance*;
- *Draft EPBC Act Policy Statement 2.1 – Interactions between offshore seismic exploration and whales* (March 2007). This Draft EPBC Act policy statement updates the previous cetacean interaction guidelines, produced in 2001. The policy will be implemented immediately subject to refinement based on operational experience and public and expert comments. The policy statement has been prepared to:
  - provide practical standards to minimise the risk of acoustic injuries to whales in the vicinity of seismic survey operations;
  - provide a framework that minimises the risk of biological consequences to whales from seismic surveys in biologically important habitat areas or during critical behaviour; and
  - provide advice to proponents of offshore seismic operations on their legal responsibilities under the EPBC Act; and
- *EPBC Act Policy Statement 2.2 Industry – Offshore Aquaculture* (August 2006) This provides guidance to proponents of marine aquaculture activities as to whether or not the actions they propose will require assessment and approval under the EPBC Act. These guidelines should be read in conjunction with the *EPBC Act Policy Statement 1.1 Significant Impact Guidelines – Matters of National Environmental Significance*;

Nationally threatened species and ecological community guidelines have been prepared for a number of land-based threatened species and ecological communities. To date no nationally threatened marine species or ecological community guidelines have been developed.

Copies of the EPBC Act Policy Statements and Guidelines are available at <www.environment.gov.au/epbc/policy>.

Protecting Marine Biodiversity

A number of instruments, measures and programs are in place under the EPBC Act for the protection, conservation and recovery of marine biodiversity. The EPBC Act contains provisions that protect listed threatened species, listed migratory species and listed marine species and cetaceans. Commonly, species listed under the Act are referred to as protected species as it is an offence to kill, injure, take, trade, keep or move a listed species without authorisation. These provisions apply generally in the Commonwealth

marine area (as well as other Commonwealth areas), and to members of species taken in the Commonwealth marine area (as well as other Commonwealth areas) and subsequently moved from the area.

Species listed as threatened under the EPBC Act are those identified as facing serious risk of extinction in the wild (as determined in accordance with criteria specified in the regulations). Under the EPBC Act, listed threatened species must be classified into one of the following six categories: extinct; extinct in the wild; critically endangered; endangered; vulnerable; and conservation-dependent. The EPBC Act also allows for the listing of threatened ecological communities. To date, no ecological communities in the marine environment have been listed under the EPBC Act. The Commonwealth Minister for the Environment, Heritage and the Arts can also identify and list habitat critical to the survival of a listed threatened species or ecological communities, on the Register of Critical Habitat. In relation to threatened species and communities, the EPBC Act also provides for the identification and listing of key threatening processes, the preparation of threat abatement plans and species recovery plans.

All whales, dolphins and porpoises are protected as cetaceans under the EPBC Act, as the Australian Government recognises these species require protection to ensure their conservation. The EPBC Act also established the Australian Whale Sanctuary, which encompasses all Commonwealth waters. Within the Australian Whale Sanctuary, and in waters beyond the outer limits of the Sanctuary, it is an offence to kill, injure or interfere with cetaceans. They are also protected in State and Territory waters.

Migratory species listed under the EPBC Act are species already listed under international agreements to which Australia is a signatory. They are species that require, or would significantly benefit from, international cooperation. Such agreements are discussed in appendix A.

Marine species listed under the EPBC Act are species occurring naturally in the Commonwealth marine area that the Australian Government recognises require protection to ensure their long-term conservation. Species listed as marine species are identified in Section 3.3 of the Act.

In Australia, the EPBC Act controls the international movement of wildlife, wildlife specimens and products made or derived from wildlife. These controls apply to all transactions undertaken by commercial and non-commercial organisations and individuals. In addition, controls under the *Quarantine Act 1908* may apply. Under the EPBC Act a permit is required to:

- import or export CITES-listed specimens. CITES is the *Convention on International Trade in Endangered Species of Wild Fauna and Flora 1973*;
- export specimens derived from native species not included in the list of exempt native specimens; or
- import live plants or animals included in part two of the list of plants and animals suitable for live import. See <www.environment.gov.au/biodiversity/trade-use/permits>.

Commonwealth Marine Reserves

Part 15 of the EPBC Act provides for the declaration of Commonwealth reserves over areas occurring in Commonwealth waters. It sets out the legal requirements for establishing and managing Commonwealth reserves, which include Marine Protected Areas. The EPBC Act also provides for the preparation and enforcement of reserve management plans. Many activities are illegal in Commonwealth reserves unless carried out in accordance with relevant management plans, permits and determinations. Division 12 of the *Environment Protection and Biodiversity Conservation Regulations 2000* details the prohibitions or restrictions on many activities in Commonwealth reserves.

Fisheries Assessments

Under the EPBC Act, the environmental performance of all fisheries managed under Commonwealth legislation, and State-managed fisheries that have an export component, must be assessed. The purpose of the assessment is to ensure that, over time, fisheries are managed in an ecologically sustainable way. *Guidelines for the Ecologically Sustainable Management of Fisheries* outline specific principles and objectives that are used to assess fisheries management arrangements.

Historic Shipwrecks Act 1976

Australia's historic shipwrecks are an invaluable and irreplaceable heritage resource. The *Historic Shipwrecks Act 1976* protects historic wrecks and relics in the territorial sea, including State and Territory coastal waters, and waters above the continental shelf. The Act does not apply to wrecks and relics in internal waters, such as rivers, lakes, bays, harbours of a State. Each of the States has complementary legislation that protects historic shipwrecks in internal waters.

The Historic Shipwrecks Acts 1976 aims to ensure that historic shipwrecks are protected for their heritage values and maintained for recreational and educational purposes. It

also seeks to regulate activities that may result in damage, interference, removal or destruction of an historic shipwreck or associated relic. Divers can use historic shipwreck sites for recreational purposes but relics must not be removed from the wreck site and the physical fabric of the wreck must not be disturbed, unless a permit has been obtained.

Under a declaration made under the *Historic Shipwrecks Act 1976*, all wrecks, known and unknown that are more than 75 years old are protected, together with their associated relics. The Minister for the Environment, Heritage and the Arts can also make a declaration to protect any historically significant wrecks or articles and relics that are less than 75 years old.

The Act requires anyone who finds the remains of a ship, or articles associated with a ship, to give notification of the location as soon as practicable to the Minister for the Environment, Heritage and the Arts.

Some historic shipwrecks lie within protected or no-entry zones. The protected zone can apply to an area of sea and land not exceeding 200 hectares. These zones may cover an area up to a radius of 500 m around a wreck site, and may be declared where circumstances place it at particular risk of interference. This declaration prohibits all entry into this zone without a permit. Permits are also required to undertake any activities otherwise prohibited or restricted by the Act.

The Act is administered by the Australian Government in conjunction with delegates in each of the States, the Northern Territory and on Norfolk Island.

Environment Protection (Sea Dumping) Act 1981

The Environment Protection (Sea Dumping) Act 1981 was enacted to fulfil Australia's international responsibilities under the London Convention of 1972 and has been amended to implement the *1996 Protocol to the London Convention* (London Protocol) that came into force internationally in 2006. The objective of the London Protocol is to prevent and reduce marine pollution resulting from dumping of wastes and other matter.

Under the Sea Dumping Act, Australia prohibits ocean disposal of waste materials considered harmful to the marine environment, and regulates the deliberate loading and dumping of wastes at sea to ensure the environmental impact is minimised. In deciding whether to grant a permit, consideration is given to the type of material proposed to be dumped, the disposal site and the potential impacts on the marine environment.

If the sea dumping activity is likely to have a significant impact on the environment, the Department will also refer the proposal for assessment under the EPBC Act, in accordance with Part 11 of the Act. In such cases the Department will seek to undertake both assessments concurrently.

Permits are required for all sea dumping operations. Currently, about 30 permits are issued in Australia each year, mainly for the dumping of uncontaminated dredged material, disposal of vessels and for burials at sea. A relatively uncommon activity also requiring a permit under the Act is the creation of artificial reefs. The *National Ocean Disposal Guidelines for Dredged Material* (2002) has been prepared to assist applicants for a sea dumping permit with the assessment and management of dredged material.

The Sea Dumping Act, which is administered by the Minister for the Environment, Heritage and the Arts, applies to all Australian waters other than waters within the limits of a State or the Northern Territory such as harbours and river estuaries, from the low water mark out to the edge of the EEZ.

The Act applies to all vessels, aircraft or platforms in Australian waters, other than vessels or aircrafts belonging to the naval, military or air forces of a foreign country, and to all Australian vessels or aircraft in any part of the sea. The Act does not cover operational discharges from ships, such as sewage and galley scraps. Those are regulated by the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983*, and the *Navigation Act 1912*.

Fisheries Management Act 1991

The *Fisheries Management Act 1991* establishes the Australian Fishing Zone (AFZ) and underpins the domestic compliance and enforcement powers that enable Australia to protect its valuable fishery resources. Under the *Fisheries Management Act 1991* and *Fisheries Administration Act 1991* the Australian Fisheries Management Authority (AFMA) has an obligation to develop plans and implement policy to manage fisheries in the AFZ (waters within the limits of the EEZ, except for State and Territory coastal waters and waters within the limits of a State or Territory). The *Fisheries Management Act 1991* also sets out the legislative basis for statutory fishing rights, licences, and permits.

The *Fisheries Management Act 1991* requires that management plans are prepared for all fisheries unless AFMA has determined that a management plan for a particular fishery is not warranted. Each management plan sets out objectives, measures by which the objectives are to be attained, and criteria against which the success of measures taken may

be assessed. These plans are prepared in consultation with participants in the fishery and made available for public comment before they are finalised.

Section 3(1)(b) of the *Fisheries Management Act 1991* sets out the Australian Government's responsibilities regarding the pursuit of ecologically sustainable development (ESD). The Act thus requires fisheries be managed for the long-term sustainability of fisheries resources, for the benefit of all users and interest groups both now and in the future. This requires that stocks be maintained at a sustainable level and, where necessary, rebuilt to ensure maximum inter-generational equity. It also requires that fisheries management minimise the impact of fishing on biological diversity and ecosystem habitat. The *Fisheries Management Act 1991* interacts with the EPBC Act through the independent assessments required under the EPBC Act.

Petroleum (Submerged Lands) Act 1967

The *Petroleum (Submerged Lands) Act 1967* (PSLA) regulates the exploration and exploitation of offshore petroleum resources in Commonwealth waters.

These activities in State and Northern Territory coastal waters are regulated by relevant State and Territory legislation. Responsibility for petroleum operations in Australia's offshore areas, beyond coastal waters, rests with the Australian Government. The Australian Government and the governments of the States and the Northern Territory jointly administer and supervise industry activities in this area through Joint Authority arrangements.

Sea Installations Act 1987

The Sea Installations Act 1987 provides the legislative basis for the Commonwealth to:

- ensure that sea installations are operated with regard to the safety of the people using them, and the people, vessels and aircraft near them;
- apply appropriate laws in relation to such sea installations; and
- ensure that such sea installations are operated in a manner that is consistent with the protection of the environment.

A sea installation refers to any man-made structure that when in contact, or brought into physical contact with the seabed, or when floating, can be used for an environment-related activity.

An environment-related activity is defined as: any activity relating to tourism or recreation; the carrying on of a business; exploring, exploiting or using the living resources of the sea, sea bed or subsoil of the sea bed; marine archaeology; or any other prescribed activity. Examples of structures that are defined as sea installations include floating hotels, tourism pontoons, artificial islands, oil or gas platforms and submarine power cables. There are also a number of exclusions that are set out under the Act.

The *Sea Installations Act 1987* applies to waters within the limits of the EEZ, or the continental shelf where this extends beyond the EEZ excluding State and Territory coastal waters. It applies from the coast outwards in the case of external Territories.

Proponents wishing to install and/or operate a sea installation must apply for a permit or exemption certificate to the Department of the Environment, Water, Heritage and the Arts, or the Great Barrier Reef Marine Park Authority (GBRMPA).

Applications for permits and exemption certificates will be assessed for environmental implications and safety. If the installation or operation of the installation is likely to have a significant impact on the environment, the Department of the Environment, Water, Heritage and the Arts or the Great Barrier Reef Marine Park Authority will refer the proposal for assessment under the EPBC Act, in accordance with Division 4 of Part 11 of that Act. In such cases the Department seeks to undertake both assessments concurrently.

Native Title Act 1993

The *Native Title Act 1993* (NTA) provides a framework for recognising and protecting native title in Australia. Native title rights and interests are the communal, group, or individual rights and interests of Aboriginal people or Torres Strait Islanders in relation to land or waters. The NTA seeks to regulate acts that have an impact on the native title rights of Indigenous Australians.

The NTA and the EPBC Act

The EPBC Act does not affect the operation of the NTA.

The Department of the Environment, Water, Heritage and the Arts, in administering the EPBC Act, has responsibilities to promote the involvement of Indigenous people and their knowledge of biodiversity in developing strategies for ecologically sustainable development and biodiversity conservation, including through Marine Bioregional Plans

and their associated conservation measures. The Department also has responsibilities under the heritage provisions of the EPBC Act to assess and manage listed Indigenous heritage values, including in the marine environment.

The Application of Native Title Legislation to the Offshore Area

'Offshore' is defined under the NTA as any land or waters other than those lands and waters within the limits of a State or Territory. Section 6 of the Act extends the operation of the NTA to each external Territory, to the coastal sea of Australia and each external Territory, and to any waters over which Australia asserts sovereign rights under the *Seas and Submerged Lands Act 1973*. Under the NTA, coastal sea is defined in accordance with section 15B of the *Acts Interpretation Act 1901*.

The recognition of native title offshore was confirmed in the High Court case of Yarmirr (The Commonwealth v Yarmirr; Yarmirr v Northern Territory [2001] HCA 56 11 October 2001). In this case, the majority of the High Court concluded that non-exclusive native title could exist in offshore areas. **The native rights over areas of water may include the right to use and enjoy the reefs and associated water; the right to hunt and gather, including for dugongs and turtles; and the right to use resources for food, trapping fish, religious, cultural and ceremonial purposes.** Exclusive native title (which would allow the native title holders to control access to the area) was not found to exist because exclusivity of title would be inconsistent with the right of innocent passage under international law, and the common law rights to navigate and fish.

Preservation of Indigenous Fishing Rights

The NTA recognises that there may be Commonwealth, State or Territory laws that could prohibit or restrict native title holders from hunting, fishing, gathering or carrying out cultural and spiritual activities offshore. Under section 211 of the Act, native title holders are not prohibited or restricted from carrying on such activities, or gaining access for those purposes, so long as they are carrying out these activities as an exercise of their native title rights and only for the purpose of satisfying their personal, domestic or non-commercial communal needs. As a result, the relevant law's validity is unimpaired but its operation will be suspended in relation to the exercise of native title rights and interests. This exemption does not apply in relation to legislation aimed at environmental protection, research or public health or safety.

Lord Howe Island Act 1953

Although some 700 km off the mid north coast, Lord Howe Island is part of the State of New South Wales, Australia. Due to its isolation, unique environment and social situation, it is administered by the Lord Howe Island Board.

Unlike the rest of NSW, there is no freehold title, and the island is entirely NSW Crown Land. The island is predominantly forested, has a population of about 350 people, and enjoys a thriving tourism industry. The Lord Howe Island Board is a NSW Statutory Authority established under the *Lord Howe Island Act 1953*, which gives a high level of autonomy to this community.

The Board reports directly to the NSW Minister for Climate Change, Environment and Water, and is charged with the care, control and management of the island. Its responsibilities include:

- protection of World Heritage values;
- development control;
- administration of all Crown Land including the island's protected area;
- managing the Permanent Park Preserve;
- the provision of community services and infrastructure; and
- the delivery of sustainable tourism.

The Board is comprised of seven members, four of whom are elected from the Islander community. The remaining three members are appointed by the Minister to represent the interests of business, tourism and conservation. The full Board meets on the island every three months and, on a day-to-day basis, the affairs of the island are managed by the Board's administration.

Norfolk Island Act 1979

Norfolk Island is a self-governing Australian Territory situated in the South Pacific approximately 1600km north-east of Sydney, 900 km north-east of Lord Howe Island and 1100km north-west of Auckland. It is about 8 km long and 5 km wide with an area of 3455 hectares.

Norfolk Island is an integral part of the Commonwealth of Australia and has been since 1914 when it was accepted into the Federation as an Australian Territory under section 122 of the Australian National Constitution.

The Federal Parliament enacted the Norfolk Island Act 1979 allowing a considerable degree of self-government for the Island's 2000 residents. The Act provides for:

- an Administrator to act as the nominal head of the Norfolk Island Government;
- a Norfolk Island Legislative Assembly able to make laws for the peace, order and good government of the Territory including laws to raise taxes and impose charges;
- an Executive Council or Ministry to be drawn from the Legislative Assembly and appointed by the Administrator on the recommendation of the Assembly;
- the Administrator to act on ministerial advice;
- the Norfolk Island Supreme Court and Norfolk Island's system of laws; and
- a Norfolk Island public service.

The Norfolk Island Legislative Assembly has the power to legislate for all things except coinage, the raising of defence forces, the acquisition of property on other than just terms, and euthanasia.

This means that the Assembly can enact laws on virtually any topic that it chooses, including on matters that are the preserve of the Commonwealth Government elsewhere (such as customs and immigration). Once the Assembly enacts a law, the Norfolk Island Government is equipped with broad executive powers and responsibilities to administer and enforce that law. The Norfolk Island Government is also primarily responsible for the delivery of government services on the Island.

In the preamble to the Act, the Federal Parliament and Government acknowledged the special relationship between Norfolk Island and Norfolk Islanders of Pitcairn Island descent and their desire to maintain their traditions and culture.

The *Norfolk Island Act* establishes the broad framework for Norfolk Island's self-government. The Act itself contains very little by way of specific machinery of government provisions. The intention was that the laws that spell out in detail how the Norfolk Island system of governance will work would generally be laws enacted by the Norfolk Island Legislative Assembly.

Norfolk Island's self-governing status is similar to that of Australia's mainland Territories – the Australian Capital Territory (ACT) and the Northern Territory (NT). The major difference is that the Norfolk Island Government and Legislative Assembly have greater legislative and executive powers and responsibilities - such as in respect of immigration, customs and quarantine.

Coral Sea Islands Act 1969

The Coral Sea Islands Territory was established as a Territory of the Commonwealth in 1969 under the *Coral Sea Islands Act 1969*. The Coral Sea Islands Territory is made up of the islands situated in an area of approximately 780 000 sq km of the Coral Sea extending from the outer edge of the Great Barrier Reef. The coral and sand islands are quite small with some grass and low vegetation cover. There is no fresh water.

The Act was amended in 1997 to extend the boundaries of the Coral Sea Islands Territory around Elizabeth and Middleton Reefs. Elizabeth and Middleton Reefs are 150 km north of Lord Howe Island in the Tasman Sea.

Currently, Commonwealth interest in the Coral Sea Islands Territory is mainly through the Bureau of Meteorology, the Department of the Environment, Water, Heritage and the Arts and the Australian Fisheries Management Authority.

The only permanently inhabited island in the Coral Sea is Willis Island. Willis Island is a Bureau of Meteorology observation station with four staff. Unmanned weather stations beacons and a lighthouse are located on some of the other islands and reefs.

In 1982 Lihou Reef and Coringa-Herald National Nature Reserves were established and are currently managed under the EPBC Act. Elizabeth and Middleton Reefs were declared a Marine National Nature Reserve in 1987 and are also administered under the EPBC Act by the Department of Environment, Water, Heritage and the Arts.

Requests for permission to undertake commercial fishing in areas outside Commonwealth Reserves are referred to the Australian Fisheries Management Authority. Officers of the Department make regular visits to the Coral Sea Islands.

The Royal Australian Navy and the Australian Customs Service also conduct regular sea and aerial surveillance of the area.

Great Barrier Reef Marine Park Authority Act 1975

Both the Great Barrier Reef Marine Park and the Torres Strait (discussed below) are adjacent to the East Marine Region. The associated legislation for these areas, the *Great Barrier Reef Marine Park Act 1975* and the *Torres Strait Fisheries Act 1984*, are included in this appendix because of the interaction within and between the fishing industry and many marine species, across the East Marine Region's boundaries.

The Great Barrier Reef Marine Park is very extensive, covering approximately 345 000 square kilometres, and extending more than 2 300km along the Queensland coast. It is the largest Marine Protected Area in the world (equivalent to the area of Japan). The Great Barrier Reef World Heritage Area extends to the low water mark on the mainland coast, and includes all islands and all waters within the outer boundaries of the Marine Park. In 1975 the Australian Government enacted the *Great Barrier Reef Marine Park Act* that established the Great Barrier Reef Marine Park Authority (GBRMPA) and the Marine Park.

The Great Barrier Reef was declared a World Heritage Area in 1981, internationally recognised for its outstanding natural values, and one of only a few ever nominated for all four natural criteria. It was the first time a listing went beyond the bounds of individual sites and embraced a whole region. The GBRMPA has now been managing the Great Barrier Reef for thirty years.

Torres Strait fisheries

When the management arrangements for Torres Strait Protected Zone Joint Authority (PZJA) fisheries first came into effect in 1985 under the *Torres Strait Fisheries Act 1984*, transferable licences were issued to persons if they could demonstrate the required history of commitment to fishing in Torres Strait.

Since 1985, new licences have only been issued to traditional inhabitants. In different fisheries a number of provisions have also reduced the number of licenses held by non-traditional inhabitants over time.

People who are not traditional inhabitants and wish to obtain a licence for a fishery in Torres Strait must buy one of the transferable licences from an existing operator. These licences are subject to strict boat replacement regulations limiting vessel size. Traditional inhabitants can enter any commercial fishery by obtaining a Traditional Inhabitant Boat (TIB) fishing licence. All licences are issued by the Queensland Department of Primary Industries and Fisheries as delegates of the PZJA.

Until 1999, the PZJA managed those fisheries that Australia and Papua New Guinea (PNG) agreed to jointly manage in the TSPZ, including the prawn, Spanish mackerel, pearl shell, tropical rock lobster, dugong and turtle fisheries and the barramundi fishery in accordance with Commonwealth law in the Australian component of the TSPZ.

In October 1996 the PZJA agreed that all commercial fishing in the Torres Strait should come under PZJA management. The new arrangements were introduced in April 1999 for the following fisheries:

- finfish
- crabs
- trochus
- bêche-de-mer

Recreational fishing, including charter fishing, and marketing are still managed by the Queensland Department of Primary Industries and Fisheries.

Key References and Further Readings

Legislation (Available from the Commonwealth of Australia Law website <www.comlaw.gov.au>

Acts Interpretation Act 1901
Coral Sea Islands Act 1969
Environment Protection and Biodiversity Conservation Act 1999
Environment Protection and Biodiversity Conservation Regulations 2000
Environment Protection (Sea Dumping) Act 1981
Fisheries Administration Act 1991
Fisheries Management Act 1992
Great Barrier Reef Marine Park Act 1975
Historic Shipwrecks Act 1976
Lord Howe Island Act 1953
Native Title Act 1993
Navigation Act 1912
Norfolk Island Act 1979
Petroleum (Submerged Lands) Act 1967
Petroleum (Submerged Lands) (Management of Environment) Regulations 1999
Protection of the Sea (Prevention of Pollution from Ships) Act 1983
Quarantine Act 1908
Sea Installations Act 1987
Seas and Submerged Lands Act 1973
Torres Strait Fisheries Act 1984

Policies and Guidelines

The following EPBC Act policy statements are available from www.environment.gov.au/epbc/policy

Department of the Environment and Heritage, 2001, *EPBC Act Policy Statement 2.1 Significant Impact Guidelines – Interactions Between Offshore Seismic Operations and Larger Cetaceans*, DEH, Canberra.

Department of Environment and Heritage, 2006, *EPBC Act Policy Statement 1.1 Significant Impact Guidelines – Matters of National Environmental Significance*, DEH, Canberra.

Department of the Environment and Heritage, 2006, *EPBC Act Policy Statement 1.2 Significant Impact Guidelines – Actions on, or impacting upon, Commonwealth Land and Actions by Commonwealth Agencies*, DEH, Canberra.

Department of the Environment and Heritage, 2006, *EPBC Act Policy Statement 2.2 Industry Guidelines – Offshore Aquaculture*, DEH, Canberra.

Environment Australia, 2001, *Guidelines for the Ecologically Sustainable Management of Fisheries*, EA, Canberra <www.environment.gov.au/coasts/fisheries/guidelines.html> accessed 10/05/07.

Environment Australia, 2002, National Ocean Disposal Guidelines for Dredged Material, EA, Canberra, <www.environment.gov.au/coasts/pollution/dumping/guidelines/index.htm> accessed 10/05/07.

International agreements:

Convention on International Trade in Endangered Species of Wild Fauna and Flora 1973 (CITES), <www.cites.org>, accessed 10/05/07.

Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972 (London Convention), www.imo.org, accessed 10/7/07.

Wandering albatross. Photo: Dr Michael Double.