

1. INTRODUCTION

The incident involving the grounding of the Oceanic Grandeur in the Torres Strait in 1970 led to the development of a national capability to ensure that Australia would be prepared to respond to ship-sourced pollution incidents. This document relates to the oil spill component of The National Plan to Combat Pollution of the Sea by Oil and Other Noxious and Hazardous Substances (National Plan).

1.1. Background

The National Plan has been in operation since 1973 and brings together the combined resources of the:

- Commonwealth Government
- State and Northern Territory (State/NT) Governments including emergency services
- the oil, shipping, ports, chemical and petroleum exploration and production industries.

The National Plan sets out a clear definition of the responsibilities of the participants, formalised in an Inter-Governmental Agreement (IGA). The IGA details such matters as:

- the divisions of responsibilities
- contingency planning
- access to Commonwealth equipment
- the management and control of financial affairs (Appendix 1).

Based on the IGA, the prescribed role of the Commonwealth, through the Australian Maritime Safety Authority (AMSA), is one of:

- coordination
- provision of technical advice
- logistic and maintenance support
- provision of materials and equipment
- training.

Additionally, AMSA and the Australian Institute of Petroleum (AIP) have entered into an agreement for mutual assistance and access to the National Plan and Australian Marine Oil Spill Centre (AMOSC) equipment stockpiles.

The national contingency plan hierarchy, outlined in Figure 1, consists of:

- National Marine Oil and Marine Chemical Spill plans
- the Marine Pollution Contingency Plan for the Great Barrier Reef Marine Park (REEFPLAN)
- State/NT plans
- port, and industry plans.

This Plan, the National Marine Oil Spill Contingency Plan, prescribes procedures and provides information required to implement the National Plan.

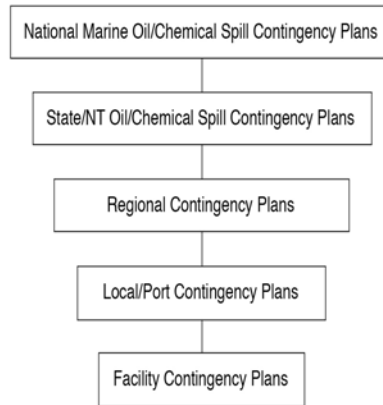


Figure 1 - National Plan Contingency Plan Hierarchy

1.2. Threat

Australia depends almost exclusively on shipping to transport its exports and imports and has, in terms of tonnes of cargo shipped and kilometres travelled, the fifth largest shipping task force in the world.

There are approximately 22,000 port arrivals each year, by more than 4,000 foreign flag ships. Ship-sourced oil spills may result from either accidental or illegal operational discharges. Accidental discharges may involve the escape of bunker fuel or oil cargo resulting from a marine incident.

Oil spills may also be caused by accidental discharges from petroleum terminals and facilities and the offshore petroleum exploration and production industry.

The threat is largely a function of the types of oil and bunkers and operational issues such as the degree of navigational hazards, the weather and shipping density.

1.3. Aim of the Plan

The National Marine Oil Spill Contingency Plan outlines Australia's arrangements for responding to oil spills in the marine environment, with the aim of protecting against environmental pollution as a result of oil contamination and where this is not possible, minimise the effects.

1.4. Scope of Plan

This Plan outlines combined stakeholder arrangements designed to allow a rapid and cooperative response to marine oil spills within the defined area. The Plan is complemented by Government and industry contingency plans prepared at State/NT, regional, port and facility levels. Matters of detail are contained in local, site specific, contingency plans. This Plan also coordinates the provision of national and international support.

1.5. Geographical Area

The geographical area covered by the National Plan includes all Australian Territorial Seas including those offshore islands and territories, Australia's Exclusive Economic Zone (EEZ), and the High Seas, as detailed in Figure 2, where an oil spill has the potential to impact on Australian interests. (Note: Includes Australian Antarctic Territory, not shown on map).

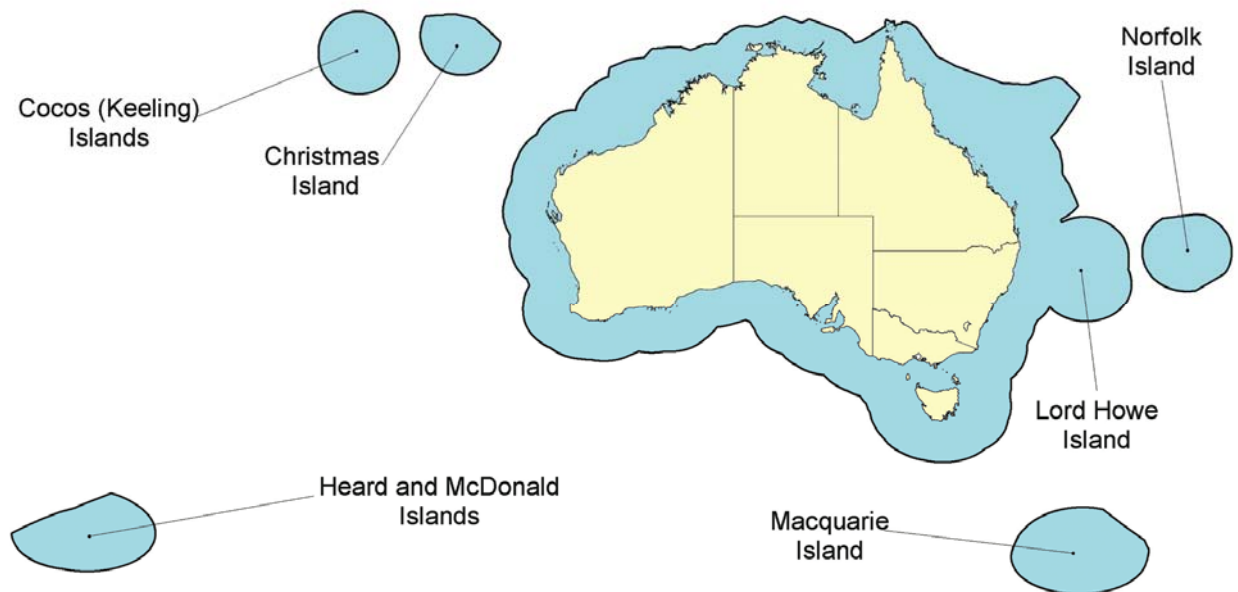


Figure 2: National Response areas

1.6. Designed Spill Size

The National Marine Oil Spill Contingency Plan was established in order to facilitate the national response to oil spills of any magnitude within Australian waters as specified in Figure 2. For planning and operational reasons a designed spill size of 21,000 tonnes exists. This spill size was determined by National Plan stakeholders after researching current ship types and equipment holdings and is endorsed by the Australian Transport Council (ATC) as the appropriate level for which to plan equipment and other resource requirements. Additionally, arrangements are in place to augment this capacity from overseas equipment stockpiles should any incident exceed Australia's resource capability.

1.7. Chemical and Other Incidents

Incidents involving pollution by other substances could fall into two categories:

- (i) chemicals released at sea from a chemical tanker's cargo tank as a result of collision, grounding, fire, and operational or illegal discharge
- (ii) packages or containers lost at sea and washed ashore or sinking to the seabed.

Procedures dealing with the response to chemicals incidents are outlined in the National Marine Chemical Spill Contingency Plan (ChemPlan), which can be found at: www.amsa.gov.au/Marine_Environment_Protection/National_Plan/Contingency_Plans_and_Management/Chemical_Spill_Contingency_Plan.asp.

1.8. Legislation

1.8.1 International Conventions

Australia has been a member of the International Maritime Organization (IMO) since its inception in 1948, and was active in the development and implementation of many of the IMO Conventions that specifically address pollution from ships. These conventions are implemented in Australia by the "Protection of the Sea" package of legislation listed in the table below.

National Legislation

Act	Objectives	Complementary State/NT legislation
Protection of the Sea (Civil Liability) Act 1981	Implements International Convention on Civil Liability for Oil Pollution Damage 1992, requiring the owners of oil tankers to have insurance for pollution damage Cost recovery for AMSA National Plan activities	No Yes
Protection of the Sea (Civil Liability for Bunker Oil Pollution Damage) Act 2008	Implements International Convention on Civil Liability for Bunker Oil Pollution Damage 2000	No
Protection of the Sea (Harmful Anti-fouling Systems) Act 2006	Implements International Convention on the Control of Harmful Anti-fouling Systems on Ships 2001	No
Protection of the Sea (Powers of Intervention) Act 1981	Implements International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties and the 1973 Protocol to that Convention. Sets out intervention powers for territorial waters	Yes Yes
Protection of the Sea (Prevention of Pollution from Ships) Act 1983	Implements International Convention for the Prevention of Pollution from Ships (MARPOL) setting operational and construction standards for ships to prevent pollution.	Yes
Protection of the Sea (Shipping Levy) Act 1981 and Protection of the Sea (Shipping Levy Collection) Act 1981	Imposes levy on shipping to fund Australia's National Plan and sets out how the levy is collected.	No
Protection of the Sea (Oil Pollution Compensation Fund) Act 1993, Protection of the Sea (Oil Pollution Compensation Fund - Customs) Act 1993, Protection of the Sea (Oil Pollution Compensation Fund - Excise) Act 1993, Protection of the Sea (Oil Pollution Compensation Fund - General) Act 1993	Implements International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992 providing compensation for oil spill damage above the limits available under the Civil Liability Convention, funded by levies on oil companies.	No
Australian Maritime Safety Authority Act 1990	Sets out functions of the Australian Maritime Safety Authority, including "the combating of pollution in the marine environment"	No

1.8.2 Jurisdiction

An agreement between the Commonwealth and the States/NT, known as the Offshore Constitutional Settlement (OCS) effectively gives the States/NT jurisdiction over the first three nautical miles (nm) of the Territorial Sea, and the Commonwealth jurisdiction over waters seaward of this point (although in some cases the Commonwealth has jurisdiction over the whole of Australia). One feature of the OCS was recognition by all parties that a mechanism was required to enable Australia to become a party to key international maritime conventions in the event that the legislation in each Australian jurisdiction was not in compliance with convention requirements at the time of ratification. The concept of the "roll back clause" was agreed, whereby Commonwealth law giving effect to the Conventions would apply in

all jurisdictions, but would “roll back” if and when a State/NT enacted the necessary provisions itself.

In accordance with the United Nations Convention on the Law of the Sea (UNCLOS), the Commonwealth’s jurisdiction encompasses the Exclusive Economic Zone (EEZ) - that is, up to 200nm seaward of the territorial sea baseline - and the Territorial Sea extends to twelve (12) nm from the coastline. However, for the purposes of this Plan, the State/NT jurisdiction does not extend beyond the original Territorial Sea and OCS limit of three (3) nm.

1.8.3 Joint Petroleum Development Area (JPDA)

An area of the Timor Sea lying between Australia and Timor-Leste is subject to overlapping territorial claims by Australia and Timor-Leste. This area contains substantial resources of petroleum. In this situation, Australia and Timor-Leste have agreed that a joint development regime, pending final delimitation of the seabed, is the best approach to permit development of petroleum resources to the benefit of both countries.

The Timor Sea Treaty (‘the Treaty’) came into force on 2 April 2003. The Treaty establishes a Joint Petroleum Area (JPDA). Australia and Timor-Leste have developed detailed regulatory and fiscal regime to apply to future petroleum activities in the Area.

The water column aspects of Exclusive Economic Zone (EEZ) jurisdiction within the JPDA is subject to the jurisdiction of Timor-Leste. This is confirmed by the Certain Maritime Arrangements in the Timor Sea Treaty (CMATS). Australia has not declared an EEZ in that area.

The petroleum aspects of seabed jurisdiction within the JPDA are covered by the Treaty. Article 10 of the Treaty provides the Australia and Timor-Leste will “cooperate in the protection of the marine environment so as to prevent and minimise pollution from petroleum activities.” The Designated Authority under the Timor Sea Treaty (encompassed in the Timor-Leste National Petroleum Authority – ANP) “shall establish a contingency plan for combating pollution from petroleum activities in the JPDA”.

The following therefore applies to pollution incidents within the JPDA;

- In a situation where a pollution incident could be contained by the operator, under arrangements approved by the ANP, the operator has responsibility for responding to the incident. The operator would normally inform ANP of the incident and continuously update ANP on progress.
- In situations where the oil spill is identified as a significant incident and beyond the capability of the operator, operators or the ANP/Timor-Leste Government may contact AMSA to seek assistance from Australia.

These arrangements are consistent with Annex C paragraph (e) of the Timor Sea Treaty “Powers and Functions of the Designated Authority”, which provides that “The powers and functions of the DA shall include: requesting assistance with pollution prevention measures, equipment and procedures from the appropriate Australian and East Timor authorities or other bodies or person;”.

The coordinates of the JPDA are set out in Annex A of the Timor Sea Treaty.
<http://www.austlii.edu.au/au/other/dfat/treaties/2003/13.html>.

1.8.4 Pacific Islands Regional Marine Spill Contingency Plan (PACPLAN)

1. Australia is a member of SPREP, and is a party to the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region (SPREP Convention). The Convention includes a Protocol Concerning Co-

operation in Combating Pollution Emergencies in the South Pacific Region (SPREP Pollution Protocol). The Protocol provides a formal framework for co-operation when responding to marine spills.

2. Consistent with the SPREP Convention and Protocol, in 2000 SPREP member countries adopted the Pacific Islands Regional Marine Spill Contingency Plan, known as PACPLAN. PACPLAN provides a framework for co-operative regional responses to major marine spills in the Pacific Island region, including linkages and mechanisms for accessing regional and supra-regional assistance.
3. One of the key mechanisms within PACPLAN is the provision for the 22 SPREP island members to seek assistance from one of the so-called "SPREP Non-island Governments" of Australia, France, New Zealand and the United States. Australia is listed as the "primary source of assistance" for Nauru, Papua New Guinea, Solomon Islands, Tuvalu, Vanuatu, Kiribati and, along with the other non-island members, is a "secondary source of assistance" for all other island members.