

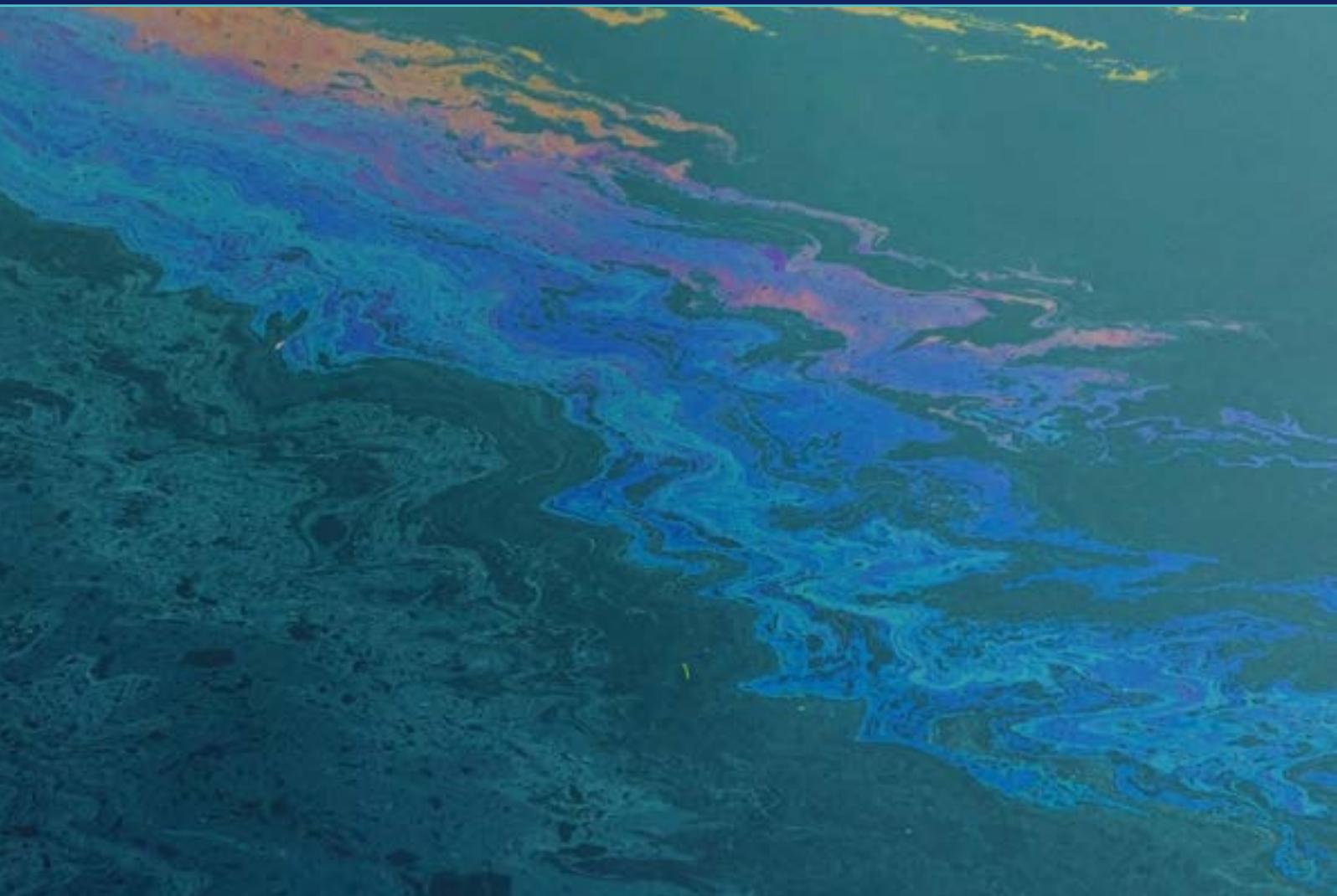


Australian Government  
Australian Maritime Safety Authority

# NATIONAL PLAN

for Maritime Environmental Emergencies

2020 edition





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**Australian Government**  

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**Australian Maritime Safety Authority**

# **NATIONAL PLAN**

## **for Maritime Environmental Emergencies**

**2020 edition**

## Mission

To maintain a national integrated government and industry organisational framework capable of effective response to pollution incidents in the marine environment and to manage associated funding, equipment and training programs to support National Plan activities.

## Authority

The National Plan for Maritime Environmental Emergencies (National Plan) implements Australia's obligations under the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969; United Nations Convention on the Law of the Sea, 1982; the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990; and the Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances, 2000 with respect to the management of maritime environmental emergencies.

The National Plan is to be maintained, amended and implemented by the National Plan Strategic Coordination Committee.

## Implementation

The National Plan is hereby approved for implementation by the National Plan Strategic Coordination Committee.

Endorsed March 2014\*

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\* Updated and approved for implementation by the National Plan Strategic Coordination Committee in December 2019, following an annual review. See section 2.3.

Australia depends almost exclusively on shipping to transport its exports and imports and in terms of tonnage shipped Australia is the largest bulk commodities exporter in the world. Australia's growing offshore petroleum industry is also critical to the country's energy security.

In response to the importance of these sectors to the country's economic, environmental and social wellbeing, Australia is party to the United Nations Convention on the Law of the Sea, 1982 which establishes an obligation to protect and preserve the marine environment. The National Plan for Maritime Environmental Emergencies is one of the ways Australia meets its obligations.

The National Plan parallels similar documents dealing with other aspects of maritime emergency response such as search and rescue, saving of life at sea, and caring for survivors brought to shore.

In operation since 1973, the National Plan has been characterised by willing and effective cooperation between governments and industries, and has provided both timely and effective response to actual pollution incidents.

This document recognises the need to develop and maintain a shared responsibility; and the commitment of all stakeholders in order to continue to provide timely and effective response, including making available equipment and trained personnel as and when needed, both domestically and internationally.

Marine pollution plans prepared by all the Australian government jurisdictions, port corporations, industry and operators of offshore petroleum facilities underpin this National Plan. These plans provide detailed information to implement the provisions outlined in this document.

## **Chair**

National Plan Strategic Coordination Committee

Authority	ii
Implementation	ii
Foreword	iii
Acronyms	vii
Glossary of terms	ix
<b>■ Part one – Administrative arrangements</b>	<b>1</b>
1.1 Purpose of the National Plan	2
1.2 Principles of the National Plan	2
1.3 Scope of the National Plan	5
1.4 Structure	7
<b>■ Part two – National Plan governance and management</b>	<b>9</b>
2.1 Legal and administrative basis for the National Plan	10
2.2 Governance	18
2.3 Management of the National Plan	20
2.4 Roles and responsibilities	22
2.5 Strategic coordination of emergencies of national consequence	23
2.6 International support	26
<b>■ Part three – Prevention of marine pollution incidents</b>	<b>27</b>
3.1 Scope of prevention	28
3.2 Responsibility of the shipowner	28
3.3 Maritime Emergency Response Commander	29
3.4 Responsibilities of Australian governments	29
3.5 Casualty Management System	31
3.6 Emergency towage	32
3.7 Place of refuge	34
<b>■ Part four – Preparing for marine pollution incidents</b>	<b>35</b>
4.1 Scope of preparedness	36
4.2 Contingency planning	36
4.3 Community awareness and engagement	37
4.4 Capability development	39
4.5 Training and development	44
4.6 National Plan exercises	45
4.7 Research and development	46

■ <b>Part five – Responding to marine pollution incidents</b>	<b>47</b>
5.1 Scope of response	48
5.2 Incident Management System	48
5.3 Response initiation	51
5.4 Response escalation	52
5.5 Assessment and decision support	53
5.6 Oil spill response	54
5.7 Hazardous and noxious substance response	57
5.8 Health and safety	59
5.9 Wildlife response	59
5.10 Waste management	59
5.11 Response termination	60
5.12 Post incident response analysis	60
■ <b>Part six – Recovering from marine pollution incidents</b>	<b>61</b>
6.1 Scope of recovery	62
6.2 Principles for recovery	63
6.3 Recovery functions	64
6.4 Recovery arrangements and the National Plan	65
6.5 Impact assessment	66
6.6 Communicating with the community	66
■ <b>Part seven – Cost recovery</b>	<b>67</b>
7.1 Scope of cost recovery	68
7.2 International maritime arrangements	69
7.3 Domestic maritime arrangements	69
7.4 Offshore petroleum sector arrangements	70
Index	71



AIIMS	Australian Inter-Service Incident Management System
AIP	Australian Institute of Petroleum
AMOSOC	Australian Marine Oil Spill Centre
AMSA	Australian Maritime Safety Authority
ANP	Timor-Leste National Petroleum Authority
AQF	Australian Qualifications Framework
ARC Australia	AMSA Response Centre
The Council	Transport and Infrastructure Council
EP	Environment Plan
EEZ	Exclusive Economic Zone
ES&T	Environmental Scientific and Technical Network
ETC	emergency towage capability
ETV	emergency towage vessel
FWADC	Fixed Wing Aerial Dispersant Capability
GBRMPA	Great Barrier Reef Marine Park Authority
GRN	Global Response Network
HNS	hazardous and noxious substance
IC	Incident Controller
ICS	Incident Control (Command) System
IMO	International Maritime Organization
IOPC Funds	International Oil Pollution Compensation Funds
IPIECA	International Petroleum Industry Environmental Conservation Association
JPDA	Timor Sea Joint Petroleum Development Area
MARPOL	International Convention for the Prevention of Pollution from Ships
MAS	Maritime Assistance Service
MCCU	Maritime Casualty Control Unit
MERCOM	Maritime Emergency Response Commander
MOU	memorandum/a of understanding
MPC	Marine Pollution Controller
MSQ	Maritime Safety Queensland
NOPSEMA Authority	National Offshore Petroleum Safety and Environmental Management Authority
NPSCC	National Plan Strategic Coordination Committee
NPSIAF	National Plan Strategic Industry Advisory Forum

NRT	National Response Team
NT	Northern Territory
OPGGSA	Offshore Petroleum and Greenhouse Gas Storage Act 2006
OPRC	International Convention on Pollution Preparedness, Response and Co-operation, 1990
OPRC-HNS Protocol	Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances, 2000
OSCA	oil spill control agent
OSCP	Oil Spill Contingency Plan
OSRL	Oil Spill Response Limited
PACPLAN	Pacific Islands Regional Marine Spill Contingency Plan
P&I Club	Protection and Indemnity Club
RTO	Registered Training Organisation
SAR	search and rescue
SMPC	State Marine Pollution Coordinator
SOLAS	Safety of Life at Sea - derived from the International Convention for the Safety of Life at Sea
SPREP	South Pacific Regional Environment Programme
TISOC	Transport and Infrastructure Senior Officials Committee
UNCLOS	United Nations Convention on the Law of the Sea, 1982

**AMOSPlan** is managed by the Australian Marine Oil Spill Centre (AMOSC) and outlines the cooperative arrangements for response to oil spills by Australian oil and associated industries.

**Bunker** means a heavy fuel oil, intermediate fuel oil, blended distillate or diesel used as a vessel's fuel.

**Coastal waters**, in relation to a State or the Northern Territory, means the territorial sea to an outer limit of 3 nautical miles from Australia's baselines and any waters that are on the landward side of the baselines, including waters not within the limits of the State or Northern Territory.

**Chemical terminal** means a chemical refinery and/or chemical storage/distribution facilities with access to a maritime facility, but not including the maritime facility.

**Command** means the internal direction of the members and resources of an agency in performance of the organisation's roles and tasks. Command operates vertically within an organisation.

**Commonwealth waters** means all waters in the territorial sea and exclusive economic zone seaward of 3 nautical miles from Australia's baselines.

**Community** means a group with a commonality of association and generally defined by location, shared experience or function.

**Control** means the overall direction of emergency management activities during an emergency situation. Authority for control is established in legislation or administratively and carries with it responsibility for tasking organisations in accordance with the needs of the situation.

**Control Agency\*** means the agency or company assigned by legislation, administrative arrangements or within the relevant contingency plan, to control response activities to a maritime environmental emergency. The legislative or administrative mandate should be specified in the relevant contingency plan. The Control Agency will have responsibility for appointing the Incident Controller. This is the equivalent of Responsible Agency or Control Authority under AIIMS.

**Coordination** means the bringing together of organisations and other resources to support an emergency management response.

**Division** means an organisational unit having responsibility for operations within a defined geographic area or with a functional responsibility.

**Doctrine** means an evidence-based collective of knowledge that has been structured and systematised to facilitate its application in practice, that is prepared for dissemination in a way appropriate for its intended audience, and that is constantly reviewed and updated as circumstances require.

**Emergency** means an event, actual or imminent, which endangers or threatens to endanger life, property or the environment, and which requires a significant and coordinated response. The term emergency and disaster are used interchangeably within the Australian Emergency Management Arrangements.

\* or Combat Agency

**Environment** means the complex of physical, chemical and biological agents and factors which may impact on a person or a community, and may also include social, physical and built elements, which surround and interact with a community.

**First Strike** means a prompt initial response to protect the environment that is intended to limit the effect of an incident until such time as other resources can be deployed in support. This capability may vary from location to location.

**Global Response Network** means the global coalition of oil spill responder organisations established to facilitate sharing of expertise and experience.

**Habitat** means the natural home or environment of an animal, plant or other organism.

**Hazardous and noxious substance** means any substance which, if introduced into the marine environment, is likely to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.

**Incident** means an event, occurrence or set of circumstances that:

- has a definite spatial extent
- has a definite duration
- calls for human intervention
- has a set of concluding conditions that can be defined
- is or will be under the control of an **Incident Controller** appointed to make decisions to control and coordinate the approach, means and actions taken to resolve the incident.

**Incident Controller** means the individual responsible for the management of all incident control activities across an incident.

**Incident Management Team** is the group of incident management personnel comprised of the Incident Controller and personnel appointed by the Incident Controller to be responsible for the overall control of the response to an incident.

**Industry**, unless already specified or defined in a particular context, means a business or commercial group or sector, or other socially valuable activity, such as fisheries, tourism, infrastructure, transport, etc. and their representative groups.

**Internal waters** means those waters that fall within the constitutional boundaries of a State or Northern Territory. The waters which are capable of falling within these limits are described in s.14 of the Seas and Submerged Lands Act 1973 as 'bays, gulfs, estuaries, rivers, creeks, inlets, ports or harbours which were, on 1 January 1901, within the limits of the States and remain within the limits of the States'.

**Marine pollution** refers to any occurrence or series of events with the same origin, including fire and explosion, which results or may result in discharge, release or emission of oil or a hazardous and noxious substance, which poses or may pose a threat to the marine environment, the coastline, animals or other resource, and which requires an emergency action or immediate response. Under the National Plan, marine pollution refers primarily to situations that may arise from shore based oil and chemical transfer facilities, shipping operations and/or the operation of an offshore petroleum facility.

**Maritime casualty** means a collision of vessels, stranding or other incident of navigation, or other occurrence on board a vessel or external to it resulting in material damage or imminent threat of material damage to a vessel or cargo.

**Maritime facility** means a wharf or mooring at which a vessel can be tied up during the process of loading or unloading a cargo [or passengers]. A maritime berth may be a sole user berth [such as a dedicated berth for an oil refinery] or may be a multi-user berth [such as a berth that handles general cargo, or one that handles bulk liquids such as petroleum for more than one user of the berth (sometimes known as a common-user berth)].

**National Plan** means the National Plan for Maritime Environmental Emergencies, and all policy, guidance and advisory documents produced and published in support.

**Offshore petroleum facility** means a facility operating in accordance with the provisions of the Offshore Petroleum and Greenhouse Gas Storage Act 2006, or any relevant State/ Northern Territory legislation.

**Offshore Petroleum Incident Coordination Framework** outlines the governance arrangements for the Offshore Petroleum Incident Coordination Committee (OPICC), including its purpose, membership and the responsibilities of member agencies. The OPICC is convened and chaired by the Department of Industry, Innovation and Science. The purpose of the OPICC is to effectively coordinate Australian Government efforts and resources, and communicate to the public and affected stakeholders all matters relevant to a significant offshore petroleum incident in Commonwealth waters.

**Oil** means hydrocarbons in any liquid form including crude oil, fuel oil, sludge, oil refuse, refined products and condensates. Also including dissolved or dispersed hydrocarbons, whether obtained from plants or animals, mineral deposits, or by synthesis.

**Oil terminal** means a petroleum refinery and/or petroleum storage/distribution facilities with access to a maritime facility, but not including the maritime facility.

**Oil terminal operator** means a company [or joint venture] that operates an oil terminal.

**Petroleum** includes oil and other substances extracted in the recovery of such substances, including LNG and LPG.

**Place of refuge** means a place where a ship in need of assistance can take action to enable it to stabilise its condition and reduce hazards to navigation, and to protect human life and the environment.

**Port authority**, depending on jurisdiction, may refer to a state agency, a state corporation or a private company.

**Port** is an area of water, or land and water (including any buildings installations or equipment situated in or on that land or water) intended for use either wholly or partly in connection with the movement, loading, unloading, maintenance or provisioning of vessels and includes:

- (a) areas of water, between the land of the port and the open waters outside the port, intended for use by vessels to gain access to loading, unloading or other land-based facilities; and
- (b) areas of open water intended for anchoring or otherwise holding vessels before they enter areas of water described in paragraph (a); and
- (c) areas of open water between the areas of water described in paragraphs (a) and (b).

**Protection of the Sea Levy** is a statutory charge against ships, based on the 'potential polluter pays' principle, and is used to fund the National Plan for Maritime Environmental Emergencies. Funds are also used to meet clean-up costs which cannot be attributed to a known polluter.

**Responsible Agency** – see **Control Agency**.

**Responsible party** means the entity that has been identified as owning or having the legal responsibility for the vessel or facility that caused the incident.

**Section** means the organisational level having responsibility for the key top level functions of incident management: planning, public information, logistics and operations.

**State** means, depending on context, one or more of the states of Australia.

**Support Agency** means an agency or company that provides essential services, personnel, material or advice in support of the Control Agency during the response to a maritime environmental emergency.

**Terminal** (see also **oil terminal** and **chemical terminal**)

**TorresPlan** is the marine oil spill contingency plan for the Torres Strait area and is a supplement to the Queensland Coastal Contingency Action Plan.

**Unit** means a small cell of people working within one of the sections undertaking a designated set of activities.

**Vessel (and/or ship)** has several meanings within Australian legislation and international conventions, but for the purpose of the National Plan means a vessel of any type whatsoever operating in the marine environment, and includes hydrofoil boats, air cushion vehicles, submersibles and floating craft of any type. Throughout this document the term vessel is preferred. Ship, ship owner and shipping are used where these make sense in context or arise from an official or formal source.

# Administrative arrangements



## 1.1 Purpose of the National Plan

The National Plan for Maritime Environmental Emergencies (National Plan) sets out national arrangements, policies and principles for the management of maritime environmental emergencies. It provides for a comprehensive response to maritime environmental emergencies regardless of how costs might be attributed or ultimately recovered<sup>1</sup>.

## 1.2 Principles of the National Plan

The National Plan is designed to meet the following principles as described at Table 1.

**Table 1 – National Plan principles and management context**

Principle	Management context
Protect the community, environment and maritime industries	The National Plan provides a single comprehensive and integrated response arrangement to minimise the impacts of marine pollution from vessels and oil spills from offshore petroleum facilities, as well as other environmental impacts arising from a maritime environmental emergency, upon the Australian community, environment, cultural and heritage resources, economy and infrastructure.
Give effect to relevant international conventions	The National Plan gives administrative effect to Australia's emergency response obligations relating to the: <ul style="list-style-type: none"> <li>• <i>International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990</i> (OPRC)</li> <li>• <i>Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances, 2000</i> (OPRC-HNS Protocol)</li> <li>• <i>International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969</i> (Intervention Convention), and</li> <li>• Articles 198 and 221 of the <i>United Nations Convention on the Law of the Sea, 1982</i> (UNCLOS).</li> </ul>
Integrate with the Australian Emergency Management Arrangements	The Australian Emergency Management Arrangements describe how Australia addresses the risks and impacts of hazards through a collaborative approach between the Commonwealth, states and, Northern Territory and local governments; business and industry; and the community.  The National Plan forms an essential component of this integrated approach to disaster and emergency management by detailing arrangements across governments, industry and the community for the management of the specific threats from maritime environmental emergencies.

Principle	Management context
Provide a comprehensive management arrangement	<p>The National Plan implements a comprehensive management arrangement through five core components:</p> <ul style="list-style-type: none"> <li>• governance and policy to ensure accountability, risk assessment, engaging with stakeholders and providing clear strategic direction</li> <li>• prevention of marine pollution through the delivery of a system for the management of maritime casualties</li> <li>• preparedness for marine pollution incidents through a tiered approach to contingency planning, training and development of response personnel, and maintenance of response assets and services</li> <li>• response to marine pollution incidents through the implementation of the National Plan arrangements</li> <li>• recovery of the community and the environment from the impacts of marine pollution.</li> </ul> <p>A doctrinal approach to all phases is applied to the extent possible. All stakeholders should develop and share their evidence, knowledge and experience, in a documented, structured and systematised manner.</p> <p>This will facilitate practical application, and provide for review and revision, as circumstances require.</p>
Provide a single integrated response arrangement	<p>Consistent with the Council of Australian Governments National Disaster Resilience Statement, the National Plan recognises that the management of maritime environmental emergencies is the shared responsibility of all levels of government, industry and business, the non-government sector and the community.</p> <p>The National Plan achieves this through:</p> <ul style="list-style-type: none"> <li>• all parties fostering a cooperative relationship to ensure maritime environmental emergencies are managed in the interests of the Australian community</li> <li>• all parties collaborating to declare Australia’s collective response capacity and capability (people, equipment, systems, process, scalability/levels)</li> <li>• recognising the commitment of all stakeholders to collaboration across all levels of government, industry stakeholders and the community</li> <li>• emphasising the development and maintenance of cooperative relationships, teamwork, consultative decision making and shared responsibilities</li> <li>• all stakeholders committing to support the National Plan arrangements when an incident occurs, regardless of source or location.</li> </ul>

Principle	Management context
Implement a risk management approach	<p>The National Plan recognises that the starting point for reducing the impacts of maritime environmental emergencies lies in the understanding of the specific hazards and the social, environmental, cultural and heritage, infrastructure and economic vulnerabilities presented by these events. The National Plan is underpinned by formal risk assessment at the Commonwealth, state and Northern Territory (NT), regional, and local scale.</p>
Implement the polluter pays principles	<p>The National Plan is based on the polluter pays principle:</p> <ul style="list-style-type: none"> <li>• preparedness is funded on the principle that the potential polluters pay, and in general, for oil and HNS risks arising: <ul style="list-style-type: none"> <li>– from shipping, a levy applies to commercial shipping visiting Australian ports</li> <li>– from the offshore petroleum industry, titleholders fund arrangements to meet their specific risks</li> </ul> </li> <li>• response and recovery is funded on the basis of the polluter pays <ul style="list-style-type: none"> <li>– for shipping, this is achieved through the implementation of relevant international conventions under the auspices of the International Maritime Organization (IMO)</li> <li>– for the offshore petroleum industry, this is achieved through the Offshore Petroleum and Greenhouse Gas Storage Act 2006 (OPGGSA)</li> </ul> </li> <li>• agencies responding to and incurring costs in relation to ship sourced pollution incidents where the polluter is not identified, or costs are not recoverable, may be able to seek reimbursement of their costs from the Australian Maritime Safety Authority (AMSA) under the Protection of the Sea Levy<sup>1</sup>.</li> </ul>
Provide for stakeholder engagement	<p>The National Plan recognises that a broad range of stakeholders may be affected by a maritime environmental emergency and early engagement is important for preparedness, response and recovery. As such, the National Plan is underpinned by formal stakeholder engagement through the governance arrangements, community engagement and education programmes; and a recognition that contingency planning must include arrangements for the consideration of:</p> <ul style="list-style-type: none"> <li>• traditional owners' cultural and heritage issues</li> <li>• post-European settlement heritage issues</li> <li>• the protection of habitats</li> <li>• the protection of fauna and flora</li> <li>• issuing of warnings and notices, and</li> <li>• community and industry input and feedback.</li> </ul>

## 1.3 Scope of the National Plan

### Maritime environmental emergencies

The National Plan applies to potential and actual pollution of the sea or harm to the marine environment by oil or hazardous and noxious substance, originating from:

- maritime casualties requiring salvage and intervention, emergency towage and requests for a place of refuge
- oil pollution or hazardous and noxious substance pollution incidents from vessels
- oil or hazardous and noxious substance pollution incidents from oil or chemical terminals (addressed by state and port plans)
- oil or hazardous and noxious substance pollution incidents from offshore petroleum activities
- marine pollution from unknown sources
- marine pollution from floating or sunken containers of hazardous materials
- debris originating from a maritime casualty, or
- physical damage caused by vessels.

The National Plan does not contain arrangements for the management of the following hazards associated with shipping and offshore petroleum facilities:

- ballast water and marine pests, or
- marine pollutants other than oil and hazardous and noxious substances.

The National Plan does not apply to threats to the marine environment resulting from pest species, climate change, marine debris and rubbish from sources other than a maritime casualty, or other natural or man-made occurrences. These are managed under other regimes and agreements.

While parties to the National Plan will respond to maritime environmental emergencies as outlined above, not all costs meet the criteria for reimbursement by either insurance<sup>2</sup> or through the Protection of the Sea Levy.



<sup>2</sup> Insurance in this case should be read to include all forms of insurance relating to shipping, offshore platforms, maritime facilities, domestic oil and chemical terminals, etc., as well as the applicable international maritime liability and compensation regimes.

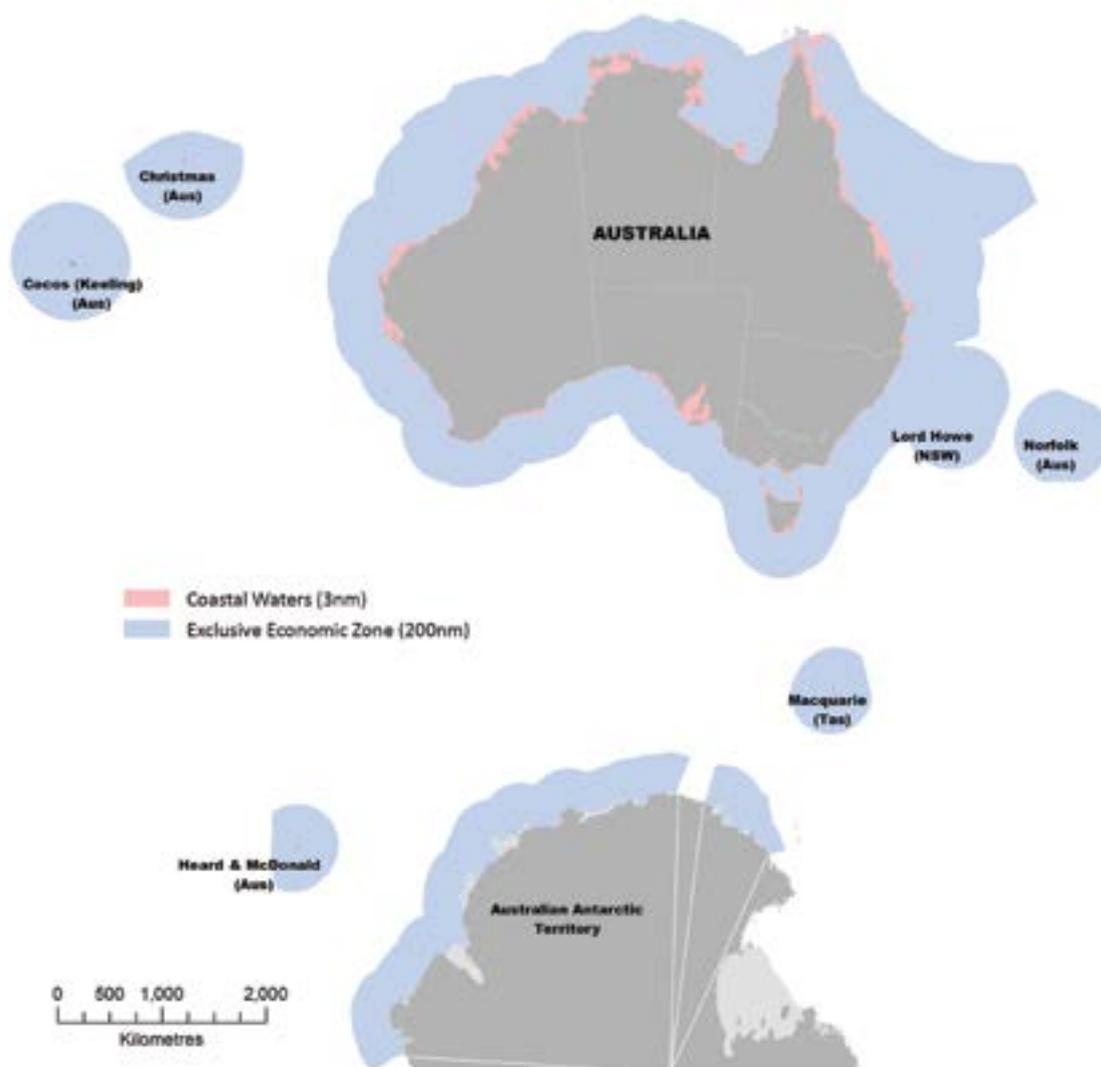
## Geographic scope

The geographical scope of the National Plan, as shown in Figure 1 is the Australian Exclusive Economic Zone (EEZ), offshore islands and territories and the high seas where the incident has the potential to impact upon Australian interests.

The National Plan also applies to internal and coastal waters (i.e. three nautical miles) for which the states and the Northern Territory have responsibility.

Unless otherwise stated, reference to the Commonwealth includes Australia's external territories.

**Figure 1 – Geographic scope of the National Plan**



## 1.4 Structure

### Structure of this document

This document structure reflects the comprehensive approach to emergency management:

- **Part two – Governance and management arrangements** sets out the arrangements for the governance and strategic management of the National Plan
- **Part three – Prevention of marine pollution incidents** sets out the national arrangements to prevent the release of marine pollution from a vessel through the implementation of a strategy to manage maritime casualties
- **Part four – Preparing for marine pollution incidents** sets out the national arrangements that prepare National Plan stakeholders for marine pollution incidents
- **Part five – Responding to marine pollution incidents** sets out the national arrangements for responding to marine pollution incidents
- **Part six – Recovering from marine pollution incidents** sets out the arrangements for the recovery of responding agencies, the community and environment from a marine pollution incident; and
- **Part seven – Cost recovery** sets out the cost recovery arrangements under the National Plan.

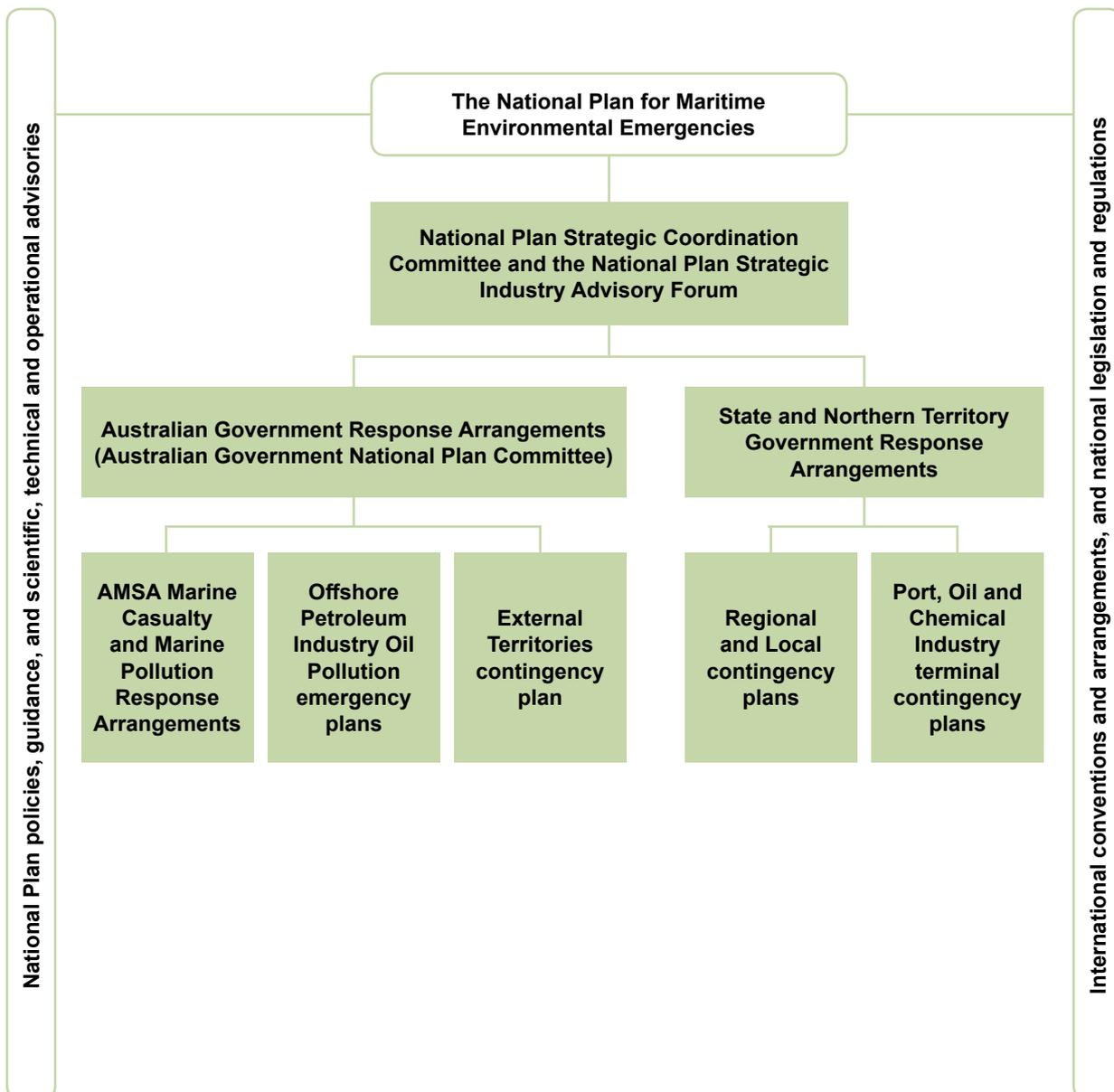
Detail and support is provided by the National Plan policy, guidance and advisory documents referred to throughout the National Plan.

## Supporting arrangements

The National Plan consists of a range of legal and administrative arrangements which are applied through a tiered management structure. Figure 2 depicts this structure.

At the highest level, international conventions and domestic legislation provide the legal context for the National Plan. This is underpinned by national policies and implemented through jurisdictional and local contingency plans.

**Figure 2 – National Plan legal, administrative and planning framework**



Part two

# National Plan governance and management



## 2.1 Legal and administrative basis for the National Plan

The National Plan gives effect to a number of international conventions and agreements to which Australia is a party. The National Plan utilises a range of domestic legislation that provides government agencies with response powers and places preparedness and response obligations on various industry sectors. Recovery is a responsibility variously shared across industry, maritime agencies, other government entities and the affected communities.

### Australian governments

The Commonwealth, states and Northern Territory have responsibilities for ensuring preparation and response to maritime environmental emergencies within their jurisdictions. The following issues should be addressed:

- ensure that the jurisdiction is prepared to manage the risks associated with maritime activities
- identify agencies or commercial operators with the responsibility to respond to maritime environmental emergencies, i.e. perform the role of the Control Agency
- oversee strategic or regulatory aspects of response operations, including notification of adjoining jurisdictions
- coordinate relevant agencies and stakeholders
- engage the community
- identify an authority to declare the completion of response operations
- coordinate cost recovery on behalf of support agencies, and
- institute legal proceedings where appropriate.



## International conventions

The National Plan implements and is supported by a number of international conventions to which Australia is a party.

**Table 2 – International conventions**

International convention	Application to the National Plan
<p>International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990</p> <p>Protocol on Preparedness, Response and Cooperation to Pollution Incidents by Hazardous and Noxious Substances, 2000 (OPRC-HNS Protocol)</p>	<p>Provide the basis for the National Plan by setting the context for:</p> <ul style="list-style-type: none"> <li>• developing a national system for pollution response</li> <li>• maintaining adequate capacity and resources to address oil and hazardous and noxious substances (HNS) incidents</li> <li>• facilitating international cooperation and mutual assistance in preparing for and responding to major oil and HNS incidents, and</li> <li>• notifying without delay all States [neighbouring countries] whose interests are affected or likely to be affected by an oil or HNS pollution incident.</li> </ul>
<p>International Convention for the Prevention of Pollution from Ships (MARPOL)</p>	<p>Provides ships' construction and operational requirements to prevent pollution from ships. Requires ships greater than 400 gross tonnes and above to have pollution emergency plans.</p> <p>Provides for exemptions from discharge restrictions (and prosecution) where:</p> <ul style="list-style-type: none"> <li>• a discharge is necessary to secure the safety of a ship or save a life at sea, or prevent a larger spill or</li> <li>• it is necessary during a spill response to discharge oil or HNS or use dispersants to minimise the overall damage from pollution, and is approved by the relevant government.</li> </ul>
<p>United Nations Convention on the Law of the Sea, 1982</p>	<p>Article 221 provides general powers for parties to take and enforce measures beyond the territorial sea to protect their coastline or related interests from pollution or the threat of pollution following a maritime casualty or acts relating to such a casualty, which may reasonably be expected to result in major harmful consequences.</p> <p>Article 198 provides that “when a State [neighbouring country] becomes aware of cases in which the marine environment is in imminent danger of being damaged ... by pollution, it shall immediately notify other States it deems likely to be affected by such damage.”</p>

International convention	Application to the National Plan
<p>International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969</p> <p>Protocol Relating to Intervention on the High Seas in Cases of Pollution by Substances Other Than Oil, 1973</p>	<p>Provides general powers for parties to take measures on the high seas as may be necessary to prevent, mitigate or eliminate grave and imminent danger to their coastline or related interests from the threat of pollution by oil or hazardous and noxious substances following a maritime casualty or acts related to such a casualty, which may reasonably be expected to result in major harmful consequences.</p>
<p>International Convention on Civil Liability for Oil Pollution Damage, 1992</p>	<p>Provides for the recovery of pollution costs and payment of compensation from owners/operators of oil tankers.</p>
<p>International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992</p> <p>2003 Protocol to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992</p>	<p>Provides for additional compensation and costs where the tanker owners'/operators' liability limits are exceeded, using funds provided by the oil industry.</p>
<p>International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001</p>	<p>Provides for the recovery of pollution costs and payment of compensation from owners/operators of all vessels using oil as bunker fuel and references the liability arrangements in the Convention on Limitation of Liability for Maritime Claims, 1976 (LLMC) and its 1996 Protocol.</p>
<p>Protocol on Environmental Protection to the Antarctic Treaty 1991</p>	<p>The objective of the Protocol is to ensure the comprehensive protection of the Antarctic environment and associated ecosystems. The Antarctic includes all the area south of latitude 60° south.</p> <p>Annex IV to the Protocol relates to marine pollution, specifically prohibiting the discharge of oil, noxious liquid substances and garbage in the Antarctic Treaty area. Annex VI (not yet in force) of the Protocol relates to liability for environmental emergencies.</p>

Table 3 lists legal instruments implemented by the Australian Government to give effect to key principles and arrangements agreed between the Commonwealth, states and Northern Territory.

**Table 3 – Commonwealth legislation**

Commonwealth legislation	Application to the National Plan
Australian Maritime Safety Authority Act 1990	Provides that a function of AMSA is to combat pollution in the marine environment.
Protection of the Sea (Prevention of Pollution from Ships) Act 1983	Provides exemptions for the discharge of materials in response to marine pollution incidents, including the application of dispersants.  Requires ships greater than 400 gross tonnes and above to have pollution emergency plans.  Provides for emergency discharges from ships.
Protection of the Sea (Civil Liability for Bunker Oil Pollution Damage) Act 2008	Places liability on shipowner for pollution damage caused by loss of bunker fuel.  Provides immunity from legal action for response personnel.
Protection of the Sea (Civil Liability) Act 1981	Places liability on shipowner for pollution damage caused by loss of persistent oil from an oil tanker.
Protection of the Sea (Oil Pollution Compensation Fund) Act 1993	Provides additional compensation for pollution damage caused by loss of persistent oil from an oil tanker.
Protection of the Sea (Powers of Intervention) Act 1981	Provides for intervention powers being exercised in Australia's EEZ, Territorial Sea and internal waters.
Offshore Petroleum and Greenhouse Gas Storage Act 2006	Sets out the requirements for the offshore petroleum exploration and production industry to have approved plans and maintain capability to respond to oil pollution incidents.  Provides for the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) or the responsible Commonwealth Minister to issue directions to a titleholder.  Under the polluter pays provision, if a titleholder has not fulfilled their responsibilities NOPSEMA or the responsible Commonwealth Minister may undertake these actions instead and recover the costs of doing so from the titleholder.

Commonwealth legislation	Application to the National Plan
Environment Protection and Biodiversity Conservation Act 1999	<p>Provides for the protection of the environment, especially those aspects of the environment that are “matters of national environmental significance”, including but not limited to, World Heritage Properties, Ramsar Wetlands, the Commonwealth Marine Area, and species listed under the Act.</p> <p>The Act provides for the making of exemptions if in the national interest with the National Plan. Exemptions covering the provisions of Part 3 and 13 of the Act have been issued for activities undertaken by persons responding to maritime environmental emergencies in accordance with the National Plan. Emergency response activities in Australian Marine Parks must be carried out in accordance with a management plan.</p> <p>Offshore petroleum activities in Commonwealth waters undertaken in accordance with the Offshore Petroleum and Greenhouse Gas Act 2006 do not need to be referred for assessment under the EPBC Act, in accordance with the Minister for the Environment’s 2014 approval decision under Part 10 (strategic assessments).</p>
Great Barrier Reef Marine Park Authority Act 1975	Provides for permission to use dispersants in the Marine Park, and notification to enter a zone in the Marine Park for the purpose of salvage
Antarctic Treaty (Environment Protection) Act 1980	<p>Provides for the protection of the Antarctic environment, including requiring all activities in the Antarctic to undertake an environmental impact assessment and establishing specific permitting arrangements for impacts on native flora and fauna. The Act provides exceptions for activities done in an emergency, including to protect the environment.</p> <p>When in force, Annex VI to the Protocol on Environmental Protection to the Antarctic Treaty will be implemented through this Act, including requirements for operators to undertake preventative measures and develop contingency plans in relation to environmental emergencies, and establish a liability regime for failing to respond to environmental emergencies in the Antarctic.</p>
Fisheries Management Act 1991	Provides regulatory and other mechanisms to support any necessary fisheries management decisions during a response
Maritime Powers Act 2013	Provides for the administration and enforcement of Australian laws in maritime areas, and for related purposes. The Act aims to give greater certainty to the maritime officers working in difficult conditions to protect Australia’s borders and enforce Australian maritime laws.

## Offshore petroleum regulation and spill response

Australia has established a comprehensive regulatory regime for the offshore petroleum industry for environmental management and oil spill response. The regime places the onus on the titleholder to manage marine pollution risks and requires that all petroleum activities have an Environment Plan (EP), including an Oil Pollution Emergency Plan (OPEP), accepted by the relevant regulator before that activity is able to commence.

The Offshore Petroleum and Greenhouse Gas Storage Act 2006 (OPGGSA) establishes NOPSEMA as the primary regulator for offshore petroleum activities in the Commonwealth marine area. The requirements for EPs and OPEPs are outlined in the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009.

An EP must identify the environmental risks of a petroleum activity, including those risks associated with any emergency or spill response, and demonstrate to the regulator that the impacts and risks from the activity have been reduced to as low as reasonably practicable (ALARP), and that any residual impacts and risk is of an acceptable level. There is an obligation on the offshore petroleum industry to undertake appropriate consultations in the course of managing their impacts and risks and demonstrate in the EP that those consultations have been undertaken.

Under the regime, each titleholder has a duty to establish, maintain and implement a marine pollution response capability, which may be in partnership with other parties. This response capability must be commensurate with the risks presented by the particular activity. Where the response activities rely on, or may affect relevant stakeholders, the titleholder is required to demonstrate appropriate consultation and that relevant agreements are in place.

- In particular, the OPGGSA and its associated regulations:
- sets out responsibilities of titleholders in relation to the operation of offshore exploration and production facilities, including oil spill notification procedures to both NOPSEMA and (potentially) affected states/NT
- provides powers for NOPSEMA or the responsible Commonwealth Minister to direct titleholders to take actions in response to an incident
- requires the titleholder to clean-up and monitor the impact of a spill
- provides, should a titleholder fail to fulfil their obligations in the event of a spill, that NOPSEMA or the responsible Commonwealth minister may do any or all of the things the titleholder has failed to do.
- requires that titleholders maintain financial assurance sufficient to demonstrate that they can meet the costs, expenses and liabilities associated with undertaking a petroleum activity.



- Comparable legislation and regulations exist for offshore petroleum activities in state and Northern Territory waters. Each state/Northern Territory establishes its own regulator and has specific oil spill response arrangements for offshore petroleum activities within its jurisdiction. Further detail on these arrangements can be found in the state/Northern Territory marine pollution contingency plans.

## Other international and regional agreements

The National Plan provides a mechanism for Australia to enter into mutual aid arrangements with other countries impacted by maritime environmental emergencies, giving effect to Australia's obligations under OPRC and the OPRC-HNS Protocol. Australia has entered into a number of international cooperation agreements which are described below.

### Pacific Islands Regional Marine Spill Contingency Plan (PACPLAN)

Australia is a party to the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, 1986 (SPREP Convention). The Convention includes a Protocol Concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region, 1990 (SPREP Pollution Protocol). The protocol provides formally for cooperation when responding to marine spills.

Consistent with the SPREP Convention and Protocol, in 2000 SPREP member countries adopted the Pacific Islands Regional Marine Spill Contingency Plan, known as PACPLAN. This provides for cooperative regional responses to major marine spills in the Pacific Island region, including linkages and mechanisms for accessing regional and supra- regional assistance.

One of the key mechanisms within PACPLAN is the provision for the 22 SPREP island members to seek assistance from the so-called SPREP Non-island Governments of Australia, France, New Zealand and the United States of America. Australia is listed as the primary source of assistance for Kiribati, Nauru, Papua New Guinea, Solomon Islands, Tuvalu and Vanuatu along with the other Non-island Governments, is a secondary source of assistance for all other island members.



## Maritime Arrangements in the Timor Sea

An area of the Timor Sea lying between Australia and Timor-Leste has historically been subject to overlapping territorial claims by Australia and Timor-Leste. This area contains substantial resources of petroleum and gas.

### Maritime Boundary Treaty 2018

The 'Treaty Between Australia and the Democratic Republic of Timor-Leste Establishing Their Maritime Boundaries in the Timor Sea' (the Maritime Boundary Treaty) entered into force on 30 August 2019.

The Maritime Boundary Treaty establishes permanent maritime boundaries between Australia and Timor-Leste in the Timor Sea and a stable legal framework for resource development.

The Maritime Boundary Treaty also established a Special Regime Area (SRA) for the joint development, exploitation and management of the petroleum resources of the Greater Sunrise Fields for the benefit of both countries. The SRA includes a two-tier regulatory structure for the regulation and administration of the SRA consisting of a Designated Authority and a Governance Board. The Designated Authority acts on behalf of Australia and Timor-Leste and reports to the Governance Board, consisting of members appointed by Australia and Timor-Leste. Article 6(n) of Annex B to the Maritime Boundary Treaty specifically set out the responsibilities of the Designated Authority within the SRA, giving it powers and functions to issue regulations to protect the marine environment, monitor compliance, ensure there is a contingency plan for combating pollution from Petroleum Activities, and investigate safety and environmental incidents. The Designated Authority is also required to report to the Governance Board three times a year on safety, environment and well-integrity. It is expected that the contingency plan will resemble the arrangements currently in place for the Joint Petroleum Development Area.

The coordinates of the SRA are set out in Annex C of the Maritime Boundary Treaty: <https://dfat.gov.au/geo/timor-leste/Documents/treaty-maritime-arrangements-australia-timor-leste.pdf>

### Bilateral agreements

Australia has bilateral agreements in place on cooperation in preparedness and response with New Zealand, New Caledonia, Papua New Guinea, Indonesia and South Korea.

## 2.2 Governance

The aim of National Plan governance is to ensure a coordinated, integrated and accountable system is in place to manage maritime environmental emergencies. This is achieved through:

- reporting to Australian Governments through the Transport and Infrastructure Council (the Council), under the Council of Australian Governments' arrangements
- the establishment of the National Plan Strategic Coordination Committee (NPSCC) and the National Plan Strategic Industry Advisory Forum (NPSIAF) to set policy direction and oversee the implementation of the National Plan
- stakeholder engagement, in particular with the shipping, petroleum, chemical and port industries
- appropriate technical input to support decision making, and
- links to coordinated arrangements across the Commonwealth, states and Northern Territory.

Figure 3 depicts the National Plan governance structure. The operating principles for arrangements are detailed in the respective Terms of Reference for each group.

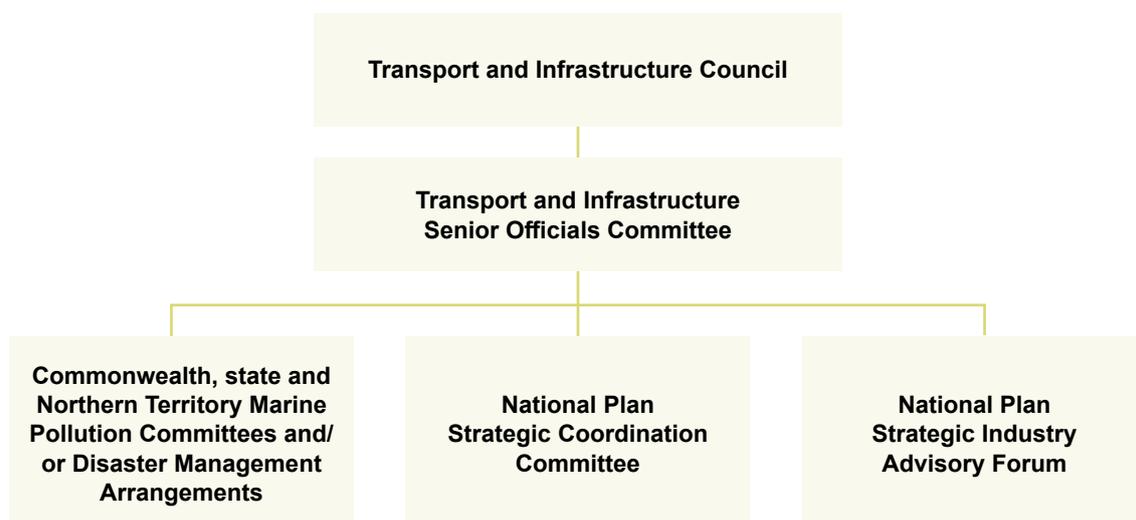
### Transport and Infrastructure Council

The Council was established in December 2013 and brings together Commonwealth, state, Northern Territory and New Zealand Ministers with responsibility for transport and infrastructure issues, as well as the Australian Local Government Association.

The Council has responsibility for the National Plan for Maritime Environmental Emergencies.

The Council is advised by the Transport and Infrastructure Senior Officials Committee (TISOC) on National Plan matters.

**Figure 3 – National Plan governance structure**



## National Plan Strategic Coordination Committee

The National Plan Strategic Coordination Committee (NPSCC) is responsible for setting the broad policy direction of the National Plan, overseeing the implementation of the Plan and ensuring the effectiveness of the arrangements.

The NPSCC is comprised of senior Commonwealth, state and Northern Territory Government officials and reports to TISOC on the effectiveness of the National Plan. The Committee is chaired by a senior official from the Australian Government. The National Plan Strategic Industry Advisory Forum (NPSIAF) provides an observer to the NPSCC.

The committee can form Technical Groups to support its deliberations. The current Technical Group structure is described within the National Plan Governance Guideline.

## National Plan Strategic Industry Advisory Forum

The National Plan Strategic Industry Advisory Forum (NPSIAF) is an independent industry-focused body established to provide input to the NPSCC on the strategic direction of the National Plan.

The members of the NPSIAF are drawn from industry stakeholders with a direct interest in the operational arrangements of the National Plan, covering the commercial maritime sector, peak oil and chemical industry bodies, and professional bodies representing salvage and towage interests.

The Forum can form Technical Groups to support its deliberations.

## Jurisdictional governance

Each jurisdiction establishes and maintains a coordination group to ensure effective whole of government decision making within the National Plan arrangements. These groups vary between jurisdiction from hazard specific committees to state disaster and emergency management committees.

Each jurisdiction produces its own contingency plans.

## 2.3 Management of the National Plan

The National Plan is managed by AMSA, which represents the Australian Government at the IMO in relation to Australia's obligations under the OPRC Convention and the OPRC-HNS Protocol.

The functions of AMSA in this regard include:

- maintaining the National Plan
- maintaining Commonwealth contingency plans
- managing the National Response Team, including training and development
- providing a national response equipment capability
- coordinating the national training programme
- maintaining uniform standards and testing protocols for oil spill dispersants and other chemical response agents
- managing research and development projects
- coordination and support of jurisdictions' geospatial capability
- management of trajectory modelling
- managing the national emergency towage vessel and fixed-wing aerial dispersant contracts
- providing secretariat services for National Plan committees and technical groups, and
- undertaking international liaison as necessary.



## National Plan management arrangements

The National Plan sets out the agreed policy for the implementation of management arrangements for maritime environmental emergencies within Australia. The National Plan is underpinned by:

- policies – implementing documents for the strategic management of the National Plan, e.g. National Response Team Policy
- guidance – documents providing guidance for the application of specific response arrangements detailed within the National Plan, e.g. Activation of the Fixed Wing Aerial Dispersant Capability Guidance; and
- scientific, technical and operational advisories – advisory documents on specific technical issues, e.g. Volunteer Management Advisory.

Under the National Plan governance arrangements the NPSCC is responsible for the review and acceptance of these documents.

## Monitoring and review

The NPSCC is responsible to ensure that the National Plan remains current and effective. The NPSCC may at any time decide to review the National Plan if it considers that significant change has occurred to the strategic context, including lessons learned from incidents and exercises.

On behalf of the NPSCC, AMSA will conduct an annual review, no later than 31 October each year for NPSCC's consideration.

A National Plan Outlook Report will be prepared by NPSCC in five yearly intervals with the next report to be prepared by 30 November 2020. The Outlook report will determine the requirement for a formal National Plan review. If a review is required, the Outlook Report will identify the process for the review and an expected commencement date:

- the national risk profile
- whether international obligations under the OPRC Convention and the OPRC-HNS Protocol are being met
- the management effectiveness of the National Plan
- operational effectiveness, and capability/capacity reviews (for all spill sources). The policy outcomes of the Outlook Report could include:
- renewal of current National Plan arrangements
- minor amendments to arrangements
- a major review of arrangements.

## 2.4 Roles and responsibilities

### Jurisdictional authorities

Agencies that have jurisdictional or legislative responsibilities for maritime environmental emergencies are obligated to work closely with the Control Agency to ensure that incident response actions are adequate. Such arrangements should be clearly identified in contingency plans.

### Control Agency

A Control Agency is the agency or company assigned by legislation, administrative arrangement, or within the relevant contingency plan, to control response activities to a maritime environmental emergency. The jurisdiction governments will ensure that there is an appointed Control Agency for each of the hazards identified within their overall emergency management arrangements.

The Control Agency will have responsibility for appointing the Incident Controller to control the operational response to an incident.

The functions of the Control Agency include:

- developing, maintaining and exercising contingency plans and support arrangements (e.g. response assets, contracts, etc.) for the particular maritime environmental emergency for which they are responsible
- reporting to government on the status of response preparedness
- reporting to government on the progress of response operations, and
- making recommendations to government on when the response is complete.

Where recovery is not a specific responsibility of a Control Agency, early liaison with organisations responsible for recovery should be a priority.

### Support Agency

Support agencies are those that provide resources (i.e. material, personnel or services) or information to the incident management team during a response.

Support agencies and their responsibilities are listed in the relevant contingency plan.



## 2.5 Strategic coordination of emergencies of national consequence

Major or catastrophic maritime environmental emergencies have the potential to significantly impact on the national interests of Australia and may require extraordinary strategic coordination across governments and stakeholders for their effective management. Such incidents will generally be of a large scale and require the coordination of national and international level interests, and may include circumstances where:

- there is a significant threat to the community and/or environment
- the incident impacts upon two or more Australian jurisdictions
- the incident impacts across an international boundary
- the incident exceeds the capability of the nominated Control Agency
- there is significant national and international media attention impacting across the interests of multiple parties; or
- NOPSEMA or the responsible Commonwealth minister, due to the titleholders' failure to fulfil their spill response obligations, is required to act.

The National Plan provides for the coordination of stakeholders during major incidents through the application of four core concepts:

- strategic leadership
- coordination across Australian jurisdictions and sectors
- coordination with international governments, and
- processes for the orderly transfer of Control Agency responsibility.

The Australian Emergency Management Arrangements include Model Arrangements for Leadership During Emergencies of National Consequence for those circumstances not fully addressed by the National Plan.

### **Model Arrangements for Leadership During Emergencies of National Consequence**

The Council of Australian Governments endorsed the Model Arrangements for Leadership During Emergencies of National Consequence (Model Arrangements) on 3 July 2008. These arrangements represent how Australian Governments work together to coordinate major incidents. The Model Arrangements have specific application to incidents that require coordination of national level policy, strategy and public messaging or inter-jurisdictional assistance, where such assistance and coordination is not addressed by existing arrangements.

It is intended that the National Plan be consistent with the Model Arrangements. Under the National Plan, the Model Arrangements will be applied where the coordination processes outlined within this section require additional support to manage coordination issues.

## Strategic leadership

A nationally significant incident will create additional pressures on the Control Agency to manage the legitimate interests of the Commonwealth, state, NT, local and private sector stakeholders involved in the incident. Jurisdictions should appoint a senior government official to provide strategic leadership and coordination in support of the Control Agency. During an incident these officials are referred to in many jurisdictions as the State Marine Pollution Controller or State Marine Pollution Coordinator (SMPC).

In the context of a nationally significant incident the role of such a senior official may include:

- assisting the Control Agency(ies) with strategic communications, including:
  - primary spokesperson for the multi-agency response
  - primary point of contact for the briefing of government(s)
- providing the common operating picture and situational awareness at the strategic level
- strategic coordination, including:
  - resolution of strategic multi-jurisdictional policy and legislative issues on behalf of the Control Agency
  - ensuring collaboration between all parties and resolving multi-jurisdictional-agency conflicts
- facilitating national and international assistance through National Plan and Australian Emergency Management arrangements.



Photograph courtesy of Kelana Arshad

## Cross jurisdictional coordination

Maritime environmental emergencies have the potential to impact upon the interests of two or more Australian jurisdictions, where both jurisdictions have a legitimate administrative and regulatory interest in the incident.

The National Plan addresses the complexities of such incidents through the *Guidance on Coordination of Cross Border Incidents*. This guidance provides for:

- Establishment of agreed incident coordination arrangements;
- Determination of a 'lead' Jurisdictional Authority and Control Agency across the entire incident response, (if appropriate);
- Establishment of a Joint Strategic Coordination Group, if determination of a 'lead' Jurisdictional Authority and Control Agency across the entire incident response is not appropriate.

## International coordination

The Australian Government is party to a number of international conventions and agreements that include obligations to report, coordinate with, and provide assistance to other countries during a marine pollution incident. These conventions include UNCLOS and the OPRC Convention and its HNS Protocol are detailed above in Table 2.

These convention and agreement obligations rest with the Australian Government and cannot be delegated to another party. The National Plan includes a Guidance for Coordination of International Incidents Notification Arrangements, which includes arrangements for:

- assessment of incidents and notification arrangements
- engagement with the Department of Foreign Affairs and Trade and relevant diplomatic posts
- engagement with the Department of the Environment and Energy in relation to PACPLAN matters
- coordination of response operations across trans-national boundaries
- coordination of international assistance under PACPLAN and other MOU arrangements.

## Change of Control Agency

The National Plan provides for the orderly escalation from local response operations to incidents requiring international assistance. For more detail see section 5.4.

There may be circumstance or factors as outlined above where there is a need to change the Control Agency responsible for managing the response.

The National Plan includes a Change of Control Agency Protocol Guidance, where such arrangements are not already part of disaster management or regulatory arrangements and includes processes for:

- approval from the relevant jurisdiction, or relevant regulator within that jurisdiction
- planning for the transfer of control

- implementing a transfer arrangement.

The Guidance provides for a jurisdiction to request that AMSA or another Control Agency assume operational control of an incident in exceptional circumstances.

## 2.6 International support

### Support from national governments

The OPRC Convention and its HNS Protocol place an obligation on parties, subject to their capabilities and availability of relevant resources, to provide technical support and equipment for the purposes of responding to an incident, when the severity of such an incident so justifies, upon the request of any party affected or likely to be affected. AMSA has responsibility for making or receiving such requests in conjunction with other government agencies with an interest or responsibility. This will generally be undertaken through diplomatic channels and in accordance with any IMO guidance on international offers of assistance and any applicable bilateral or multi-lateral agreements.

### Support from the Global Response Network

The Australian Marine Oil Spill Centre (AMOSC) based in Geelong, Victoria, on behalf of the Australian petroleum industry has established links with other national and international oil spill response organisations. AMOSC's membership of the Global Response Network (GRN) allows knowledge and expertise to be accessed and shared with Australia from overseas if/when the situation requires.

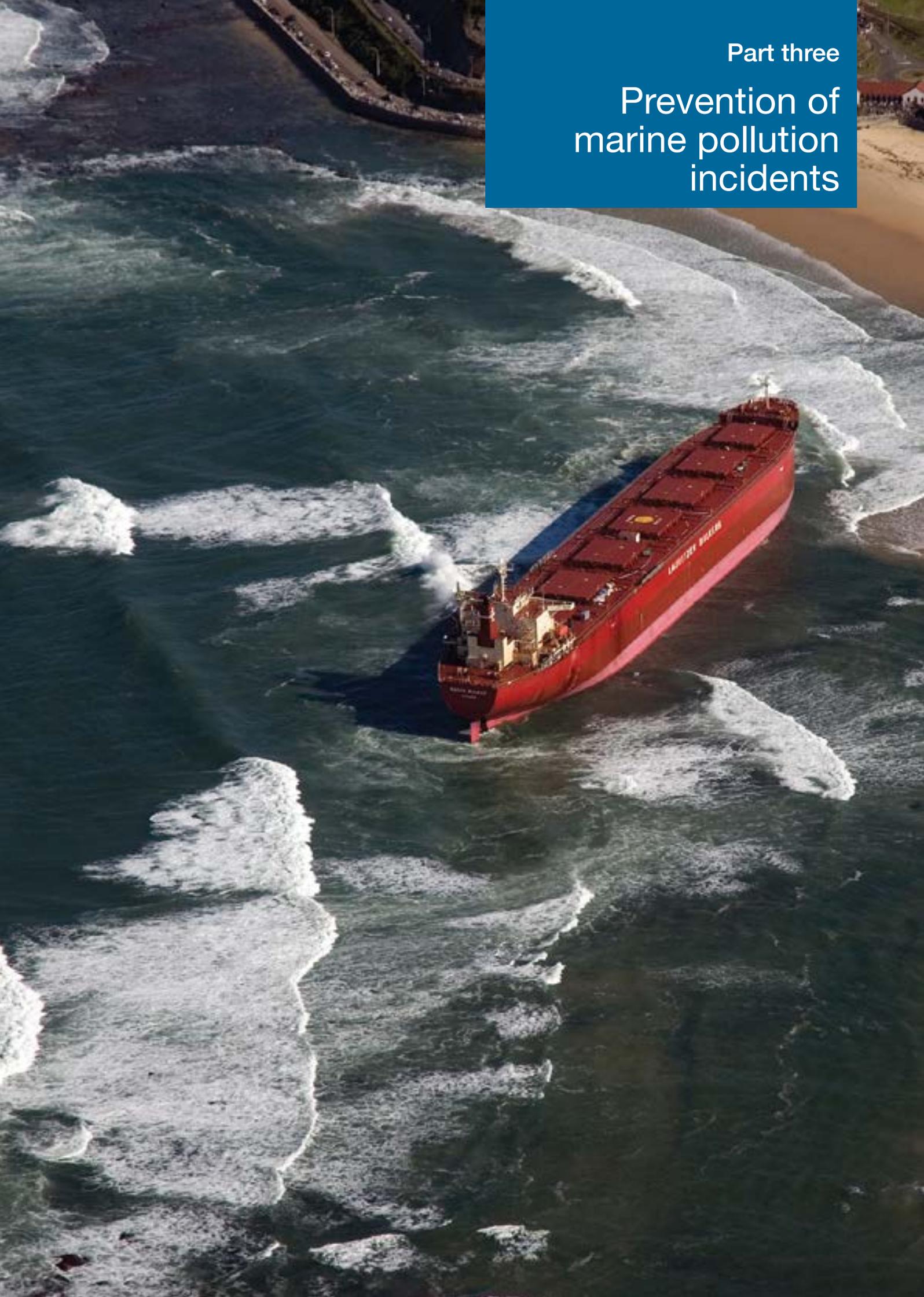
AMOSC, through the Australian Institute of Petroleum (AIP) also has membership of the International Petroleum Industry Environmental Conservation Association (IPIECA) and this enables industry access to this global oil and gas industry association for environmental and social issues. Through IPIECA, industry can access the knowledge and expertise of the petroleum industry's international spill response personnel.

AMSA, through AMOSC, will coordinate activation of any of these international resources on behalf of the jurisdictions in the event of a maritime environmental emergency.

AMOSC can assist industry in accessing international resources for spills requiring international resourcing. AMOSC can also be accessed directly by any Responsible Party requiring AMOSC resources.

Part three

# Prevention of marine pollution incidents



## 3.1 Scope of prevention

Prevention within the scope of the National Plan refers to those actions taken to prevent or minimise the release of marine pollution from a maritime casualty. The National Plan arrangements provide for:

- clear assignment of responsibilities to the shipowner and governments
- an incident management system
- national emergency towage arrangements, and
- national guidance for the assessment of requests for a place of refuge.

Arrangements for prevention of offshore petroleum incidents (i.e. outside of maritime casualties) are governed by the Offshore Petroleum and Greenhouse Gas Storage Act 2006 (OPGGSA) and equivalent state/Northern Territory legislation (see section 2.1).

## 3.2 Responsibility of the shipowner

The shipowner and shipmaster are responsible for undertaking prompt and effective action to ensure the safety of their vessel and cargo, including the engagement of commercial assets where necessary and available. These actions include:

- the engagement of emergency towage services
- the engagement of salvage contractors, and
- effective communication to Australian governments on the actions being taken to manage the situation.



### 3.3 Maritime Emergency Response Commander

The Maritime Emergency Response Commander (MERCOTM) is responsible for the management of emergency intervention issues in response to maritime casualty incidents where there is an actual or potential risk of significant pollution. Table 4 provides more detail.

The MERCOTM is appointed by AMSA and is supported by statutory powers under the Protection of the Sea (Powers of Intervention) Act 1981.

The MERCOTM will consider the reasonable views and stated positions of the relevant states, Northern Territory and stakeholders. These entities represent community views about economic, environmental, community and social interests that could be impacted by the MERCOTM's decisions. Decisions made by the MERCOTM will be expeditiously communicated to all relevant stakeholder groups and fully documented.

### 3.4 Responsibilities of Australian governments

Australia is obligated under International Maritime Organization Resolutions A.949(23) and A.950(23) to provide a maritime assistance to:

- a ship involved in an incident (e.g. loss of cargo, accidental discharge over board) that does not impair its seakeeping capability but requires to be reported
- the ship, according to its master's assessment, is in need of assistance but not in a distress situation that requires rescue of those involved, or
- the ship is found to be in a distress situation but those on board have already been rescued.

The IMO has been notified in accordance with IMO Resolution A.950(23) that the AMSA Response Centre (ARC), operated by AMSA, will be the contact point between ship masters and the Australian Government for MAS purposes.

The Commonwealth, state and Northern Territory governments will only assume control of a maritime casualty incident where the shipowner and/or shipmaster are failing in their responsibility to manage the maritime casualty effectively, in a timely manner or in the interests of protecting the community and the environment.

The jurisdictional governments have agreed the following responsibilities in relation to the response to maritime casualty incidents (Table 4 refers).

**Table 4 – Responsibilities for maritime casualty incidents**

Scenario		Responsibility / Accountability
All vessels within the Commonwealth’s area of jurisdiction (except in the Great Barrier Reef Marine Park)		AMSA is responsible for the management of the maritime casualty.
Within the coastal or internal waters of the states and Northern Territory	SOLAS vessels (i.e. vessels >500 gross tonnes)	The state and Northern Territory governments are responsible for the management of the maritime casualty.
	Non SOLAS vessels (i.e. vessels <500 gross tonnes)	The state and Northern Territory governments are responsible for the management of the maritime casualty.
Within the Great Barrier Reef Marine Park	SOLAS vessels (i.e. vessels >500 gross tonnes)	AMSA is responsible for the management of the maritime casualty with the direct support of Maritime Safety Queensland (MSQ) and the Great Barrier Reef Marine Park Authority (GBRMPA).
	Non SOLAS vessels (i.e. vessels <500 gross tonnes)	GBRMPA is responsible for the management of the maritime casualty. Noting its maritime expertise, MSQ will, under agreement with the GBRMPA, manage higher risk marine casualties with the direct support of GBRMPA, and further support from AMSA, as required.
Any vessel within a port	The Commonwealth, state and Northern Territory governments are responsible for the management of the maritime casualty within their respective jurisdictions.	

**Notes relating specifically to Table 4**

In all cases, the relevant jurisdiction (Commonwealth, state and Northern Territory governments) may request assistance from AMSA or that AMSA manage the incident on their behalf.

In all cases, where the MERCOM has assessed that there is a threat of significant pollution the MERCOM, will consider the reasonable views and stated positions of the relevant states, Northern Territory and stakeholders on emergency response actions, will have the responsibility and power to exercise final decision-making on behalf of the Australian Government for management of a maritime casualty. In doing so, the MERCOM will consider the reasonable views and stated positions of the relevant states, Northern Territory and stakeholders, as these entities represent community views about interests that could be impacted by the MERCOM’s decisions. Decisions made by the MERCOM will be expeditiously communicated to all relevant stakeholder groups and fully documented.

Within ports or involving vessels under the SOLAS size limits, the MERCOM will not respond to maritime casualties except where the MERCOM reasonably assesses, on a case by case basis, that there is a threat of, or actual, significant pollution and that adequate measures to deal the incident are not being taken.

The Intervention Convention does not apply to warships and, accordingly, the *Protection of the Sea (Powers of Intervention) Act 1981* expressly does not authorise the taking of measures against a warship or other ship owned or operated by a foreign State and used, for the time being, only on government non commercial service.

## 3.5 Casualty Management System

### Principles of maritime casualty response

The National Plan recognises that maritime casualties have specific characteristics that can affect the way the incident is managed. The incident management system for maritime casualties is based on the following principles:

- operational management of a maritime casualty rests with the commercial sector, i.e. towage and salvage contractors
- the system must be scalable and flexible to meet the demands of the incident
- the role of Australian governments is to oversee the actions of the shipowner/shipmaster and towage and salvage contractors
- the need to facilitate communication amongst key stakeholders in relation to appropriate action and situational information, and
- the requirement to provide for the separation of the maritime casualty and marine pollution response functions for significant incidents.

### Maritime Casualty Control Unit

A Maritime Casualty Control Unit (MCCU) will be implemented for significant incidents where MERCOM has assumed control. This is consistent with the principles of the Australasian Inter-service Incident Management System (AIIMS) which provides for multiple incident management teams for incidents involving multiple hazards or impacts. The MCCU will:

- oversee and monitor actions taken in response to a maritime casualty
- review salvage and other relevant response plans
- provide a platform for key stakeholders to discuss and maintain situational information, and
- provide an avenue for informed government intervention when required.

Figure 4 depicts an indicative functional and organisational structure of a Maritime Casualty Control Unit.

**Figure 4 – Operations group of a Maritime Casualty Control Unit**



The processes for implementation and operation of the MCCU are detailed within the AMSA Maritime Casualty Management Guideline.

### States and Northern Territory

The state and Northern Territory governments will specify the incident management arrangements for their jurisdictions and within their ports within the relevant contingency plan(s).

## 3.5 Emergency towage

The National Plan includes national arrangements for emergency towage capability (ETC) managed by AMSA, supported by jurisdiction arrangements to manage the risks within their respective jurisdictions.

### National emergency towage capability

AMSA is responsible for the delivery of a national emergency towage capability within Australia's eleven designated regions on the following basis (Figure 5 refers):

- Level 1 Capability – a dedicated emergency towage vessel (ETV) operating in Far North Queensland ETC region
- Level 2 Capability – contracted port towage within the other ten regions that is capable of undertaking open water towage operations
- Level 3 Capability – vessels of opportunity that can be directed or contracted at the time of an incident to assist or supplement the Level 1 or 2 capability.

**Figure 5 – Emergency towage capability regions**



The ETC can only be activated by AMSA. Requests for activation are made in accordance with internal AMSA procedures.

### State and Northern Territory capability

The state and Northern Territory governments should ensure that there are adequate emergency towage arrangements within their jurisdiction to manage their local risks in support of the national capability. This capability should be detailed within their relevant contingency plans. This includes working with ports within their jurisdiction to:

- ensure there are no licensing, tendering or other processes that would preclude or hinder the effective use of harbour towage vessels as part of the national ETC
- include emergency towage clauses within harbour towage contracting or licensing arrangements
- cooperate with the release of emergency towage vessels as required in response to a maritime casualty, and
- include in port towage licensing or tendering arrangements and appropriate provisions for replacement harbour towage arrangements in the event that an ETV is required to respond to a maritime casualty.



## 3.7 Place of refuge

A place of refuge is a place where a ship in need of assistance can take action to enable it to stabilise its condition (including the status of cargo), protect human life and the environment and reduce the hazards to navigation.

The National Maritime Places of Refuge Risk Assessment Guidance is an arrangement, agreed by the Commonwealth, state and Northern Territory governments, for the management of requests for, or circumstances that require, a place of refuge.

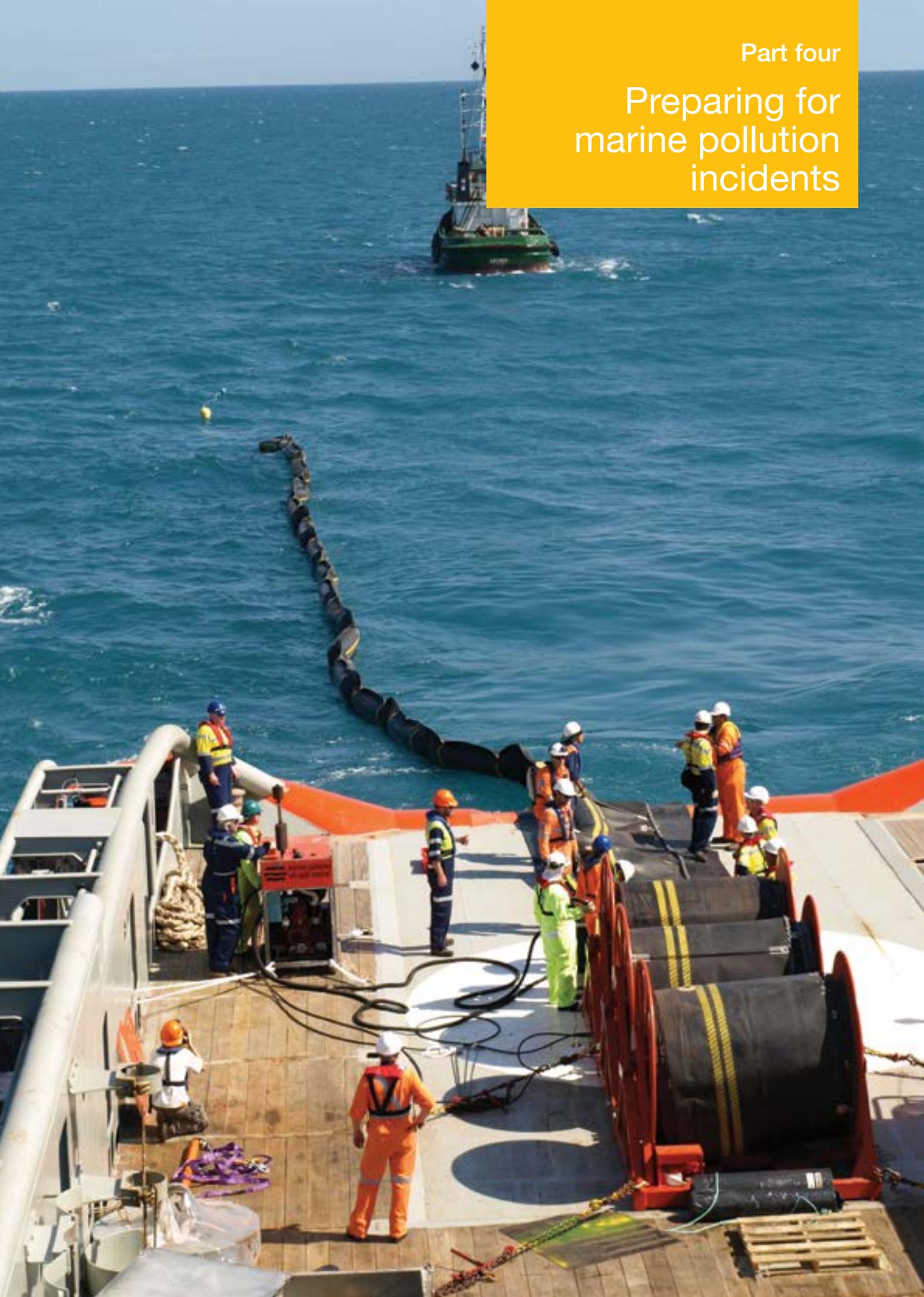
The guidance state that a place of refuge should be provided by an Australian maritime agency when necessary and appropriate to protect:

- the safety of the ship's crew, passengers and salvage crew
- the safety of human life and health within the immediate vicinity of the distressed ship
- ecological and cultural resources, and the marine, coastal and terrestrial environments
- economic and socio-economic infrastructure, including sensitive installations, within the coastal zone and ports, and
- the safety of the ship and its cargo.

The guidance, while optional, may be implemented within the relevant jurisdiction level contingency plans, and jurisdictions may choose (or not) to pre-designate or identify possible places of refuge.

Part four

# Preparing for marine pollution incidents



## 4.1 Scope of preparedness

Preparedness within the scope of the National Plan refers to those activities undertaken to plan and prepare for marine pollution incidents. Key components of preparedness include:

- contingency planning
- community awareness and engagement
- capability development
- training and development
- capacity building and national assurance
- exercises, testing and reviews, and
- research and development.

## 4.2 Contingency planning

The National Plan arrangements are underpinned by contingency planning at the national, state, Northern Territory, regional and local level. The Commonwealth, along with each state and the Northern Territory, has responsibility for establishing contingency planning requirements within their jurisdiction and for ensuring that those plans are current and effective. This will be consistent with the relevant administrative or legislative requirements for each jurisdiction.

Together, the contingency plans provide a cascade of response measures with initial actions at the local level, supported and/or overseen by regional and state/Northern Territory level resources and management, as needed.

Guidance on contingency planning is provided by AMSA for shipping incidents and NOPSEMA for offshore petroleum activities. States emergency management arrangements can also provide guidance or templates.

### 4.3 Community awareness and engagement

Community engagement (including education) is a core component of the National Plan arrangements. Effective engagement is essential to engendering public confidence in the National Plan at all levels. Within the context of maritime environmental emergencies, community engagement has the following objectives:

- educating and engaging with the community about the nature of the threat, the potential impacts resulting from maritime environmental emergencies and the operational constraints upon response actions
- developing the community's understanding of the National Plan arrangements at national, state/ Northern Territory and local levels, and
- promoting the reporting of marine pollution incidents.

The National Plan assigns the following responsibilities in relation to engagement:

- AMSA is responsible for the development of a community education strategy in relation to the national maritime arrangements
- Governments are responsible for the development of community education strategies in relation to their jurisdiction, and
- Control Agencies should ensure that contingency plans have effective arrangements for community engagement during planning, response and recovery operations, including processes for social media monitoring, briefings and warnings.



## Volunteer management

The National Plan recognises that, similar to other types of events, during a maritime environmental emergency many people from the community may spontaneously volunteer assistance and support. Offers are likely from both organised volunteer groups as well as individual members of the public.

The social, community engagement and resource benefits of volunteer use within the response needs to be assessed against the administration, training, welfare and safety obligations of the Control Agency.

Jurisdictions may consider the use of volunteers. Arrangements may be included in respective contingency plans. Further information on volunteer management can also be found in the National Plan Volunteer Management Advisory document.



## 4.4 Capability development

### Response personnel

#### National Response Team

The National Response Team (NRT) is comprised primarily of highly qualified, trained and experienced state/Northern Territory and maritime industry personnel ready and able to support pollution response operations around the country. The NRT is managed in cooperation with all jurisdictions, which nominate members to meet the needs of both incident management and operations.

The NRT is managed in accordance with the National Response Team Policy, approved by the National Plan Strategic Coordination Committee with activation of the NRT by AMSA.

#### State and Northern Territory response teams

The jurisdictions have response teams within their respective jurisdictions.

The arrangements for these response teams should be outlined within the state and Northern Territory contingency plans.

#### AMOS Core Group

The petroleum industry ready response group is called the Core Group and operates under the AMOSPlan to support level 2 and level 3 oil spill responses. The Core Group includes three levels of response expertise: Incident Controller Advisors; Spill Managers; and Field Operators.

All of these are petroleum industry personnel working for AMOSC member companies. Each member company has a Core Group supervisor who is the primary point of contact for any Core Group matter.

The Core Group and the NRT operate together during a spill response and conduct regular joint training and exercises. While primarily focussed on petroleum industry spill response, the Core Group is also available to the National Plan to support other spill responses.

AMOSC members can activate the Core Group directly with AMOSC. All other National Plan stakeholders may request Core Group support through AMSA.

## Response equipment

The National Plan applies a cascade response to the supply of response equipment, which is held nationally, regionally and locally. Under agreed arrangements, each jurisdiction is responsible for ensuring that there are sufficient stocks of equipment available to them within the cooperative arrangements, to address the risks within their area of responsibility.

### National Plan strategic equipment stockpiles

AMSA maintains nine strategic equipment stockpiles of marine pollution response equipment around the Australian coastline. Stocks of dispersant are stored at these stockpiles as well as other key locations. The petroleum industry, through AMOSC, maintains stockpiles at four locations. Figure 6 shows the location of these stockpiles.

Figure 6 – Locations of national equipment stockpiles



The location and composition of the AMSA national stockpiles is based on the following principles:

- the purpose of the AMSA national stockpiles is to supplement the local and regional resources of the jurisdictions and industry
- the establishment of an AMSA national stockpile in a given location does not reduce any requirement for jurisdictions and industry to maintain their own equipment stocks
- the location of the national stockpiles is determined through assessment of risk and logistical considerations
- all areas identified as high and very high risk will be capable of supply by road transport from a national stockpile within a maximum of 24 hours
- each stockpile location will be able to be supplemented by road transport from a minimum of one other national stockpile within a maximum of 48 hours.

AMSA maintains an accessible database of its national equipment holdings that records current location and serviceability information.

### **Petroleum industry equipment stockpiles**

The petroleum industry contributes to the National Plan via the AMOSPlan. AMOSC holds stockpiles of equipment and dispersant at various locations, with its largest stockpile at Geelong, Victoria.

Small equipment holdings are held by a number of companies and these are generally available to other AMOSC members through the mutual aid arrangements of the AMOSPlan. AMOSC also contributes to the National Plan through joint funding of the aerial dispersant capability and other preparedness and training services.

### **States and Northern Territory**

The jurisdictions maintain sufficient stocks of response equipment to manage an oil spill incident within their jurisdiction based on their current risk assessment and oil spill contingency plan. The composition and location of these stockpiles should be based on an assessment of the risk for that jurisdiction.

The relevant jurisdiction contingency plans detail the arrangements for the deployment of these response resources.

### **Local – ports, oil and chemical terminals**

The operators of ports, maritime facilities, oil and chemical terminals are normally a designated Control Agency and have a responsibility for maintaining appropriate equipment stocks commensurate with the risks posed by their operations, and access to sufficient trained personnel to effectively deploy that equipment. These control agencies should at a minimum maintain stocks of equipment or cooperative arrangements for the supply of such equipment, sufficient to maintain response operations until such time as other resources can be deployed in support. This is generally referred to as the first-strike capability and will vary from location to location.

Each jurisdiction is responsible for determining the capability required by a local control agency.

## **Offshore petroleum activities**

The offshore petroleum sector has responsibilities to clean-up oil spills from their activities. This requires titleholders to have appropriate emergency response arrangements that guarantee access to response capability commensurate with the risks from their activities.

## **Offshore petroleum sector/AMSA memorandum of understanding**

AMSA and a number of titleholders and/or operators of offshore petroleum facilities have entered into Memorandum of Understandings (MOUs) setting out their respective roles and responsibilities when responding to a marine pollution incident.

For marine pollution incidents from offshore petroleum facilities, requiring regional or national level support, AMSA will support the operator in the operator's Control Agency role. AMSA will provide services and resources under its direct control, including technical and response advice, services, equipment, personnel and contractors. AMSA will also coordinate National Plan response equipment and resources, response and advisory services and personnel.

For all other marine pollution incidents in Commonwealth waters, including those from ships and offshore petroleum activities that are not related to offshore petroleum facilities, AMSA has Control Agency responsibility.

## **Fixed Wing Aerial Dispersant Capability**

AMSA manages the Fixed Wing Aerial Dispersant Capability (FWADC) on behalf of National Plan stakeholders. The FWADC was developed in conjunction with and is jointly funded by AMOSC.

The FWADC maintains aircraft in strategic locations around the Australian coastline and provides airbase management and loading support arrangements.

The FWADC is activated by AMSA, on the request of the relevant state/Northern Territory Incident Controller or AMOSC, in accordance with the Activation of the Fixed Wing Aerial Dispersant Capability Guidance. Control Agencies implementing a fixed wing aerial dispersant operation should have regard to the Concept of Operations contained within the Guidance.

## Oil spill control agents

Oil spill control agents (OSCA) refer to products that are applied to floating or stranded oil to minimise their overall impact to the environment. Oil spill dispersants, loose sorbents and surface cleaners are examples of commonly used OSCAs.

The National Plan's approach to the usage of oil spill control agents involves four key elements:

- acceptance for use within Australian waters in shipping pollution incidents in accordance with the National Plan Register of Oil Spill Control Agents for Maritime Response Use. Acceptance for activity specific use in offshore petroleum pollution incidents in accordance with an accepted environment plan for the activity<sup>3</sup>
- logistics through National Plan and petroleum industry stockpiles, equipment and capability to use the OSCAs in a spill response
- approval to use the OSCA in a specific response from the Incident Controller and any regulatory authorities. Individual contingency plans should detail the dispersant approval process, and
- monitoring of the spill to determine the need to use the OSCA and of its effectiveness as part of response phase monitoring.

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<sup>3</sup> For further information see NOPSEMA/AMSA joint guidance on Australian dispersant acceptance processes



Photograph courtesy of Lovegreen Photography

## Environmental, scientific and technical advice

Contingency plans should include arrangements for environmental, scientific and technical advice within the incident management team, including ensuring that both the advice and associated services are integrated across planning and response.

Preparedness requires the development and deployment of decision support tools (see section 5.5).

## 4.5 Training and development

The training and development of response personnel is a core component of the National Plan arrangements. The National Plan identifies three broad levels of training:

- Level 1 – operator level personnel, i.e. those undertaking onsite clean-up operations. In a major incident this would also include supervisors appointed as site managers
- Level 2 – middle management personnel responsible for managing the operational response, e.g. incident controllers, their deputies, technical advisers (environment, science, etc.), and Fire Brigade (hazardous materials) specialists
- Level 3 – senior government and industry personnel responsible for high-level decision making in the management of oil or HNS spill incidents.

### National training program

AMSA is responsible for the delivery of response management training (Level 2 and 3) for National Plan stakeholders. AMSA delivers base level training in incident management and specialised training in planning, operations, logistics and incident control. All courses are delivered under the AMSA Registered Training Organisation in line with the requirements of the Australian Qualifications Framework.

AMSA also supports the development of response personnel through the delivery of specialist annual workshops for Environment, Science and Technical (ES&T) Network, Incident Controllers and senior personnel.

### State and Northern Territory training

The jurisdictions are responsible for their own Level 1 Training. This training may include courses on equipment operation and shoreline response, as well as the delivery of finance and administrative services. Other training programs such as oiled wildlife response, may be provided through relevant statutory agencies. Some States also provide higher level training.

### Petroleum industry training

As part of the National Plan arrangements, AMOSC provides oil spill response training for the petroleum industry.

AMOSC has been accredited (through the Nautical Institute, UK) to conduct IMO OPRC training (Field Responder, Supervisor and On Scene Commander, and Senior Manager respectively) and delivers courses designed specifically on marine oil spill response and delivered for the petroleum industry. Apart from the core IMO training, AMOSC also conducts specialist courses such as aerial surveillance, oiled wildlife response and company-specific courses.

## 4.6 National Plan exercises

Exercises form a core component of the arrangements for preparedness under the National Plan. Effectively planned and conducted exercises enable agencies to evaluate contingency plans and operating procedures, develop key response personnel and reinforce the stakeholder engagement necessary to respond during incidents.

Each jurisdiction is responsible for ensuring that there is an effective exercise programme for their area of responsibility.

### Conduct of exercises

National Plan exercises will be conducted consistent with the principles outlined in the Australian Emergency Management Handbooks prepared by the Commonwealth Attorney-General's Department.

### National exercise

The national response capability will be exercised on an annual basis, with the exercise location changing each time. The national exercises will include Commonwealth, state and Northern Territory and petroleum industry representation in the planning and conduct of the exercise.



## 4.7 Research and development

The objective of research and development in the context of maritime environmental emergencies is to identify, analyse and apply knowledge and information to enable the continuous improvement of the national response arrangement. Research and development should be the foundation of the National Plan arrangements. All National Plan jurisdictions have a responsibility to identify, support and resource research and development priorities. Industry is also encouraged to actively contribute to spill response research and development activities.



Part five

# Responding to marine pollution incidents



## 5.1 Scope of response

Response within the scope of the National Plan refers to the management of operations directed to coordinate and control a marine pollution incident. The aim of response operations is to minimise the impacts of marine pollution from vessels, maritime facilities and oil and chemical terminals, and offshore petroleum facilities upon the Australian community, environment, economy and infrastructure.

Arrangements for response are generally detailed within jurisdictional, regional and local contingency plans. The National Plan outlines those national arrangements that support these contingency plans.

## 5.2 Incident Management System

The Incident Management System implemented by the National Plan for the management of marine pollution incidents is consistent with the Australasian Inter-service Incident Management System (AIIMS). The system is designed to be adaptable to the individual circumstances of the incident or the particular agencies involved.

The Incident Management System<sup>4</sup> for pollution response is based on the five fundamental principles of AIIMS:

- **flexibility** – the system can be applied across the full spectrum of incidents and agencies
- **functional management** – the response organisation should be structured in accordance with the actual work to be performed during the incident or different phases of the incident
- **management by objectives** – the process whereby the Incident Controller sets desired outcomes for the incident for the purpose of ensuring all responders understand the direction being taken during the response
- **unity of command** – the response organisation should work to one set of common objectives and each individual should report to only one supervisor, and
- **span of control** – refers to the number of individuals or functions that can be successfully managed by one person.

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<sup>4</sup> Although the principles of AIIMS imply a generic organisational structure, a Control Agency will need to determine an applicable organisational structure for each incident. Therefore, a generic organisational structure has not been included.



The National Plan Incident Management System Policy applies the AIIMS approach to a marine pollution response context. However, it is the responsibility of the Control Agency to determine how the system will be implemented within the relevant contingency plans. Control Agencies should however consider the following critical concepts when undertaking contingency planning:

- **adaptability and scalability** – the size and structure of the incident management team should reflect the complexity of the incident and change to reflect the various stages of response and recovery
- **uniform terminology** – the Control Agency should consider the multi-agency aspect of significant marine pollution incidents and endeavour to maintain consistent terminology to minimise communications issues
- **a defined management structure** – the management structure, and respective roles and responsibilities of individuals, should be defined in a way that can be clearly communicated and applied
- **common operating picture** – ensuring the management system can produce a shared and consistent understanding of the incident and maintain situational awareness, and
- **clearly defined information flows** – clear definition of reporting relationships and information flows between individuals and sections within the response organisation.

### Incident classification

The National Plan recognises that the majority of incidents are managed locally. However, there is a need to ensure that as an incident increases in size and/or complexity, the management system can adapt to meet these additional demands. Consistent with international practice, the National Plan classifies incidents so as to provide direction on the potential consequence and impact of the incident and to provide guidance for agency readiness levels, incident notifications, response actions and potential response escalation.

The National Plan identifies three levels of incidents as follows:

- **Level 1 Incidents** are generally able to be resolved through the application of local or initial resources only (e.g. first-strike capacity)
- **Level 2 Incidents** are more complex in size, duration, resource management and risk and may require deployment of jurisdiction resources beyond the initial response
- **Level 3 Incidents** are generally characterised by a degree of complexity that requires the Incident Controller to delegate all incident management functions to focus on strategic leadership and response coordination and may be supported by national and international resources.

Consistent with AIIMS, the National Plan employs a scalable approach to incident classification, noting that simple thresholds pose the risk of arbitrary decisions.

Table 5 provides a non-exhaustive list of the general characteristics of each of the three levels. These characteristics can be used to develop criteria to be considered when evaluating the need to escalate response arrangements. These criteria should be embedded within the relevant contingency plan or adapted to the specifics of an individual incident. Not all characteristics need to apply in all cases, or to all incidents.

**Table 5 – Guidance for incident classification**

Characteristic	Level 1	Level 2	Level 3
<b>MANAGEMENT</b>			
<b>Jurisdiction</b>	Single jurisdiction	Multiple jurisdictions	Multiple jurisdictions, including international
<b>Delegation</b>	Incident Controller responsible for all functions	Some functions delegated or Sections created	All functions delegated and/or divisions created
<b>Number of agencies</b>	First-response agency	Routine multi-agency response	Agencies from across government and industry
<b>Incident Action Plan</b>	Simple/Outline	Outline	Detailed
<b>Resources</b>	Resourced from within one area	Requires intra-state resources	Requires national or international resources
<b>TYPE OF INCIDENT</b>			
<b>Type of response</b>	First-strike	Escalated	Campaign
<b>Duration</b>	Single shift	Multiple shifts Days to weeks	Extended response Weeks to months
<b>Hazards</b>	Single hazard	Single hazard	Multiple hazards
<b>RESOURCES AT RISK</b>			
<b>Human</b>	Potential for serious injuries	Potential for loss of life	Potential for multiple loss of life
<b>Environment</b>	Isolated impacts or with natural recovery expected within weeks	Significant impacts and recovery may take months. Remediation required	Significant area and recovery may take months. Remediation required
<b>Wildlife</b>	Individual fauna	Groups of fauna or threatened fauna	Large numbers of fauna
<b>Economy</b>	Business level disruption	Business failure	Disruption to a sector
<b>Social</b>	Reduced services	Ongoing reduced services	Reduced quality of life
<b>Infrastructure</b>	Short term failure	Medium term failure	Severe impairment
<b>Public Affairs</b>	Local and regional media coverage	National media coverage	International media coverage

## 5.3 Response initiation

The National Plan is a strategic standing arrangement and will be implemented in the event of a maritime environmental emergency. When a decision is made to respond to a maritime environmental emergency, response arrangements appropriate to the jurisdiction and incident type will be activated.

Contingency plans should detail the procedures for initiating a response to a marine pollution incident, including:

- initiation triggers
- required actions, and
- responsibilities of key agencies and personnel.

### Principles for response initiation

Timely initiation of a response is critical to achieving an effective outcome from an operation. A response should be initiated where there is a need to:

- monitor the incident, potential or actual, and
- implement measures to mitigate the impacts of the incident.

The National Plan recognises that pre-emptive or precautionary response operations may be necessary to ensure that the environmental or broader community interests are protected or where it is considered that the local resources may be insufficient to address a significant threat. The National Plan supports Control Agencies applying the principle of prudent over-escalation when considering the initial response to an incident. This principle recognises that it is more effective to scale down an initial response than to scale up following an under-reaction.

### Accessing the National Plan's supporting arrangements

The Control Agency can at any time access the National Plan's supporting arrangements to assist with response operations. The resources of all National Plan and AMOSPlan stakeholders are available to support the Control Agency on request.

Access to the National Plan arrangements is via a formal request from the Control Agency to AMSA, initially verbally through the ARC, and then confirmed in writing.

AMSA will coordinate the resources of the National Plan in support of the Control Agency.

## 5.4 Response escalation

Incidents are dynamic and may change over time and space. During an incident there may be a need to upscale the response for a range of reasons. This is referred to as escalation and may involve increased support to a Control Agency or a change in Control Agency. At all levels (oil and chemical terminals, maritime facilities, ports, state/Northern Territory, offshore platform, etc.), contingency plans, inter-agency and inter-jurisdictional agreements, and incident action plans should document when and how response escalation should occur.

The National Plan implements a scalable approach to response management. This approach provides for the orderly progression from local response operations to incidents requiring international assistance.

Change of Control Agency is one form of response escalation. The National Plan includes a *Change of Control Agency Protocol Guidance* where such arrangements are not already part of existing disaster and emergency management or regulatory arrangements. Section 2.5 outlines the circumstances for change of Control Agency during an emergency of national consequence.



## 5.5 Assessment and decision support

### Environmental, scientific and technical advice

Environmental, scientific and technical advice is essential to make informed and effective decisions regarding the establishment of response objectives and the selection of the most appropriate response strategies and tactics. This advice should be incorporated at all levels of incident management and may include:

- direct advice to the Incident Controller
- integration into the planning section to inform the development of the incident action plan, and
- support in the field to response operations.

AMSA on behalf of the National Plan and its stakeholders maintains numerous support tools for use in an incident. These tools, which are supplied by AMSA on the request of the Control Agency include:

- **Trajectory Modelling** that identifies speed of movement, weathering and spreading characteristics of the pollutant under the influence of prevailing currents and weather conditions. The modelling capability is activated by AMSA, on the direct request of the relevant Incident Controller or AMOSC, in accordance with the National Plan website.
- **Response Phase Monitoring** assesses the effectiveness of response strategies. Contingency plans should include arrangements for the implementation of response phase monitoring at the earliest stages of the response operation. *The CSIRO Oil Spill Monitoring Handbook* provides advice to Control Agencies on the scope and implementation of monitoring activities in support of response operations
- **Geographic Information Systems** are computer based mapping tools that identify threatened environmental and community resources, logistical information (roads, etc.) and any other information relevant to preparing and responding to marine pollution incidents. The jurisdictions are responsible for the maintenance of spatial information and manage access to their information.
- **Memoranda of understanding and contracts** exist with technical and scientific agencies to provide expert capability to support National Plan stakeholder needs.

## 5.6 Oil spill response

The National Plan arrangements support the implementation of a number of response strategies, including (but not restricted to):

- monitoring and assessment
- control and recovery
- application of oil spill control agents
- shoreline clean-up and remediation, and
- response to impacted or threatened wildlife.

The National Plan does not give priority to a single strategy, but acknowledges that a combination of strategies is required to effectively manage an oil pollution incident. The relevant contingency plan should set out the strategies to be employed in a response operation.

### Control Agency

The Control Agency for an oil spill response is the government agency or company assigned by legislation, administrative arrangement or within the relevant contingency plan to control response activities to an oil spill. Table 6 provides a high level summary of the Control Agencies for oil spill incidents. While the Control Agency is responsible for control of response activities, including appointing the Incident Controller, the Control Agency may have arrangements in place for another government agency or company to provide oil spill response services during an emergency.



**Table 6 – Control Agencies for oil pollution incidents**

Area ----- source	Oil terminal or state govt agency	Sole-user maritime facility for oil terminal	Multi-user maritime facility	Port waters	State waters	Commonwealth waters	
						Shipping sourced spill	Offshore petroleum facility
First Strike / Level 1	Oil terminal operator or state govt agency	Oil terminal operator	Maritime facility owner	Port authority or state govt agency	Offshore petroleum facility titleholder or state govt agency	AMSA	Titleholder
Levels 2 and 3	Port authority or state govt agency	Port authority or state govt agency	Port authority or state govt agency				
Great Barrier Reef Marine Park – for any spills the Control Agency is the Queensland Government New South Wales – whilst a terminal operator is expected to respond to Level 1 incidents; the Port Authority or Roads and Maritime is the Control Agency for all incidents in State waters.							
Torres Strait – for any spills into the area defined within TorresPlan the Control Agency is the Queensland Government.							
<p>External territories:</p> <p>Australian Antarctic</p> <ul style="list-style-type: none"> <li>for any spills within station limits of the Australian Antarctic the Australian Antarctic Division (represented by the relevant Station Leader) is the Control Agency and Incident Controller for level 1 and 2 responses.</li> <li>AMSA is the Control Agency outside Station waters and will appoint an Incident Controller to lead any response. AMSA will also act as the Control Agency for level 3 responses.</li> </ul> <p>Norfolk Island</p> <ul style="list-style-type: none"> <li>For any spills into Commonwealth waters around Norfolk Island, including into the Norfolk Island port area, the incident controller is appointed by AMSA.</li> </ul> <p>Christmas Island</p> <ul style="list-style-type: none"> <li>for any spills into Christmas Island ports areas the Harbour Master is the Incident Controller</li> <li>for any spills into Commonwealth waters around Christmas Island, the Incident Controller is appointed by AMSA.</li> </ul> <p>Cocos (Keeling) Islands</p> <ul style="list-style-type: none"> <li>in accordance with its Service Delivery Agreement with the Commonwealth the WA Department of Transport will be appointed Incident Controller for Level 1 spills outside Port Waters.</li> <li>for Level 2 and 3 responses AMSA will act as Control Agency and Incident Controller.</li> </ul> <p>*for further information on Roles and Responsibilities refer to associated Contingency Plan.</p>							

**Notes relating to Table 6**

To avoid uncertainty, a vessel at a Maritime Facility with a line ashore is subject to the relevant Control Agency arrangements indicated for a Maritime Facility and not the arrangements indicated for Port Waters.

In the case of controlled Naval waters, the local Naval authority will contain and clean up all spills that can be safely and effectively managed using available Naval equipment. The Harbour Master is to be informed at the first opportunity. Where there is doubt that local Naval resources are sufficient, the Naval authority will contact the Harbour Master immediately for assistance. Costs incurred by local authorities responding to oil spills from Naval assets shall be borne by the Royal Australian Navy.

### Definitions – for Table 6 only

**First strike** means a prompt initial response to protect the environment that is intended to limit the effect of an incident until such time as other resources can be deployed in support. This capability may vary from location to location.

**Oil terminal** means a petroleum refinery and/or petroleum storage/distribution facilities with access to a maritime facility, but not including the maritime facility.

**Maritime facility** means a wharf or mooring at which a vessel can be tied up during the process of loading or unloading a cargo [or passengers]. A maritime berth may be a sole user berth [such as a dedicated berth for an oil refinery] or may be a multi-user berth [such as a berth that handles general cargo, or one that handles bulk liquids such as petroleum for more than one user of the berth (sometimes known as a common-user berth)].

**Oil terminal operator** means a company [or joint venture] that operates an oil terminal.

**Port waters** has the same meaning as in s.12 of the *Maritime Transport and Offshore Facilities Security Act 2003* and includes:

- a) areas of water, between the land of the port and the open waters outside the port, intended for use by ships to gain access to loading, unloading or other land-based facilities; and
- b) areas of open water intended for anchoring or otherwise holding ships before they enter areas of water described in paragraph (a); and
- c) areas of open water between the areas of water described in paragraphs (a) and (b).

### Coordination of the national support arrangements

AMSA will coordinate the national arrangements in support of a Control Agency's response operation. These arrangements include:

- deployment of the National Plan Strategic Equipment Stockpiles
- deployment of the Fixed Wing Aerial Dispersant Capability
- deployment of AMSA and National Response Team personnel
- providing support services including trajectory modelling, remote sensing and aerial surveillance; and
- providing technical and other advice.

The national arrangements are detailed elsewhere within the National Plan and the activation arrangements are contained within the relevant guidance document.

### Coordination of petroleum industry arrangements

The relevant petroleum company will coordinate all resources and contracts required to support their response to a marine spill from their vessel, oil terminal or offshore facility. The company will generally utilise their own resources in the first instance and AMOSPlan will be used to facilitate the provision of AMOSC resources and the provision of mutual aid from other industry members. Titleholders and other industry control agencies have access to National Plan resources through AMOSC; through AMSA under an offshore petroleum sector/AMSA MOU (see section 4.4, on page 46 or their jurisdictional authority).

## 5.7 Hazardous and noxious substance response

As Party to the OPRC-HNS Protocol, Australia has an obligation to prepare for, and respond to, a pollution incident by hazardous and noxious substances (see Table 2 on Page 19). However, as a result of the broad range of properties, behaviours, potential for health effects, environmental impacts and damage to a vessel from HNS, the response to these incidents requires skills, knowledge, experience and equipment, which are different to oil spill response. However, it should be noted that some oils may present similarly to HNS and need to be responded to accordingly. Where appropriate, National Plan tools and support services, such as chemical dispersion modelling, will be available to HNS responses.

The National Plan arrangements for HNS response is based on cooperation with the emergency services, in particular the hazardous materials response units within fire and rescue services.

### Control Agency

The Control Agencies for HNS incidents are listed in Table 7.

**Table 7 – Control Agencies for HNS incidents**

	Chemical terminal	Port	Outside a port
Commonwealth	n/a	Port authority	AMSA
New South Wales	Port Authority or Fire and Rescue NSW	Roads and Maritime Services or the Port Authority of NSW	Roads and Maritime Services or the Port Authority of NSW
Northern Territory	Fire and Rescue Service	Port authority	Department of Transport
Queensland	Chemical terminal operator	Maritime Safety Queensland	Maritime Safety Queensland
South Australia	Metropolitan Fire Service	Port authority	Department of Planning, Transport and Infrastructure
Tasmania	Tasmania Fire Service	Tasmania Fire Service	Tasmania Fire Service
Victoria	Chemical terminal operator / Fire agencies	Fire agencies	Fire Agencies
Western Australia	Department of Fire and Emergency Services	Department of Fire and Emergency Services	Department of Fire and Emergency Services
Great Barrier Reef Marine Park	Chemical terminal operator	Maritime Safety Queensland	Maritime Safety Queensland
Indian Ocean Territories	n/a	Harbour Master	AMSA
Norfolk Island	n/a	Norfolk Island Regional Council	AMSA

## Levels of HNS response

The National Plan is based around three distinct levels of HNS Response:

- **advisory** – the focus of the advisory service is to provide an assessment of the risks to health, immediate response advice and an assessment of the need for additional assistance to a vessel's crew. AMSA maintains arrangements with relevant hazmat agencies for the provision of hazardous materials advice on a 24/7 basis. This service complements State and Northern Territory arrangements
- **shipboard response** – the objective of a shipboard response capability is to provide rapid intervention in order to contain an incident to a vessel and prevent damage to the vessel or loss of material into the environment where possible
- **major incident response** – in a very small number of situations, it may be beyond the capability of a shipboard response and the relevant Control Agency to contain the material to the vessel. In these situations, which may result in the loss of material into the marine environment, a full response under the National Plan will be launched similar to an oil spill.

## Responsibilities

The states and Northern Territory are responsible for establishing arrangements for HNS response within their jurisdiction.

AMSA is responsible for the development and maintenance of HNS response capability within the Commonwealth's jurisdiction. These arrangements are detailed within the Guideline on National Hazardous and Noxious Substance Response. AMSA will offer states/NT the opportunity to use Commonwealth arrangements on request.

For both Commonwealth and state/Northern Territory jurisdictions, the development of HNS response capability should be undertaken in consultation with all relevant agencies and industry, and should define relevant Control Agencies and address each response phase.



## 5.8 Health and safety

The safety of all people (responders and the community) in all activities is the highest priority. This includes training, exercising, procuring equipment or conducting an operational response activity under the National Plan.

In order to meet this principle, safety should be managed in accordance with a safety management system detailed within the relevant contingency plan.



## 5.9 Wildlife response

Each jurisdiction is responsible for ensuring that there are effective wildlife response arrangements within their jurisdiction. These arrangements should be detailed within the relevant contingency plans, including the identification of the lead agency for these operations. In line with support for other oil spill response contingency systems, the National Plan also provides support to state and Northern Territory wildlife response arrangements.



## 5.10 Waste management

Oil and HNS spills in the marine environment can result in the production of large quantities of waste that require temporary storage, transport, management and ultimately treatment and disposal.

Each jurisdiction has appropriate legislation detailing the requirements for the management and disposal of waste materials. Under the National Plan, wastes generated in a response are managed in accordance with that jurisdiction's regime.



## 5.11 Response termination

The Control Agency is responsible for the decision to terminate response operations. This decision should be informed by advice from a range of stakeholders identified in relevant contingency plans, including the agency with jurisdictional authority.

Contingency plans should include processes for the termination of response operations. The Guidance for Response, Assessment and Termination of Cleaning for Oil Contaminated Foreshores offers direction to agencies and other stakeholders when considering response termination.

## 5.12 Post incident response analysis

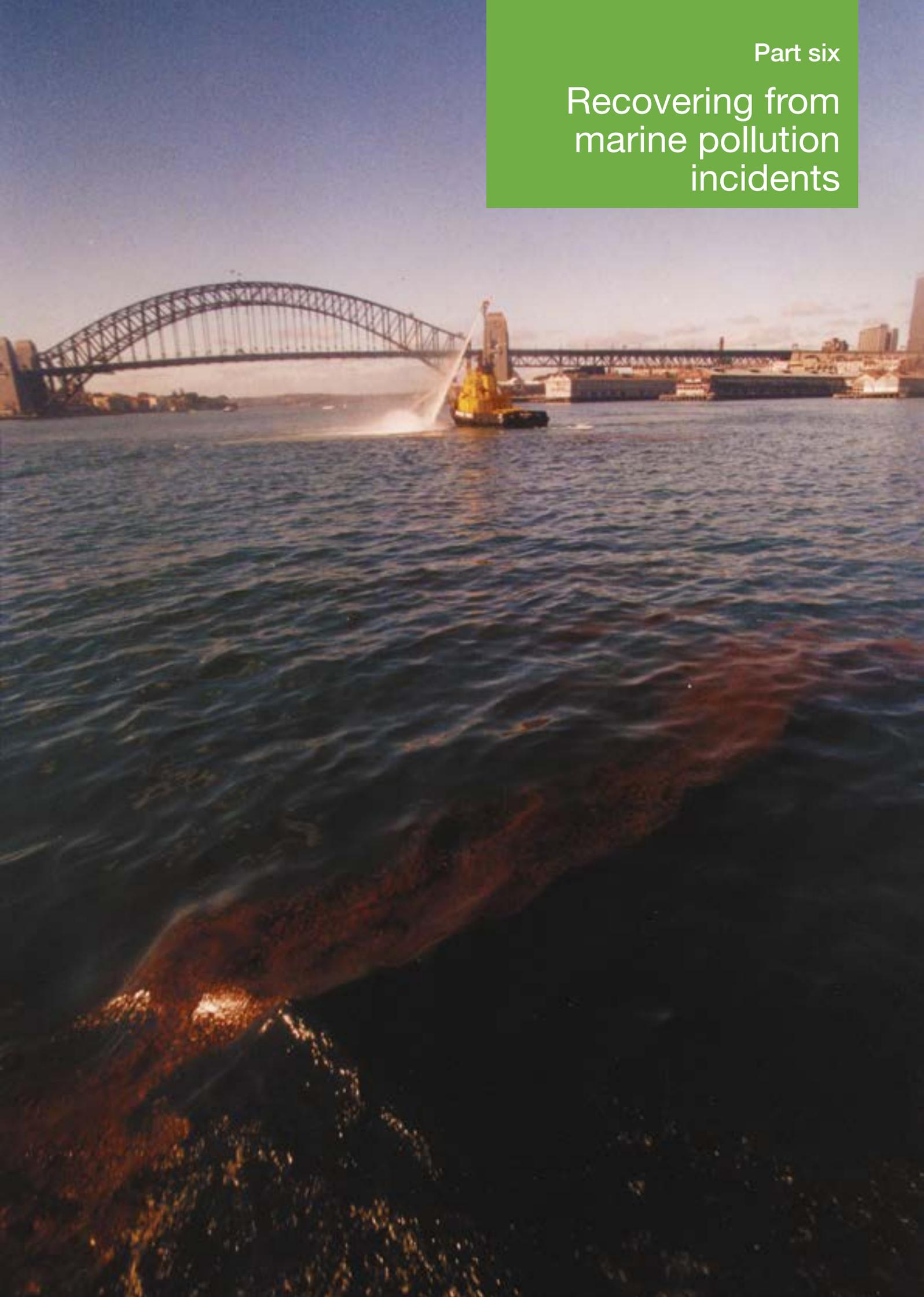
Post incident analysis, incorporating a review and reporting on the operational response to a maritime environmental emergency assists with continuous improvement of both people and organisations. Key to this is engaging and sharing within and across organisations and jurisdictions.

Under the National Plan, each jurisdiction is responsible for reviewing and reporting to other National Plan stakeholders on their spill responses and exercises. In practice, post incident analysis is conducted in accordance with the Conduct of Post Event and Incident Analysis Guidance, which is consistent with the Lessons Management Handbooks published as part of the Australian Emergency Management Handbook Series.



Part six

# Recovering from marine pollution incidents



## 6.1 Scope of recovery

Recovery is part of emergency management, which includes the broader components of prevention, preparedness and response. Recovery is the coordinated process of supporting affected communities in the reconstruction of their built environment and the restoration of psychological, social, economic, built and natural environment wellbeing. Recovery activities generally commence during the response phase and often continue after response activities have concluded.

Recovery is characterised by a complex array of issues and involves a broad range of organisations and stakeholders. Recovery programmes and processes can have a lasting impact on the community and are often time consuming and costly in terms of financial and other resources.

Under the National Plan, recovery refers to three distinct processes:

- recovery of costs for organisations involved in response arrangements or communities that suffer loss resulting from pollution
- rehabilitation of the environment
- return of an affected socio-economic community to its pre-incident level of functioning.

In relation to recovery of costs for organisations involved in response arrangements, further information is provided in part seven.

In relation to environmental rehabilitation, recovery operations aim, as far as possible, to return the environment to its pre-incident condition or to a state that is considered to be an acceptable environmental outcome to jurisdictional authorities and key stakeholders.

The National Plan recognises the need to return an affected socio-economic community to its proper level of functioning, but acknowledges that jurisdictions already have established emergency arrangements to achieve this. These matters are addressed in more detail below.



## 6.2 Principles for recovery

Disaster recovery is part of emergency management, which includes the broader components of prevention, preparedness and response. Planning for recovery is integral to emergency preparation and mitigation actions may often be initiated as part of recovery.

The National Plan is underpinned by the National Principles for Disaster Recovery, which was endorsed by the Social Recovery Reference Group in February 2019. The relationship between the principles are equally critical to ensure effective recovery. The principles are:

- **Understand the context** – successful recovery is based on understanding community context, with each community having its own history, values and dynamics:
- **Recognise complexity** – Successful recovery is responsive to the complex dynamic nature of both emergencies and the community;
- **Using community-led approaches** – Successful recovery is community-centred, responsible and flexible, engaging with community and supporting them to move forward;
- **Coordinate all activities** – Successful recovery requires planned, coordinated and adaptive approach, between community partner agencies, based on continuing assessment of impacts and needs.
- **Communicate effectively** – Successful recovery is built on effective communication between the affected community and other partners; and
- **Recognise and build capacity** – Successful recovery recognises, supports, and builds on individual, community and organisational capacity and resilience.

Further information on the principals are on the Australian Institute for Disaster Resilience website; or at the following link: <https://knowledge.aidr.org.au/resources/national-principles-disaster-recovery/>

## 6.3 Recovery functions

Typically four functions need to be addressed in the context of maritime environmental emergencies – environmental, economic, social and infrastructure.

The degree to which these recovery functions need to be addressed will vary from incident to incident.

Table 8 provides guidance on the types of activities required to address each of these recovery functions.

**Table 8 – Recovery function activities**

Environmental	Economic	Social	Infrastructure
Assessing and documenting the impact of the incident on natural resources	Assessing and documenting the impact of the incident on the local, regional and national economy	Assessing and documenting the impact to cultural and heritage and other community resources	Assessing and documenting the impact to infrastructure and services
Rehabilitating impacted areas where possible and measuring recovery over time	Support agencies recovering response costs	Rehabilitating and conserving impacted cultural and heritage resources where possible	Rehabilitating or returning to service the impacted infrastructure, e.g. damaged navigation aids and restoring production
Communicating to the public the impacts of the incident	Facilitating the recovery of losses incurred by business as a result of the incident	Restoring community services as soon as possible, e.g. re-opening beaches and boat ramps	Prioritising the rebuilding of impacted infrastructure
Engaging with the community to assist with the assessment and rehabilitation processes	Assisting business to recover from the intangible impacts of the incident, e.g. loss of confidence in the fishery or tourism sectors	Engaging with the community on the recovery process	Engaging with affected stakeholders on the recovery process

## 6.4 Recovery arrangements and the National Plan

In addition to the general recovery arrangements, described above, maritime environmental emergencies can encompass additional elements which should be considered when developing contingency plans and undertaking response operations.

### Engagement with the responsible party

The response and recovery to maritime environmental emergencies is funded on the basis of the 'polluter pays' principle (see Table 1). For recovery, this means that all stakeholders should have clear and early engagement with the responsible party or their representative (e.g. insurer). The responsible party should be represented on recovery committees to enable a shared ownership of the recovery plan and its implementation.

### Recovery planning

Recovery should be included as part of the contingency planning process, building on emergency risk management studies and resource atlases. Plans should identify recovery management structures, actions, roles and responsibilities, and be consistent with relevant state, Northern Territory and Commonwealth level plans. Recovery plans and the results of impact assessment form the basis for detailed recovery action plans prepared following a maritime environmental emergency.

### Recovery committee

The Recovery Committee is the strategic decision-making body for the recovery. It is formed when an impact assessment indicates that a formal recovery operation will be required.

In most states/NT and the Commonwealth, recovery is managed in accordance with established emergency management arrangements.

### Recovery coordinator

Recovery Coordinators may be appointed for a recovery operation. Recovery Coordinators are the public face of the recovery operation, providing leadership to the Recovery Committee and coordinating the recovery effort in accordance with agreed recovery plans.

### Transition from a response focus to a recovery focus

Recovery begins at impact and recovery arrangements are established in parallel with the operational response. As the response activities wind down, there should be a formal transition to provide more focus on recovery and to achieve an effective hand-over between the two incident phases.

A recovery action plan is developed by the Recovery Committee (where established) following a maritime environmental emergency.

The Incident Controller prepares a response transition report, in consultation with the Recovery Coordinator, outlining:

- the emergency action plan in place at the time of transition, emphasising actions that are incomplete
- resources allocated to the emergency response and their exit strategies
- an assessment of the emergency, focussing on the environment and affected community
- an impact summary, noting specifically any areas or situations with a potential to escalate the emergency
- a forecast of the expected recovery outcomes; and
- proposals for activities to be continued in the recovery phase.

The transition report should reassure the community that services are still available and must be supported by a coordinated public information strategy.

## 6.5 Impact assessment

An assessment of the extent of damage, impact on the community and environment and the potential need for a longer-term recovery process should take place as soon as practicable following the start of response operations.

The Incident Controller is responsible for initiating the recovery impact assessment, in conjunction with support agencies, local government and statutory authorities.

This should consider whether recovery can be managed locally in the short-term as part of the operational response, or requires more formal recovery arrangements, including the development of a Recovery Plan.

The relevant contingency plan should identify the agencies responsible for the conduct of impact assessment during both the response and recovery phases of the incident.

## 6.6 Communicating with the community

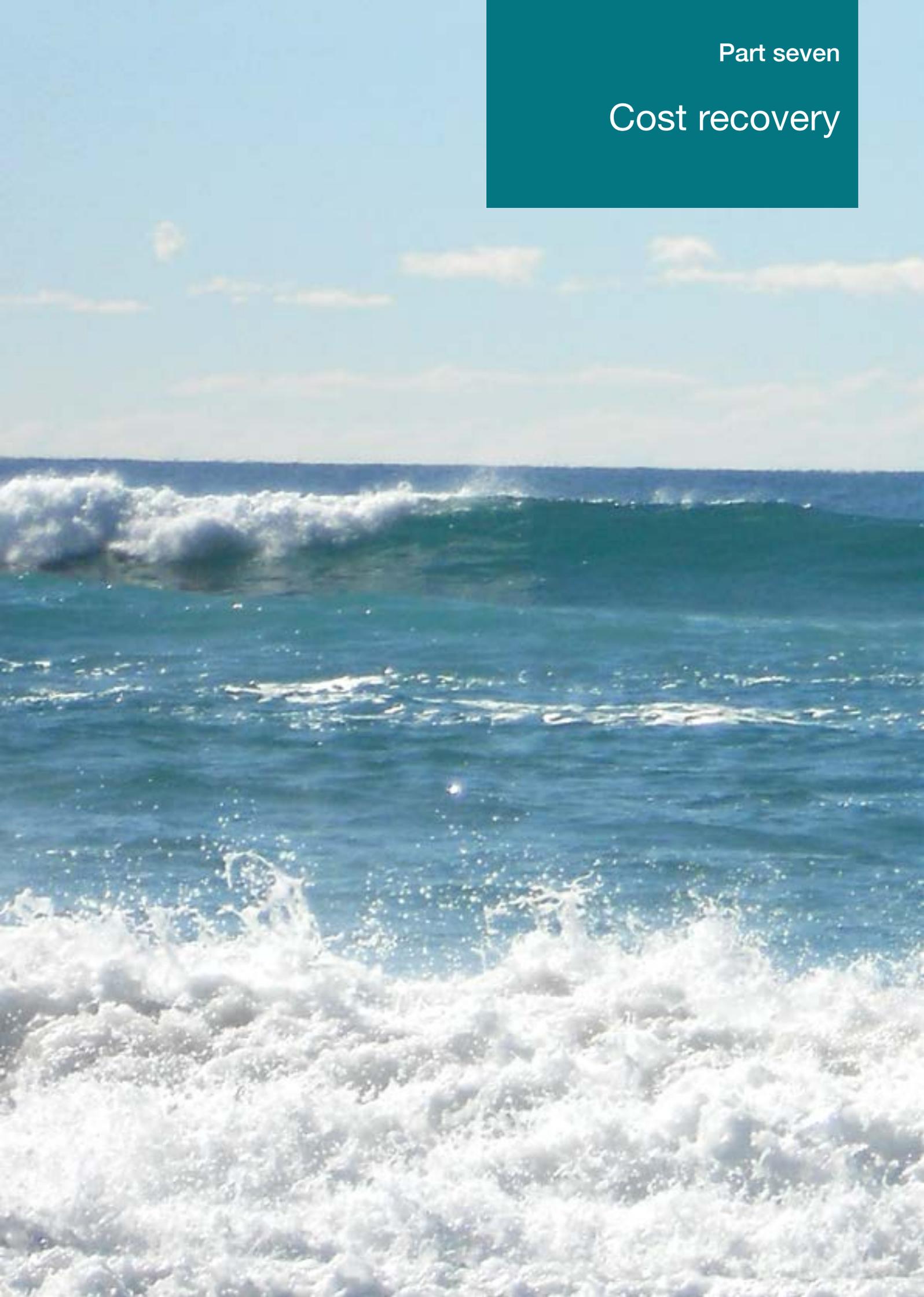
Recovery requires a strong focus on understanding the impacts of a maritime environmental emergency on people: their communities, livelihoods and environment. These include health and psychological wellbeing, and the local economy. Effective engagement with people and their community needs to be underpinned by a robust communications strategy.

The strategy needs to ensure that people understand what is going on and how to report and receive information. The strategy should outline actions required and the means to obtain assistance and support. Engaging the local communities and harnessing their capabilities can contribute greatly to enhancing recovery.

Communication strategies need to be developed in a manner that is consistent with the emergency management arrangements and accepted communications protocols in the respective Commonwealth and states/NT jurisdictions. Community meetings and community updates are useful tools to maintain community support for the agencies leading and responding to both the response and the recovery from a maritime environmental emergency.

Part seven

# Cost recovery



## 7.1 Scope of cost recovery

Funding arrangements to support the National Plan are based on the polluter pays principles.

Response and recovery is funded on the basis of the polluter pays. For shipping, this is achieved through the implementation of relevant international conventions under the auspices of the IMO. For the offshore petroleum industry, this is achieved through the OPGGSA. All agencies responding to and incurring costs in relation to ship sourced pollution incidents where the polluter is not identified, or costs are not recoverable, may be able to recover their costs from AMSA under the Protection of the Sea Levy<sup>5</sup>.

International arrangements provide guidance as to what are considered to be reasonable costs associated with the response to a maritime environmental emergency. Costs and expenditure for the purposes of the National Plan relate to reasonable measures taken to respond to maritime environmental emergencies such as responding to a casualty to prevent pollution, combating actual pollution by oil or chemical at sea, defending sensitive resources and/or cleaning shorelines and coastal installations. In general, costs will be considered 'reasonable' if they result from actions that:

- were undertaken on the basis of a technical appraisal of the incident
- sought to enhance the natural processes of recovery
- were not undertaken purely for public relations reasons.

The Control Agency is responsible for ensuring that there are arrangements, administrative or legislative, in place to enable support agencies to be reimbursed for the costs incurred in responding to an incident.

These costs are met by those responsible for the spill through various international and domestic arrangements. Generally, for Commonwealth/state/Northern Territory agencies, reimbursement is normally through international liability and compensation funds or shipowner's liability insurers known as Protection & Indemnity Clubs (P&I Clubs). Where none of the conventions or domestic statutes provides for cost recovery, legal actions may need to be pursued.

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<sup>5</sup> The Claims Management Guidelines provides information on how Commonwealth, state and Northern Territory agencies may be able to seek reimbursement for costs from AMSA for responding to ship sourced pollution incidents.



## 7.2 International maritime arrangements

International arrangements exist that generally ensure that the cost of combat and clean-up of spills originating from oil tankers and non-tankers can be recovered. These arrangements are set out in four international conventions to which Australia is a party:

- For oil tankers:
  - the *International Convention on Civil Liability for Oil Pollution Damage 1992* (the 1992 Civil Liability Convention)
  - the *International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992* (the 1992 Fund Convention)
  - the Protocol of 2003 to the *International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992* (the 2003 Supplementary Fund Protocol); and
- For non-tankers (i.e. all other vessels)
  - *International Convention on Civil Liability for Bunker Oil Pollution Damage 2000* (the Bunkers Convention).

The ability to utilise cost recovery arrangements relies on the ability to identify the polluter and to prove that they have appropriate insurance cover. The only exception is where it can be demonstrated that a so-called ‘mystery’ spill originated from an oil tanker. In such circumstances the Fund Convention mentioned above may meet clean-up costs and compensation.

## 7.3 Domestic maritime arrangements

While the international conventions mentioned above have similar applications in terms of directly incurred costs of pollution response, the conventions are, in general, far broader in their scope and application than the National Plan arrangements. Types of claims that may be accepted under the international conventions that are not part of the National Plan arrangements include:

- **consequential loss** – loss of earnings suffered by the owners or users of property contaminated as a result of a spill, for example the loss of income by a fisher as a result of their nets being contaminated
- **pure economic loss** – loss of earnings sustained by persons whose property has not been polluted, for example a hotelier whose premises are closed due to a contaminated public beach
- **damage to property**, such as repair or cleaning of boats not involved in response activity, or cost of repairing roads or jetties damaged by clean-up operations.

Where Commonwealth/state/Northern Territory agencies are unable to recover costs that have been incurred in responding to pollution incidents in Australia or may have difficulty in meeting financial commitments while waiting for reimbursements from the shipowner/P&I Club, AMSA may reimburse the operational or response costs. For shipping incidents, the National Plan Strategic Coordination Committee has agreed to apply the *Claims Management Guidelines*.

## 7.4 Offshore petroleum sector arrangements

The OPGGSA and Environment Regulations require that, prior to accepting an EP for an offshore petroleum activity, NOPSEMA must be reasonably satisfied that a titleholder has sufficient financial assurance to meet the costs, expenses and liabilities that may arise from a petroleum incident. Relevant credible costs and expenses and how titleholders can establish and maintain compliance with the financial assurance duty are detailed in the NOPSEMA Guideline – Financial assurance for petroleum titles.

## Index

ALARP .....	15	Environment Plan .....	15, 43
AMOSOC Core Group .....	39	Environment Protection and Biodiversity Conservation Act .....	14
AMOSPlan .....	ix, 39, 41, 51, 56	Environmental rehabilitation .....	62
Antarctic .....	12, 14, 55	Environmental, scientific and technical advice .....	43, 53
Australasian Inter-service Incident Management System (AIIMS).....	vii, 31, 48, 49	Equipment stockpiles .....	40, 41, 56
Australian Emergency Management Arrangements .....	2	Exercises .....	45
Australian Exclusive Economic Zone (EEZ).....	6	External territories.....	6, 55
Australian Institute of Petroleum (AIP).....	26	Fixed Wing Aerial Dispersant Capability (FWADC) .....	42, 56
Australian Local Government Association .....	18	Funding arrangements .....	68
Australian Marine Oil Spill Centre (AMOSOC).....	ix, 26	Geographic information systems .....	53
Australian Maritime Safety Authority Act.....	13	Global Response Network (GRN) .....	x, 26
Australian Qualifications Framework .....	44	Great Barrier Reef Marine Park Authority (GBRMPA) .....	30
Ballast water .....	5	Great Barrier Reef Marine Park Authority Act.....	14
Bunkers .....	69	Hazardous and noxious substance (HNS) .....	x, 5, 11, 12, 57
Change of Control Agency .....	ix, 22, 25, 54, 68	HNS response .....	57
Chemical terminal .....	ix, 5, 41, 48, 52	Incident.....	x, 49
Christmas Island .....	55	Incident classification.....	49
Claims Management Guideline.....	68	Incident Controller.....	x
Coastal Waters .....	ix, 6	Incident Management System .....	48
Command .....	ix	Incident Management Team (IMT).....	x, 22, 49
Community.....	ix, 37, 66	Infrastructure.....	x, 2, 48, 50, 64
Community engagement.....	37	Internal waters .....	x
Contingency planning .....	36	International Convention for the Prevention of Pollution from Ships (MARPOL) .....	11
Control Agency .....	5, 29, 48, 56, 61, 62, 63	International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC).....	2, 16, 20, 26
Convention for the Protection of the Natural Resources and Environment of the South Pacific Region (see also SPREP).....	16	International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage .....	12, 69
Convention on Limitation of Liability for Maritime Claims .....	12	International Convention Relating to Intervention on the High Sea in Cases of Oil Pollution Casualties (Intervention Convention).....	2, 30
Coordination .....	ix, 23, 56	International Maritime Organization (IMO) .....	2, 29
Cost recovery.....	7, 10, 68	International Petroleum Industry Environmental Conservation Association (IPIECA) .....	26
Council of Australian Governments .....	3, 18, 23	International support.....	26
Doctrine.....	ix		
Emergencies of National Consequence .....	23		
Emergency.....	ix		
Emergency towage.....	5, 20, 28, 32		

Marine debris .....	5	Polluter pays' principle.....	xi, 65
Marine pests .....	5	Port Authority .....	xi
Marine pollution .....	x, 5	Port waters.....	xi
Maritime Assistance Service (MAS).....	vii, 29	Protection & Indemnity Clubs (P&I Clubs).....	68
Maritime casualty.....	x, 5, 30, 31	Protection of the Sea (Powers of Intervention) Act .....	13, 29, 30
Maritime Casualty Control Unit (MCCU).....	vii, 31	Protection of the Sea (Prevention of Pollution from Ships) Act .....	13
Maritime facility .....	xi, 55, 56	Protection of the Sea Levy .....	xi, 4, 68
Maritime Powers Act.....	14	Recovery.....	62, 63, 64, 65
Maritime Safety Queensland (MSQ).....	vii, 30, 57	Registered Training Organisation (RTO).....	xiii, 44
Maritime Transport and Offshore Facilities Security Act .....	56	Response escalation .....	52
Model Arrangements for Leadership During Emergencies of National Consequence .....	23	Response phase monitoring .....	53
Mutual aid arrangements .....	16, 41	Responsible Agency (see Control Agency) .....	xiii
National Disaster Resilience Statement .....	3	Responsible Party .....	xiii, 26, 65
National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) .....	vii, 13, 15, 23, 36, 70	Risk Assessment .....	3
National Plan Strategic Coordination Committee (NPSCC).....	vii, 18, 19, 22	Seas and Submerged Lands Act .....	3
National Plan Strategic Industry Advisory Forum (NPSIAF).....	vii, 18, 19	SOLAS .....	viii, 30
National Principles for Disaster Recovery .....	63	South Pacific Regional Environment programme (SPREP) (see also PACPLAN).....	viii
National Response Team (NRT).....	viii, 20, 39, 56	Stakeholders .....	23
Norfolk Island.....	55, 57	Support Agency .....	xii, 22
Offshore Petroleum and Greenhouse Gas Storage Act .....	viii, 4, 13, 15, 28	Timor Sea Joint Petroleum Development Area (JPDA).....	vii
Offshore petroleum facility.....	7	TorresPlan.....	xii, 55
Offshore petroleum sector/AMSA MOU .....	42, 56	Traditional owners .....	4
Oil Pollution Emergency Plan (OPEP).....	15	Trajectory modelling .....	53
Oil (see petroleum).....	xi	Transport and Infrastructure Council (the Council) .....	18
Oil spill control agents (OSCAs) .....	43	United Nations Convention on the Law of the Sea (UNCLOS) .....	2, 11
Oil Spill Response Ltd (OSRL) .....	viii		
Oil terminal.....	xi		
PACPLAN (See also SPREP).....	xiii, 16		
Petroleum.....	xi		
Physical damage .....	5		
Place of refuge.....	xi, 34		





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