



## MINISTER FOR THE ENVIRONMENT AND WATER

Departmental No. 234

### Minute Paper for the Executive Council

Executive Council

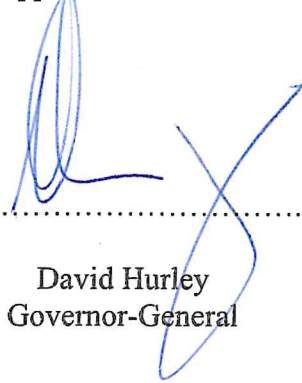
Meeting No. 12

#### Subject

*Environment Protection and Biodiversity Conservation Act  
1999*

*Environment Protection and Biodiversity Conservation  
Amendment (Macquarie Island Marine Park) Proclamation  
2023*

Approved in Council



David Hurley  
Governor-General

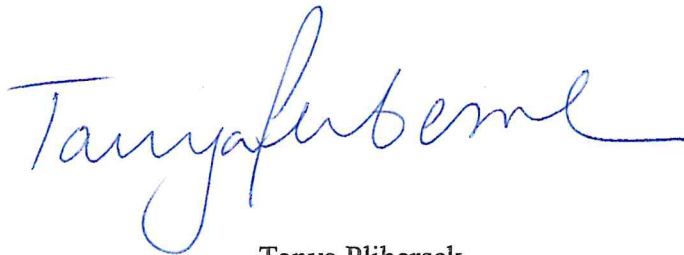
19 June 2023

Filed in the Records  
of the Council



Secretary to the Executive Council

Recommended for the approval of His Excellency the  
Governor-General in Council that he amend a  
Proclamation in the attached form.



Tanya Plibersek  
Minister for the Environment and  
Water

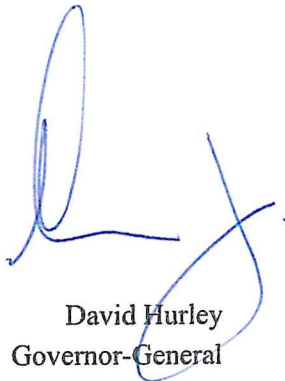


## Environment Protection and Biodiversity Conservation Amendment (Macquarie Island Marine Park) Proclamation 2023

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Proclamation.

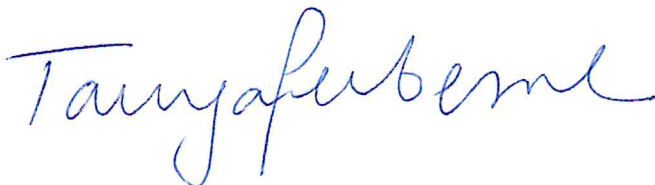
Signed and Sealed with the  
Great Seal of Australia on

19 June 2023



David Hurley  
Governor-General

By His Excellency's Command



Tanya Plibersek  
Minister for the Environment and Water

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## 1 Name

This instrument is the *Environment Protection and Biodiversity Conservation Amendment (Macquarie Island Marine Park) Proclamation 2023*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

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Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 July 2023.	1 July 2023

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Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under subsection 350(1) of the *Environment Protection and Biodiversity Conservation Act 1999*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## Schedule 1—Amendments

### *Proclamation - Macquarie Island Marine Park*

#### 1 Paragraph (a)

Omit “specified in the Schedule to be a Park”, substitute “described in clause 3 of Schedule 1 to be a Commonwealth reserve”.

#### 2 Paragraph (b)

Omit “Park” (first occurring), substitute “reserve”.

#### 3 Paragraph (c)

Omit “Park”, substitute “reserve”.

#### 4 At the end of paragraph (c)

Add:

; and (d) specify that the reserve has the following purposes:

- (i) to protect and conserve biodiversity and other natural, cultural and heritage values;
- (ii) to provide for ecologically sustainable use that supports positive social and economic outcomes; and
- (e) assign the reserve to IUCN category II (national park); and
- (f) divide the reserve into the zones identified in Schedule 1; and
- (g) assign each zone to an IUCN category specified for the zone in Schedule 1.

#### 5 Schedule

Repeal the Schedule, substitute:

### **Schedule 1—Macquarie Island Marine Park**

Note: See paragraphs (a), (f) and (g).

#### 1 Definitions

Note: A number of expressions used in this Schedule are defined in the *Environment Protection and Biodiversity Conservation Act 1999*, including exclusive economic zone and IUCN category.

In this Schedule:

*coastal waters* means, in relation to a State, that part of the sea that is included in the coastal waters of the State (within the meaning of the *Coastal Waters (State Powers) Act 1980*).

#### 2 Geographic coordinates

Geographic coordinates in this Schedule are expressed in terms of Geocentric Datum of Australia 1994.

Note: The Geocentric Datum of Australia 1994 (also known as GDA94) was published in Gazette No. GN 35 of 6 September 1995.



### 3 Area of reserve

The Macquarie Island Marine Park consists of an area in the Southern Ocean that is enclosed by:

- (a) the boundary of the outer limit of Australia's exclusive economic zone adjacent to Macquarie Island; and
- (b) the boundary of the seaward limit of the coastal waters around Macquarie Island.

### 4 Zones for reserve

- (1) The Macquarie Island Marine Park is divided into the following zones:
  - (a) the sanctuary zone described in clause 5;
  - (b) the national park zone described in clause 6;
  - (c) the habitat protection zone described in clause 7.
- (2) The sanctuary zone described in clause 5 is assigned to IUCN category Ia (strict nature reserve).
- (3) The national park zone described in clause 6 is assigned to IUCN category II (national park).
- (4) The habitat protection zone described in clause 7 is assigned to IUCN category IV (habitat/species management area).

### 5 Zone 1 of reserve—sanctuary zone

Zone 1 of the reserve (also identified as semacsan01) consists of an area east of Macquarie Island that is bounded by the line commencing at the point described in item 1 of the following table and running progressively as described in the table.

Zone 1 of reserve—sanctuary zone	
Item	Description
1	The point of latitude 54°00'00"S, longitude 159°05'00"E
2	South-easterly along the geodesic to its intersection with the outer edge of the exclusive economic zone closest to the point of latitude 54°58'01.01"S, longitude 164°38'42.07"E
3	Generally southerly along the outer edge of the exclusive economic zone to the point closest of latitude 56°30'37.74"S, longitude 164°03'25.04"E
4	North-westerly along the geodesic to the point on the seaward limit of the coastal waters around Bishop and Clerk Islands closest to latitude 55°10'23.16"S, longitude 158°40'35.03"E
5	Anti-clockwise around the seaward limit of the coastal waters around Bishop and Clerk Islands to the point closest to latitude 55°06'40.56"S, longitude 158°35'23.65"E
6	North-westerly along the geodesic to the point on the seaward limit of the coastal waters around Macquarie Island closest to latitude 54°45'04.42"S, longitude 158°41'24.15"E
7	Anti-clockwise around the seaward limit of the coastal waters around Macquarie Island to the point closest to latitude 54°29'23.00"S, longitude 158°46'29.01"E
8	North-easterly along the geodesic to the point on the seaward limit of the coastal waters around Judge and Clerk Island closest to latitude 54°21'25.00"S, longitude 158°54'24.61"E
9	Anti-clockwise around the seaward limit of the coastal waters around Judge and Clerk

**Zone 1 of reserve—sanctuary zone**

Item	Description
	Islands to the point closest to latitude 54°20'58.75"S, longitude 159°05'00"E
10	North along that meridian of longitude 159°05'00"E to the point of commencement

**6 Zone 2 of reserve—national park zone**

Zone 2 of the reserve (also identified as semacnpz02) consists of an area that is bounded by the line commencing at the point described in item 1 of the following table and running progressively as described in the table.

**Zone 2 of reserve—national park zone**

Item	Description
1	The point of latitude 52°42'26"S, longitude 161°09'04"E
2	South-westerly along the geodesic to the point of latitude 54°03'59.68"S, longitude 159°25'00"E
3	South-easterly along the geodesic to its intersection with the outer edge of the exclusive economic zone closest to the point of latitude 54°58'01.01"S, longitude 164°38'42.07"E
4	Anti-clockwise along the outer edge of the exclusive economic zone to the point closest to latitude 56°30'37.74"S, longitude 164°03'25.04"E
5	North-westerly along the geodesic to the point of latitude 55°13'0.65"S, longitude 158°50'00"E
6	South along the meridian of longitude 158°50'00"E to its intersection by the parallel of latitude 57°00'00"S
7	West along the parallel of latitude 57°00'00"S to its intersection by the meridian of longitude 158°2'15"E
8	North along the meridian of longitude 158°02'15"E to its intersection by the parallel of latitude 53°53'57"S
9	North-easterly along the geodesic to the point latitude 52°42'26"S, longitude 159°16'50"E
10	East along the parallel of latitude 52°42'26"S to the point of commencement

**7 Zone 3 of reserve—habitat protection zone**

Zone 3 of the reserve (also identified as semachpz03) consists of an area west of Macquarie Island that is bounded by the line commencing at the point described in item 1 of the following table and running progressively as described in the table.

**Zone 3 of reserve—habitat protection zone**

Item	Description
1	The point of latitude 52°42'26"S, longitude 159°16'50"E
2	East along the parallel of latitude 52°42'26"S to its intersection by the meridian of longitude 161°09'04"E
3	South-westerly along the geodesic to the point of latitude 54°03'59.68"S, longitude 159°25'00"E
4	North-westerly along the geodesic to the point of latitude 54°00'00"S, longitude 159°05'00"E

<b>Zone 3 of reserve—habitat protection zone</b>	
<b>Item</b>	<b>Description</b>
5	South along that meridian of longitude 159°05'00"E to the point on the seaward limit of the coastal waters around Judge and Clerk Islands closest to latitude 54°20'58.75"S, longitude 159°05'00"E
6	Anti-clockwise around the seaward limit of the coastal waters around Judge and Clerk Island to the point closest to latitude 54°21'25.00"S, longitude 158°54'24.61"E
7	South-westerly along the geodesic to the point on the seaward limit of the coastal waters around Macquarie Island closest to latitude 54°29'23.00"S, longitude 158°46'29.01"E
8	Anti-clockwise around the seaward limit of the coastal waters around Macquarie Island to the point closest to latitude 54°45'04.42"S, longitude 158°41'24.15"E
9	South-easterly along the geodesic to the point on the seaward limit of the coastal waters around Bishop and Clerk Island closest to latitude 55°06'40.56"S, longitude 158°35'23.65"E
10	Anti-clockwise around the seaward limit of the coastal waters around Bishop and Clerk Islands to the point closest to latitude 55°10'23.16"S, longitude 158°40'35.03"E
11	South-easterly along the geodesic to the point of latitude 55°13'00.65"S to its intersection by the meridian of longitude 158°50'00"E
12	South along the meridian of longitude 158°50'00"E to its intersection by the parallel of latitude 57°00'00"S
13	West along the parallel of latitude 57°00'00"S to its intersection by the meridian of longitude 158°02'15"E
14	North along the meridian of longitude 158°02'15"E to its intersection by the parallel of latitude 53°53'57"S
15	North-easterly along the geodesic to the point of commencement



## EXPLANATORY MEMORANDUM

Minute No. 234 of 2023 – Minister for the Environment and Water

Subject - *Environment Protection and Biodiversity Conservation Act 1999*

*Environment Protection and Biodiversity Conservation Amendment  
(Macquarie Island Marine Park) Proclamation 2023*

The purpose of the proposed Proclamation is to amend the existing proclamation for the Macquarie Island Marine Park to expand its size as a Commonwealth reserve.

The *Environment Protection and Biodiversity Conservation Act 1999* (the Act) seeks, among other things, to: provide for the protection of the environment; promote the conservation of biodiversity; enhance protection and management of important natural and cultural places; and promote ecologically sustainable development through the conservation and ecologically sustainable use of natural resources. Commonwealth reserves contribute to these objectives.

Subsection 344(1) of the Act provides that the Governor-General may, by Proclamation, declare as a Commonwealth reserve an area of land or sea. This includes an area of sea in a Commonwealth marine area, a term that is defined in section 24 of the Act. The Governor-General may also make, revoke or amend such a Proclamation by another Proclamation in accordance with subsection 350(1).

Subsection 346(1) of the Act provides that a Proclamation must give the reserve a name, state the purposes for which the reserve is declared, state the depth of any land or seabed included in the reserve and assign the reserve to an International Union for Conservation of Nature (IUCN) category.

The Macquarie Island Marine Park was established by a Proclamation under the National Parks and Wildlife Conservation Act 1975 (NPWC Act) on 27 October 1999. The NPWC Act was replaced by the Act on 16 July 2000. The Proclamation of the Macquarie Island Marine Park was continued in force by the *Environmental Reform (Consequential Provisions) Act 1999* (Schedule 4, item 3) as if it had been declared a Commonwealth reserve under the EPBC Act.

The proposed Proclamation would expand and amend the existing Macquarie Island Marine Park to provide for:

- the protection and conservation of biodiversity and other natural, cultural and heritage values; and
- ecologically sustainable use that supports positive social and economic outcomes.

Details of IUCN categories relevant to the proposed Proclamation are at Attachment A. The areas that would now be included in the proposed marine park is shown at Attachment B.

If the Proclamation is made, a new management plan for the South-east Marine Parks Network (including the Macquarie Island Marine Park) will be created in accordance with sections 366 to 370 of the Act.

From late 2022 and throughout 2023 Parks Australia consulted with relevant Commonwealth and state government agencies (including from the Office of Impact Assessment and the environment and fisheries management portfolios) and interested stakeholders including relevant commercial fishing operators and conservation groups. These preliminary consultations helped to inform preparation of a draft proposal.

Following this, the Director of National Parks (the Director) invited the public to make comment on a draft proposal to amend the marine park from 20 March to 22 May 2023. Consistent with subsections 351(2) and (3), the Director of National Parks (the Director) invited public comments on the *Notice of a proposed proclamation to alter the boundaries of the Macquarie Island Marine Park* published in the Gazette for a period from 20 March to 22 May 2023. 14,736 submissions were received, the vast majority of which supported the proposal. After considering the submissions and the Director's report, the Minister for the Environment and Water recommended the proposed Proclamation to the Governor-General.

The Act specifies that the conditions in section 347 and 351 must be satisfied before the Governor-General power may make the proposed Proclamation. Section 347 requires the Minister to be satisfied that the proposed reserves and zones within the proposed Commonwealth reserves have the characteristics and meet the criteria (if any) prescribed by the regulations for the category, and that the reserves should be managed in accordance with the Australian IUCN reserve management principles for the IUCN category to which the reserves and zones are proposed to be assigned. The regulations do not prescribe any matters for the purpose of section 347. Subsection 351(1) requires the Minister to consider a report prepared by the Director on the matter to be dealt with by the Proclamation.

The proposed Proclamation would be a legislative instrument for the purposes of the *Legislation Act 2003*. The Proclamation would commence on 1 July 2023.

The Minute recommends that the proposed Proclamation be made in the form proposed.

In accordance with subsection 351(1) of the Act, I have considered the report prepared by the Director on the matter to be dealt with by the proposed Proclamation.

In accordance with paragraph 347(b) of the Act, I am satisfied that the proposed Commonwealth reserve and zones within the proposed reserve should be managed in accordance with the Australian IUCN reserve management principles for the category to which the reserve and zones are proposed to be assigned.



Minister for the Environment and  
Water

Authority: Subsections 344(1) and  
350(1) of the  
*Environment Protection and Biodiversity  
Conservation Act 1999*



International Union for the Conservation of Nature (IUCN) categories are an internationally defined set of management categories used for consistency in comparing protected areas across Australia and internationally.

In accordance with paragraph 346(1)(e) of the Act, a Proclamation declaring an area to be a Commonwealth reserve must assign the reserve to an IUCN category that is prescribed in Division 10.6 of the *Environment Protection and Biodiversity Conservation Regulations 2000* (the Regulations). In addition, subsection 346(2) of the Act allows a Proclamation to divide a reserve into zones and assign each zone to an IUCN category.

The Proclamation assigns the reserve to IUCN category II and divides the reserve into zones of IUCN categories Ia, II and IV.

In accordance with section 348 of the Act the Australian reserve management principles for each IUCN category are contained in Schedule 8 of the Regulations. Management of the Commonwealth reserve would be consistent with those principles. The management principles for the relevant IUCN categories are as follows:

**Category Ia: Strict nature reserve:**

- The reserve or zone should be managed primarily for scientific research or environmental monitoring based on the following principles.
- Habitats, ecosystems and native species should be conserved in as undisturbed a state as possible.
- Genetic resources should be maintained in a dynamic and evolutionary state.
- Established ecological processes should be maintained.
- Structural landscape features or rock exposures should be safeguarded.
- Examples of the natural environment should be secured for scientific studies, environmental monitoring and education, including baseline areas from which all avoidable access is excluded.
- Disturbance should be minimised by careful planning and execution of research and other approved activities.
- Public access should be limited to the extent it is consistent with these principles.

**Category II: National park:**

- The reserve or zone should be protected and managed to conserve its natural condition according to the following principles.
- Natural and scenic areas of national and international significance should be protected for spiritual, scientific, educational, recreational or tourist purposes.



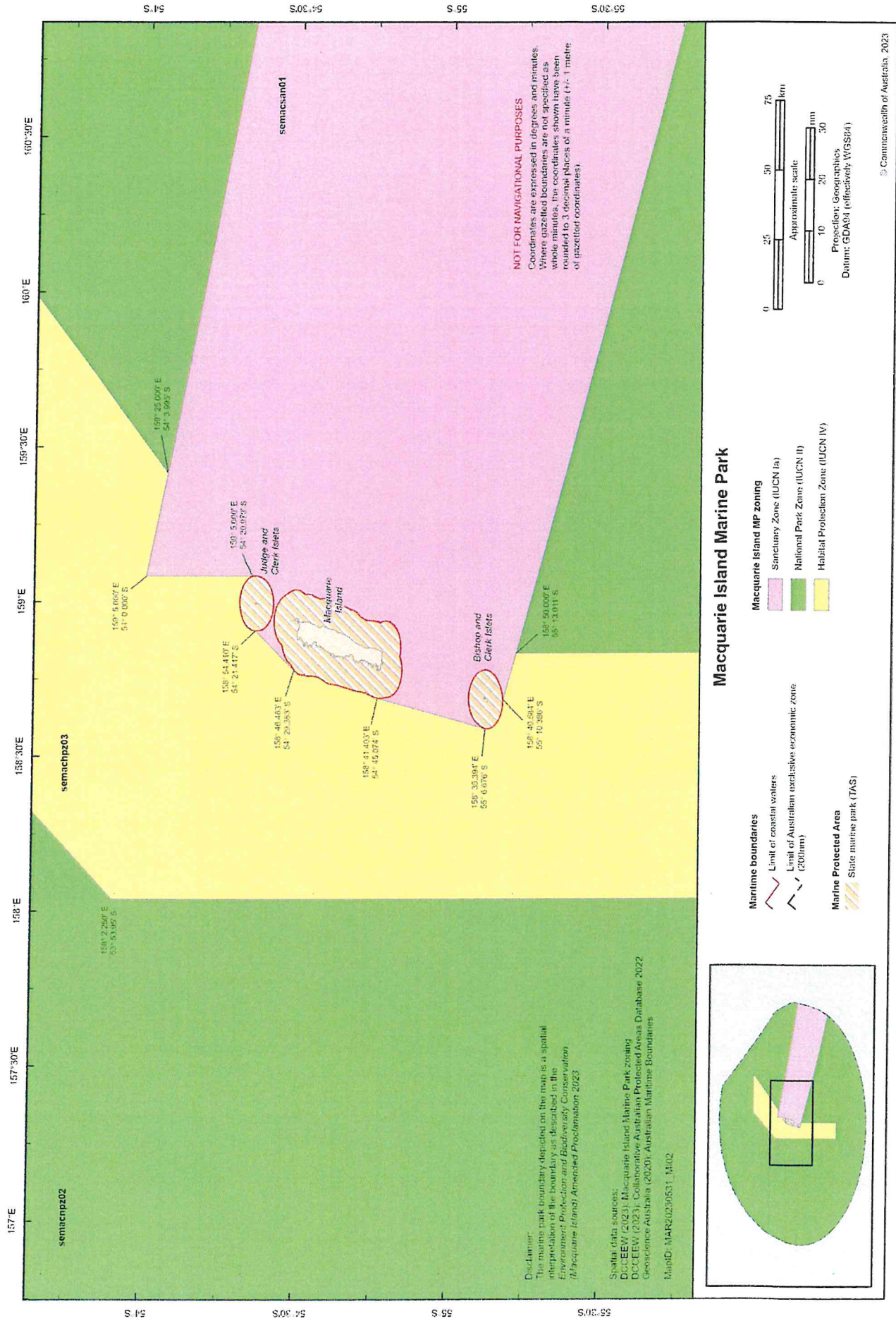
- Representative examples of physiographic regions, biotic communities, genetic resources, and native species should be perpetuated in as natural a state as possible to provide ecological stability and diversity.
- Visitor use should be managed for inspirational, educational, cultural and recreational purposes at a level that will maintain the reserve or zone in a natural or near natural state.
- Management should seek to ensure that exploitation or occupation inconsistent with these principles does not occur.
- Respect should be maintained for the ecological, geomorphologic, sacred and aesthetic attributes for which the reserve or zone was assigned to this category.
- The needs of indigenous people should be taken into account, including subsistence resource use, to the extent that they do not conflict with these principles.
- The aspirations of traditional owners of land within the reserve or zone, their continuing land management practices, the protection and maintenance of cultural heritage and the benefit the traditional owners derive from enterprises, established in the reserve or zone, consistent with these principles should be recognised and taken into account.

**Category IV: Habitat/species management area:**

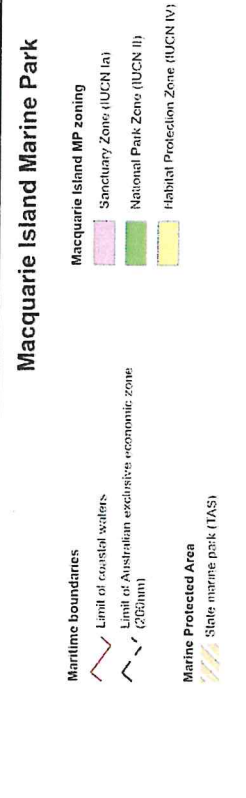
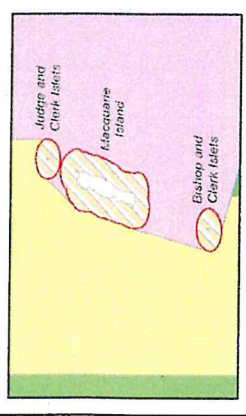
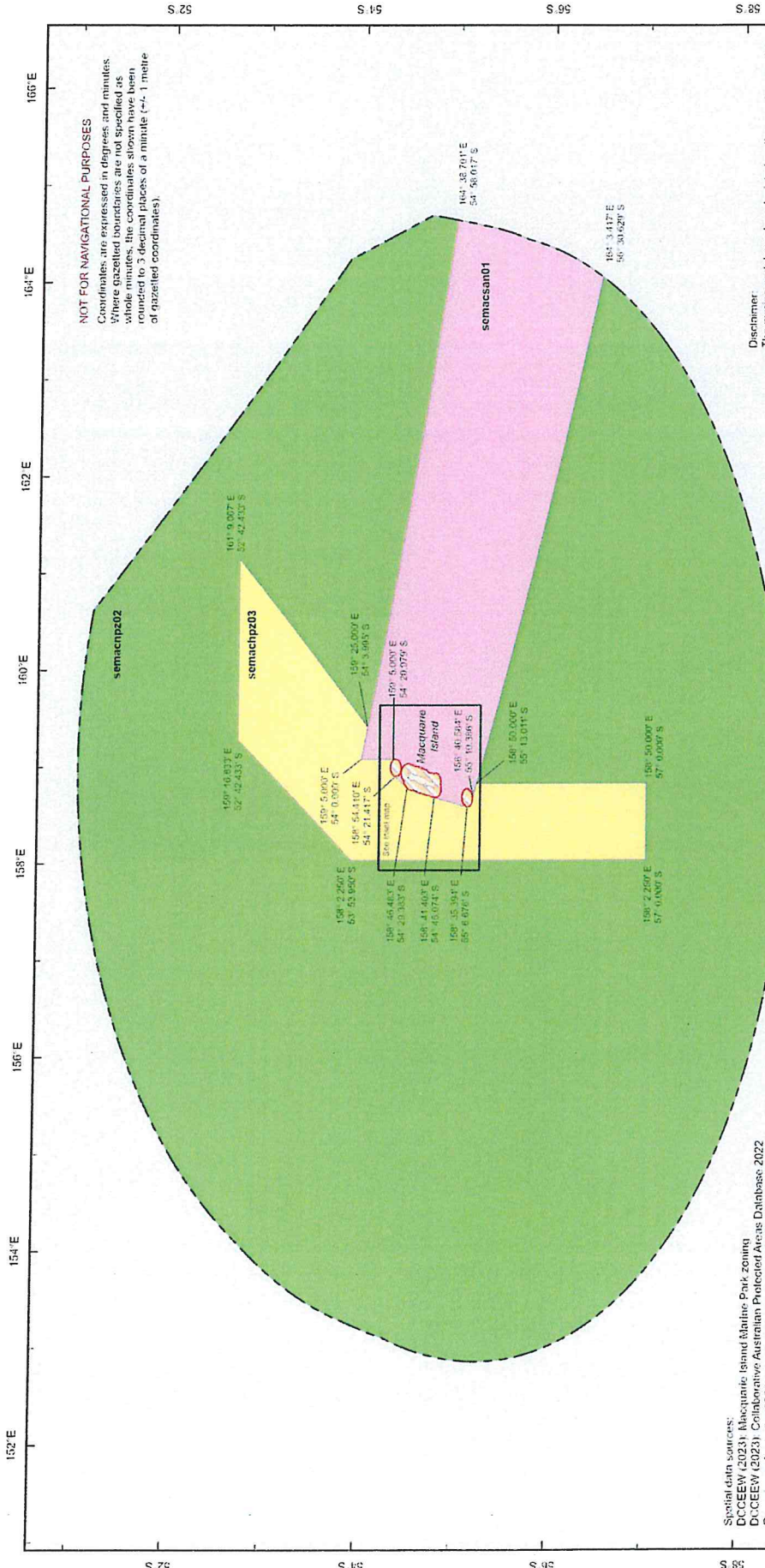
- The reserve or zone should be managed primarily, including (if necessary) through active intervention, to ensure the maintenance of habitats or to meet the requirements of collections or specific species based on the following principles.
- Habitat conditions necessary to protect significant species, groups or collections of species, biotic communities or physical features of the environment should be secured and maintained, if necessary through specific human manipulation.
- Scientific research and environmental monitoring that contribute to reserve management should be facilitated as primary activities associated with sustainable resource management.
- The reserve or zone may be developed for public education and appreciation of the characteristics of habitats, species or collections and of the work of wildlife management.
- Management should seek to ensure that exploitation or occupation inconsistent with these principles does not occur.
- People with rights or interests in the reserve or zone should be entitled to benefits derived from activities in the reserve or zone that are consistent with these principles.
- If the reserve or zone is declared for the purpose of a botanic garden, it should also be managed for the increase of knowledge, appreciation and enjoyment of Australia's plant heritage by establishing, as an integrated resource, a collection of living and herbarium specimens of Australian and related plants for study, interpretation, conservation and display.



**ATTACHMENT B**



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