

Proposal to expand Macquarie Island Marine Park



Photo: South-west coast of Macquarie Island (Noel Carmichael)

Report of the Director of National Parks
Under Section 351 of the Environment
Protection and Biodiversity
Conservation Act 1999

Concerning the expansion of
Macquarie Island Marine Park

June 2023



Australian Government
Director of National Parks



Australian
Marine Parks

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Acronyms

EEZ - Exclusive Economic Zone

EPBC Act - *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*

IUCN – International Union for the Conservation of Nature

IUCN Ia – Sanctuary Zone or pink zone

IUCN II – National Park Zone or green zone

IUCN IV – Habitat Protection Zone or yellow zone

NRSMPA – National Representative System of Marine Protected Areas



Photo: Black-browed albatross over water (Tony Harris)

1. Executive Summary

The Director of National Parks (Director) has finalised public consultation on a proposal to expand the Macquarie Island Marine Park.

A total of 14,695 campaign submissions¹ and 41 unique submissions were received from individuals and organisations. These submissions covered a wide range of subjects, but were overwhelmingly in support of the proposal to expand the Macquarie Island Marine Park, and generally in favour of the design proposed. Two submissions did not support the proposal and one submission was unclear as to whether they were supportive.

The Director has considered the comments received and provided her views in this report. The Director is of the view after considering the comments received, that the proclamation of the proposed expanded Macquarie Island Marine Park as described in the consultation proposal should proceed with two small boundary amendments. These amendments would see the Habitat Protection Zone extended approximately 17.6km to the south and the southern part of the zone extended approximately 15km to the east (map at Appendix A). This additional area is 3,682km² in size, or 0.77 per cent of the total area of the park.

The changes are recommended in consideration of the evidence provided by the relevant commercial fishing companies. This fishery represents the only existing extractive use of the area proposed for protection, and is generally recognised as a well-managed and ecologically sustainable industry. The Director believes these two changes will provide operational benefits for the sustainable management of existing fishing activities, including effective compliance enforcement, and will not detract materially from the overall conservation outcomes of the original proposal.

This final recommended design is based on scientific evidence and stakeholder consultation. It represents a globally significant contribution to conservation of a pristine habitat while allowing an ecologically sustainable and highly regarded fishery to continue its operations within an appropriate footprint.

¹ 'Campaign submissions' herein refers to submissions generated by individuals through a third-party website and generally provided the same or similar comments

2. Introduction

This report has been prepared in accordance with section 351 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) for consideration by the Minister for the Environment, in relation to the proposed expansion of Macquarie Island Marine Park.²

This report:

- Summarises the comments received in response to an invitation issued by the Director under section 351 of the EPBC Act, on the Environment Protection and Biodiversity Conservation Amendment (Macquarie Island Marine Park) Proclamation 2023.
- Includes the Director's views on the comments.

Under the EPBC Act, the Director is required to provide a public comment period of at least 60 days on the proposal, before any amendments can be made to the current Macquarie Island Marine Park by the Governor General. Public consultation on the proposal was open from 20 March to 22 May 2023. The notice inviting comments on the proposal is published on the Australian Government Gazette: <https://www.legislation.gov.au/Details/C2023G00334>.

To inform the statutory consultation period, on 20 March 2023 a *Proposal to expand Macquarie Island Marine Park: Public consultation paper* ('consultation proposal') was released.

The consultation proposal primarily described the design (area, location and zoning) of the proposed expansion of Macquarie Island Marine Park and is available to be viewed on the Parks Australia website:

<https://parksaustralia.gov.au/marine/files/south-east/Updates/Proposal-to-expand-Macquarie-Island-Marine-Park-Public-consultation-paper.pdf>



Photo: King and Royal Penguins coming ashore (Kerry Steinberner Australian Antarctic Division)

² This version of the report has had editorial and stylistic changes made, such as corrections to language or layout, to the version presented to the Minister for the Environment. No changes have been made to the purpose, scope or substantive content of the report.

3. Summary of submissions and contents

3.1 Summary of submissions

In response to the consultation proposal, a total of 14,736 submissions were received. **Table 1** provides a breakdown of submissions.

Unique submissions were provided from a range of stakeholders, including research groups, conservation organisations, a seafood industry representative body, commercial fishing companies, and individuals.

In accordance with the EBPC Act, all comments made have been considered in this report, including unique comments made in campaign submissions (i.e. additional to template content). This report summarises the main comments received that were relevant to the proposed marine park design or future management, groups them into themes and sub-themes and provides the Director's views on the comments (see section 3.2.2).

Table 1: Summary of submissions supportive and unsupportive of the consultation proposal

Submission category by supportive/unsupportive	Number	Comments
Supportive (unique submissions, no changes to design)	27	There were 27 unique submissions in support of the consultation proposal (with no changes to the proposed marine park designs recommended). One of these included a non-statutory part to their submission, which was received outside the public comment period.
Supportive (unique submissions, with additional protection)	11	There were 11 unique submissions in support of the consultation proposal (with additional protections to the proposed marine park design recommended). Seven of these submissions were not supportive of commercial fishing in the marine park.
Supportive (campaign submissions)	14,695	There were three similar campaign text submissions generated through third party websites: <ul style="list-style-type: none"> • Australian Marine Conservation Society: 3204 submissions • Save Our Marine Life: 9125 submissions • DoGooder: 2296 submissions
Unsupportive (unique submissions)	2	Two unique submissions were unsupportive of the consultation proposal and provided an alternative design (from Seafood Industry Australia and a joint submission from two Macquarie Island Toothfish Fishery concession holders).
Unclear	1	One unique submission was unclear as to whether they supported the consultation proposal.
Total unique submissions	41	
Total campaign submissions	14,695	
Total submissions	14,736	

Table 2: Summary of unique submissions by sector

Sector	Number of submissions
Conservation (including environmental NGOs)	14
Research	8
General public	16
Industry	2
Government	1
TOTAL	41

Note: Appendix B provides more details about the specific sectors

3.2 Submission themes, comments and Director of National Parks views

3.2.1. Comments received in support of the proposed marine park design without any changes

There was widespread support across the submissions for the expansion of Macquarie Island Marine Park, with no changes to the design set out in the consultation proposal (i.e. location, area and zoning). This included support from researchers and conservation groups such as BirdLife Australia, World Wildlife Fund Australia, the Macquarie Island Conservation Foundation, the Australia Institute Tasmania and Australian Marine Sciences Association.

Across the submissions, the main points raised in support of the proposed design included the following:

- That the existing marine park is insufficient to adequately protect the biodiversity of the region.
- That the new design strikes the right balance between protecting natural values and enhancing resilience to future pressures, while allowing the well-managed and sustainable commercial fishery to continue operating – a fishery that has demonstrated good practice.
- That the proposal protects significant values in the region including:
 - the Macquarie Ridge and the seamounts towards the south of the Macquarie Ridge
 - benthic habitats and the species and communities they support
 - the pelagic environment, particularly the extensive seabird foraging habitat; and
 - the World Heritage Area and the importance of protecting and safeguarding these marine waters for future generations.



Photo: Wandering Albatross in flight (Kim Kliska Australian Antarctic Division)

- That the new design allows the existing fishery to operate in more than their current fishing area, while safeguarding the majority of the Macquarie Island EEZ from future potential extractive uses including potential future new fisheries, seabed mining, and bioprospecting.
- That the area is of global conservation significance and warrants high levels of protection, particularly given the increasing threat of climate change to the Southern Ocean. It provides a refuge in a truly remote area where ecological processes can be maintained under limited human influence. This expansion further establishes Australia as a global leader in best practice for marine park design.
- That large highly protected marine parks, like the proposed Macquarie Island Marine Park, are increasingly recognised as a key tool for addressing large-scale sustainability issues and providing protection for large amounts of core habitat, key life stages of migratory species and helping foster resilience to climate change impacts.
- That the expansion and increased protection are consistent with:
 - o increased global ambitions for marine conservation
 - o Australia's commitments to global conservation agreements and targets; and
 - o Australia's commitment to creating a comprehensive, adequate and representative systems of marine protected areas.

More specific comments and themes are outlined in detail in the sections further in this report.

Director of National Parks response

The Director considers these comments reaffirm the key considerations that underpinned the development of the consultation proposal (available on the Parks Australia website: <https://parksaustralia.gov.au/marine/files/south-east/Updates/Proposal-to-expand-Macquarie-Island-Marine-Park-Public-consultation-paper.pdf>)

In preparing the consultation proposal, Parks Australia undertook research and analysis about the significant conservation values of the region, and on the historical and current operations of the Macquarie Island Toothfish Fishery. The references used in the consultation proposal collectively informed our understanding of the values of the region, pressures on those values, and the design approach for the expanded park. The consultation proposal included 49 references, including from peer reviewed journals.

The Director acknowledges and welcomes detailed analyses of existing information and the new and updated information about natural values in the Macquarie Island EEZ provided through the public consultation process. These information sources have been useful in considering options for the final recommended design and will be important for developing management approaches and the next Management Plan for the park.

3.2.2 Comments in support of the proposed expansion subject to additional protection:

A subset of submissions supported the general proposal to expand the marine park but sought higher levels of protection through changes to zoning, allowable activities or park boundaries. Key comments included:

- that higher protection should be applied over the Macquarie Ridge;
- that all prospective fishing areas should be excluded from the Habitat Protection Zone and only current fishing grounds should be retained;
- that the size of the Habitat Protection Zone should be reduced to better protect sensitive and fragile ecosystems, particularly on the northern, north-eastern and southern edges;
- that IUCN Ia or IUCN II zoning should apply over the entire park; and
- that all public and commercial access to the island and surrounding waters should be limited.

Some submissions raised concerns about the vulnerability of this region and the need to protect it from human activities while it is still in a good condition. Several comments raised concerns about the impacts of demersal longlining on benthic erect sessile fauna. Comments noted that by constraining the size of the Habitat Protection Zone, previously unfished areas would not be damaged and historically fished areas can be left undisturbed to restore.

Two submissions commented that the marine park could be expanded to include the continental shelf where Macquarie Ridge extends to the south of the Macquarie Island EEZ. This area was said to include at least one prominent seamount and it was noted that protection of this seamount in the region would be consistent with the widely held global view that “no new seamounts should be subject to fishing”.

Director of National Parks response

The Director notes these perspectives and considers that the protection settings in the final recommended design are appropriate to protect the values of the region (including in the context of the minor amendments recommended by the Director, see below). Australian Marine Parks have the dual objectives of conservation and ecologically sustainable use. The Director is of the view that nature conservation and sustainable marine industries are not incompatible; they can and do co-exist and be mutually supportive. This is particularly the case in the Macquarie Island marine area, where the only fishery operating—the Macquarie Island Toothfish Fishery—is tightly managed and sustainable, with the companies operating there recognised internationally for their environmental performance.

The recommendation to zone all or most of the expanded marine park as IUCN Ia —instead of IUCN II— besides precluding any commercial activity (including low-impact nature-based tourism), would severely limit the ability of the Director to undertake research to improve our knowledge of the ecology of the area and inform the broader understanding of sub-Antarctic environments. Sanctuary Zones are ‘no-go’ zones, and would inhibit transit and research activities to an undesirable degree if applied generally.

The Director notes suggestions that the park be broadened to encompass the Extended Continental Shelf to the south of the Macquarie Island area but considers this to be beyond the scope of the current proposal and a matter for potential future separate consideration. To date, Australia has not declared any marine parks beyond its EEZ. Through Australia’s leadership and cooperation with like-minded countries the Biodiversity Beyond National Jurisdictions Treaty (High Seas Treaty) was recently agreed to at the United Nations and may create increased opportunities for international collaboration, including on marine science and marine protected areas on the high seas, in the future.

3.2.3 Comments not supportive of restrictions on commercial fishing and critical of the proposed marine park design

There were two submissions received that, while supportive of expanding the park, were critical of and did not support the proposed design and associated rules (Seafood Industry Australia and a joint submission from Austral Fisheries and Australian Longline).

The submissions stated that the proposed design would have significant impacts on the commercial fishing industry. These respondents were unconvinced that the entire Macquarie Island EEZ should be turned into a marine park and did not consider there would be conservation or management benefits from including the fishable grounds in the park under Category IV zoning.

A joint submission received from Austral Fisheries and Australian Longline, supported by Seafood Industry Australia proposed an alternative design. Under their design:

- The main area of the fishery would not be included in the marine park. This area would also extend slightly further south than compared to the consultation proposal's Category IV area (approximately 10 nautical miles) to include all past fishing activities in this area.
- A thin (approximately 8 nautical miles) north-south box south of the island would be retained as Category IV. This would provide operational flexibility to reduce the risk of losing fishing gear and being unable to retrieve it in the National Park Zone.
- Category IV zoning would be retained over 1 of the 6 seamounts in the south-east of the fishery (the one closest to the main fishing grounds); the submission noted that these seamounts are all potentially valuable fishing grounds, and that the current Macquarie Island Marine Park is zoned to allow for these areas to be fished.
- The submission claims that the alternative design would still see industry lose access to fishable (and some historically fished) ground at the northern and southern-most parts of Macquarie Ridge and access to fishable seamounts in the south-east of the fishery.

Director of National Parks response

The Director notes that several submissions supported the continuation of the existing fishery due to its reputation for sustainability and demonstrated minimal impacts on the environmental values of the region through their recent activities. The consultation proposal includes the Habitat Protection Zone for the purpose of enabling the continuation of a sustainable fishery. This is in recognition that the existing fishery is responsibly and tightly managed, deploys a low-risk gear type with stringent environmental monitoring requirements, and has a strong record of environmental performance.

The Director is of the view that some elements of the industry submissions should be accommodated in amendments to the consultation proposal, while other elements and recommendations should not be adopted.

The Director does not support the industry recommendation that the fishing area should be excised from the proposal, because:

- *Removing the area from the marine park altogether would see areas of the Macquarie Island World Heritage Area remain without appropriate levels of protection, and potentially expose the fragile and unique Macquarie Ridge habitats open to future—potentially destructive—activities, such as mining, drilling and bottom trawling.*
- *The Director's extensive experience in managing multiple use marine park zones across the national network of Australian Marine Parks demonstrates that sustainable fisheries and marine park protection can co-exist effectively and achieve improved environmental outcomes while imposing minimal additional administrative burden on fishers.*
- *Marine parks create significant benefits and opportunities for increased scientific research and monitoring, including through mutually beneficial partnerships with users that operate in marine parks, as the Australian Government co-invest in research and partnership programs that lead to better understanding of the ecosystems that support our marine resources and inform continuous improvement in sustainable practices.*

Similarly, the Director does not support the proposal to zone one of the seamounts in the southern part of the Macquarie Exclusive Economic Zone as Habitat Protection instead of National Park to allow fishing. The final recommended design accommodates all areas fished within the last 10 years and is appropriate to enable future sustainable fishing activity. Further, as a number of other submissions noted, these seamounts are some of the last, unfished seamounts in the world and are home to unique and fragile marine life.

Overall, the Director believes that, if effected, the two changes above (excluding fishing area from marine park and opening one of the southern seamounts to fishing) would significantly compromise the design of the proposed expansion, which received overwhelmingly positive support from all other submissions, and should not be accommodated.

Noting the operational concerns voiced by industry regarding the boundaries of the proposed Habitat Protection Zone, the Director recommends that two suggested amendments to the consultation proposal be adopted in the final recommended design, namely:

- *a small eastward extension of the Habitat Protection Zone eastern boundary to the south of the Island, and*
- *a small southward extension of the southern boundary of the Habitat Protection Zone.*

These changes are recommended in consideration of the evidence provided by the relevant commercial fishing companies. The Director is of the view that these two changes will provide operational benefits for the sustainable management of existing fishing activities (including reduced risk of non-compliance due to gear drift), while not detracting materially from the conservation outcomes of the original proposal. They would enable access to small additional areas that have been the subject of past fishing activity, and would not significantly affect the representativeness of the key ecological features of the area (representation of the Macquarie Ridge in highly protected zoning would be 59 per cent).

3.2.4 Comments on the natural values of the waters surrounding Macquarie Island

Most submissions raised points about the natural values in the area.

Several submissions noted that the existing marine park or marine protected area system in Australia does not adequately protect the biodiversity of the region. For example, the entire area west of the Macquarie Ridge, and most of the northern and southern parts of the ridge, are not protected by the existing marine park.

Many submissions re-iterated the benefits that the proposed design would have for natural values of the Macquarie Island marine environment outlined in the consultation proposal including geology and oceanography, benthic habitat and communities, pelagic habitats and seabirds, marine mammals, and fish. Several submissions provided more detailed responses. The main points raised were:

- That the proposed National Park Zone, covering 82 per cent of the Macquarie Island EEZ, and the existing Sanctuary Zone, covering 12 per cent of the area, together would provide high level protection for most of the bioregion's unique natural values, including various depth ranges, key biodiversity features, key foraging and migratory habitats for over 50 known species, and protection of pristine, globally significant geomorphic and benthic habitats.
- That the extension of the marine park to cover the Macquarie Island EEZ should be maintained as outlined in the proposal as the area is of global conservation significance and warrants the high levels of protection.
- That proactive, precautionary protection of isolated areas against exploitation is particularly important for habitats such as deep-sea and vulnerable marine ecosystems with long recovery times once disturbed.
- That the seamounts towards the south of the Macquarie Ridge are some of the last, unfished seamounts in the world, are home to unique and fragile marine life and should have a high level of protection.
- That an expanded Macquarie Island Marine Park would generate increased connectivity for ocean wildlife between highly to less protected marine park zones, and that pelagic wildlife were likely to experience greater conservation benefits from larger rather than smaller marine reserves.
- That the proposed park design would provide protection to pelagic environments – one of the world's least protected marine habitats.
- That the expansion of the Macquarie Island Marine Park will help improve protection of representative habitats in the Southern Ocean including:
 - o seamounts, currently under-protected; and
 - o ecological stepping-stones for Sub-Antarctic larval dispersal, connecting Sub Antarctic and polar wildlife.

Several comments reflected the importance of the area for seabirds as detailed in the consultation proposal, noting that of the 74 species of birds identified from Macquarie Island, eight are globally threatened, and that the four species of albatross are threatened by longline fishing. Key points raised were:

- That the protection of marine habitats is an internationally recognised conservation tool for seabirds.
- That the proposed expansion would support the recovery of seabird populations in the subantarctic, and the marine ecosystems in which they forage.
- That the proposed National Park Zone would ensure protection against future fisheries development in the extensive seabird foraging habitat.
- That the highest density of seabirds recorded in the Macquarie Island EEZ is west of Macquarie Ridge, particularly in the north-west sector, and the proposed National Park zoning over this area is a significant conservation outcome.
- That protection around Macquarie Island is important as millions of birds in the Northern Hemisphere are being lost due to avian flu.
- That the design would ensure that penguin colonies around Macquarie Island are not affected by introduced predators, over-fishing and, to a lesser extent, climate change.

Some submissions provided detailed newly analysed and consolidated information regarding natural values within the Macquarie Island EEZ. One submission provided the report Cresswell et al., 2023 *"The unique marine ecosystem surrounding Macquarie Island"*. This 74-page report provides a detailed analysis of existing scientific information available publicly for the area. Multiple submissions supported the 'independent and expert assessment' conducted by Cresswell et al., with several submissions referencing the information contained in this report.

One submission provided a preliminary analysis of tracking data for 11 species of marine seabird and marine mammal breeding on Macquarie Island and highlighted the importance of the Macquarie Island EEZ for these species.

There were also some comments made to update information provided in the consultation proposal.

Director of National Parks response

The Director welcomes these comments and considers that they reaffirm and build on the benefits of the proposed marine park to natural values outlined in the consultation proposal.

3.2.5 Comments about commercial fishing

Many submissions commented on commercial fishing as an activity in the marine park. These included a variety of comments on the Macquarie Island Toothfish Fishery, broadly covering three themes:

- support for the continuation of existing fishing operations;
- concerns about the impact of the proposed design on fishing operators; and
- concerns about the continuation of commercial fishing in the marine park.

Comments in support of continuation of existing fishing operations

A range of comments were received that supported the continuation of the Macquarie Island Toothfish Fishery, noting that it provides a best practice model for sustainable fisheries management. Two submissions provided detailed information on the Australian toothfish industry, including its history of operations, fishery management arrangements and sustainability certification. The majority of submissions thought that the proposed design struck the right balance between allowing this sustainable fishery to continue in a Habitat Protection Zone and increasing protection over the remaining areas.

Some submissions commented that the design does not displace the current commercial fishing in the area and that the Habitat Protection Zone includes more area than is currently fished. Some specific comments raised on this include:

- that the fishing companies can meet their total allowable catch quota in an area that is smaller than the proposed Habitat Protection Zone, meaning no loss to the actual fished areas;
- that the proposed park design would not impact catches of the current fishery because the catch limits are set for the stock residing in the whole of the Macquarie Island EEZ; and
- that the proposal is appropriate as it would not allow trawling within the marine park.

Some commented that they are supportive of the current commercial fishing area, as impact is currently relatively low on non-target species and there are minimal impacts on the overall environmental values, assuming the current footprint does not increase.

Some recommended that continuation of commercial fishing in the Habitat Protection Zone be contingent on current sustainable fishing methods continuing, and requirements that they operate under strict management and monitoring.

One comment said that they recognised the proposed Habitat Protection Zone led to some gaps in representation for the marine park, however it still allowed for an equitable outcome for a fishery that has demonstrated good practice.

Other comments noted that the proposed zoning should limit future extractive uses including more damaging fisheries.

Comments conveying concerns about the impact of the proposed design on fishing operators

Two submissions raised concerns that the proposal incorrectly implies that the fishing industry is unaffected by the proposed expansion design. A summary of the concerns raised include:

- That there would be market implications for Patagonian Toothfish being caught inside a marine park, citing a lack of understanding by Australians and the global community, that marine parks can allow sustainable extractive use. This misunderstanding may impact on the risk averse, high-end markets that purchase Patagonian Toothfish.
- That the proposal would impact investor confidence by increasing investment risk—for example, the risk of future restrictions on the fishery, such as zoning changes. This heightened risk environment could impact shareholder and investor confidence, including for necessary capital expenditure.
- That the proposal would introduce increased regulatory complexity due to compliance requirements under marine park management arrangements, in addition to Australian Fisheries Management Authority (AFMA) regulatory requirements.

- That the Government should acknowledge the proposed zoning would have negative impacts on the existing sustainable fisheries, including by removing existing and potential fishing grounds and methods.

There were also comments from these submissions, in support of retaining trawl as an allowable fishing method. The submissions noted:

- That trawl has been approved since 1994 in the region and has been certified by the Marine Stewardship Council as sustainable and well managed, with similar assessment scores to demersal longline.
- That under current fishery management arrangements, if a single seabird is caught in longline gear, that vessel must immediately cease fishing for the season. In the event this were to occur, the inability to send a trawl vessel to catch any uncaught quota, would result in a significant financial cost to industry.
- That the proposal does not present a compelling justification to prohibit trawl in the marine park, and that, should the trawl be excluded, the industry would seek structural adjustment support from the Commonwealth for the loss of this access right.

The two submissions also argued that the proposal does not adequately consider the potential for fish movement in response to climate change. It was noted that the current approach to marine spatial planning in Australia is ill-equipped to deal with challenges such as species adapting and moving with climate change. The submission suggests that Dynamic Ocean Management is a new management model that could be adopted (this comment is addressed in the Director's response under 3.2.6, with response to other comments related to climate change and its impacts). These submissions proposed an alternative design that reduces the impacts described above (described and considered in 3.2.3).

Comments conveying concerns about the continuation of commercial fishing in the marine park

Many submissions, both campaign and unique, made statements against commercial fishing occurring within the Macquarie Island Marine Park at all. Submissions concerned about the continuation of commercial fishing in the marine park raised the following points:

- That the proposed marine park would have potential environmental impacts from benthic fishing methods, the risk of bycatch of threatened or endangered species.
- That longlining should not be allowed due to the potential impacts on species such as albatrosses, vulnerable marine ecosystems and benthic fauna, except for ethically authorised research purposes.
- That the effects of demersal fishing in the benthic environment is relatively unknown and that based on science findings on bottom trawling fisheries, this practice should stop.
- That potting should not be allowed in the Habitat Protection Zone, as it is likely unnecessary for the existing fishery.
- That no increase in fishing quotas or fishing rights should be supported in the area.



Photo: King Penguins swimming (Eric Woehler)

- That harvesting of Patagonian Toothfish should be stopped due to their role in the ecosystem as prey for threatened species such as Elephant Seals, Sperm Whales and Colossal Squid.
- That current fishing pressure isn't viable on Patagonian Toothfish, and that the species is unaffordable to all except the very wealthy.

A number of submissions recommended that the ongoing authorisation of fishing in the Habitat Protection Zone be contingent upon demonstrating satisfactory maintenance of conservation of the benthic habitat.

Other submissions have recognised the importance of the Patagonian Toothfish industry, but wanted further consideration given to its impacts and the size and boundaries of the area in which fishing is allowed. They noted that the existing fishing operations have recorded low risk of seabird and marine mammal impacts but want further funds allocated to research on the impact of the fishery.

There were multiple concerns that new fisheries other than the current Macquarie Island Toothfish Fishery may be allowed to commence operations within the proposed marine park. This included concerns about krill fishing and new pelagic methods that could impact seabirds or marine mammal. Some submissions commented on recreational fishing, indicating that only this type of extractive use should be allowed.

Director of National Parks response

The Director notes that several submissions supported the continuation of the existing fishery due to its reputation for sustainability and demonstrated minimal impacts on the environmental values of the region. The Director recommends a final design that would allow this fishery to continue (see section 3.2.3).

The Director considers the final recommended design represents an appropriate balance between the imperatives to protect and conserve biodiversity while enabling sustainable economic activities. The Director acknowledges that the marine park zoning will preclude potential prospective extractive activities in the future and notes that consultations on the South-east Network management plan will provide further opportunities to consider and respond to the detailed suggestions on appropriate treatment of fishing activities within the Macquarie Island Marine Park.

The Director does not agree that marine parks and sustainable fishing are regarded as incompatible. Multiple-use zoning (which allows commercial fishing) makes up a significant proportion of the area of Commonwealth waters covered by Australian Marine Parks, and has provided an effective means of balancing the imperatives of environmental protection and sustainable economic activity. No impact on the marketability of Australia's seafood caught by fisheries operating within marine parks has been reported or claimed since active management of the national network of Australian Marine Parks commenced in 2018 (and, for the South-east Network, since 2013). The Director notes the submission from fishers regarding potential impacts on Australian Toothfish export markets and would welcome further engagement with industry on options to work with the fishing industry and fisheries managers to support strong messaging about the economic and conservation benefits of ecologically sustainable fisheries in Australian Marine Parks.

Similarly, based on the past decade of management of the South-east Network and elsewhere across the Australian Marine Parks estate, the Director is not aware of issues related to increased investment risk for commercial fishers due to them operating in marine parks (noting that in the context of the complex and multiple sovereign risks inherent in economic activities based on natural resources, attribution of any risk change to a single factor would be challenging). Australia has strong statutory rights and management arrangements that support fishing business development and operations, and these continue to apply to fishing activities allowed to operate in marine parks. Additionally, Management Plans for Australian Marine Parks are statutory instruments that provide for clear consultation steps associated with any potential future access change.

The Director believes that commercial demersal/benthic trawl is inconsistent with the objective of the consultation proposal, which aims to protect, among other environments, the fragile Macquarie Ridge habitats and native species. A key consideration is that commercial demersal trawl has not been allowed within the South-east Network, including Macquarie Island Marine Park, over the last 10 years and has not been employed by the Macquarie Island Toothfish Fishery since 2009.

The Director views the claim of additional regulatory impost from operating inside marine parks, as not supported by existing experience. As is the case in all the Australian Marine Parks zones where commercial fishing is allowed, the fishery will continue to be managed by the relevant fishery management agency, in this case the Australian Fisheries Management Authority. The Macquarie Island Toothfish Fishery is already subject to a class approval that allows access to operate in the current marine park's Habitat Protection Zone. The fishery will be subject to no further significant administrative overheads from the Director of National Parks when a new class approval is applied to the new Habitat Protection Zone to be created over the area currently fished. The Director notes that some matters raised in industry submissions (for example relating to quotas, season, or fishing rights) are matters for fisheries management rather than the Director of National Parks.

Regarding comments about limiting fishing in the park to recreational effort only, the Director is of the view that recreational fishing should not be allowed in the Macquarie Island Marine Park. Due to the extreme remoteness of the park and the prevailing sea conditions, this area is highly unlikely to be of interest to recreational fishers. Further details of park management will be determined through the upcoming management planning process.

The Director notes views that no fishing should be allowed within the Macquarie Island Exclusive Economic Zone at all, and that Patagonian Toothfish should not be fished. The Director believes however that allowing continuation of the Macquarie Island Toothfish Fishery is consistent with the Australian Government's multiple-use zoning approach to marine conservation, whereby a range of levels of protection (from highly protected areas to multiple use park zones) are employed to ensure the dual goals of conservation and sustainable use can coexist within the world's largest, continental-scale, representative system of marine protected areas.

The Director notes that the fishery deploys demersal longline, not pelagic longline, which is known to have more and often detrimental interactions with seabirds as highlighted in some submissions. The Director also notes that the ecological impacts of the Toothfish Fishery on the waters around Macquarie Island are relatively well understood, as the fishery has been closely monitored from its inception and has been the focus of considerable research. An extensive tagging program provides robust estimates of stock size, depletion and interactions of fishing gear with benthic habitat, in addition to studies on possible impacts on the food chain through removal of the target species on marine mammals and seabirds.

Bycatch and interactions with protected and threatened species are also well understood, as fishing operations have 100 per cent level of observer coverage, and no interactions with seabirds or marine mammals have been recorded in the past five years. The Director notes that the Patagonian Toothfish was assessed as not eligible for inclusion in the list of threatened species under the EPBC Act, as it could not be demonstrated to have met any of the criteria for listing.

Finally, regarding concerns about potential new and detrimental fisheries in the future, the Director's view is that any fishing gear that has the potential to impact the unique values of this area would be excluded from the Habitat Protection Zone, with details to be settled through provisions of the statutory Management Plan (currently being reviewed for the South-east Network).

3.2.6 Comments pertaining to environmental pressures

Comments pertaining to climate change pressures and impacts

Many of the submissions made reference to climate change and its relevance to the marine park environment. Key points included that:

- Highly protected marine parks provide safe refuge for wildlife to adapt to climate change, and that the proposed expansion of Macquarie Island Marine Park would help to foster resilience to climate change impacts in a region that is particularly vulnerable, by reducing pressures on marine species.
- The Macquarie Island region is important for mitigating ocean acidification and rising carbon dioxide levels in a changing climate.
- Scientific evidence demonstrates that the Antarctic region is impacted by climate change.
- Climate change has the potential to create major changes in the Southern Ocean, with knock-on effects for marine species (marine mammals, fish and sea birds) that are dependent on this complex ecosystem.
- The water in the Southern Ocean is heating at a rapid rate and that there is the need to consider additional measures to help strengthen and prevent further climate change impacts. Specifically, actions should explicitly recognise the need to limit increases to global average surface temperatures to as close as possible to 1.5°C.
- The observed softening in the krill due to climate change would have potential implications for whales, which rely on krill for food.
- In February 2022, Macquarie Island logged the hottest temperature on record (17°C), three degrees higher than the previous record.
- The Australia: State of the Environment 2021 report, highlights the general deterioration of Australia's ocean health through biodiversity loss, ecosystem degradation and species decline, through the cumulative impacts of climate change, as well as direct human impacts.
- There might be potential fundamental flaws in the current approach to spatial marine planning, in the context of the nature and magnitude of the changes that are taking place in marine systems, with species and ecosystems shifting as they seek to adapt. That "rigid lines on maps" were ill-equipped for these new challenges.
- Developments in technology may provide new capabilities to support consideration of climate change and species migration in spatial management.
- The creation of additional marine park areas around Macquarie Island may not bring additional conservation or management benefits, nor mitigate any climate change threat to the Macquarie Island marine environment.

Comments pertaining to human activity (including shipping and vessel transit, tourism, fishing and other activities)

There were many comments received across the unique submissions and campaigns that referred to human activity in the Commonwealth waters surrounding Macquarie Island. There were a range of views provided, including the following:

- Numerous submissions were not supportive of other potential extractive activities occurring in the park, such as seismic testing, krill fishing, bioprospecting, fracking, coal, oil and gas due to impacts on species and the ecosystem.
- Support for the proposed activities listed in the consultation proposal.
- Concern about illegal and unauthorised fishing, including the illegal toothfish trade.
- Concern about biosecurity risks and over exploitation from ill-considered tourism.
- Direct human impacts in the region are mostly limited to fishing and marine debris, but in the future could potentially include other extractive industries such as seabed mining.
- Due to isolation of the Macquarie Island Marine Park, most pressures are indirect excluding human-induced climate change, pollution from distant population centres and expansion of tourism.
- Recognised Australia's obligation to protect one of the few areas left globally with low levels of extractive use.

- Supportive of a general mining ban on and around Macquarie Island, as is the case on and around Antarctica.
- One submission was supportive of the inclusion of strictly managed commercial tourism in the National Park Zone as it enables this important ecosystem to be appreciated and hopefully encourage advocates.
- There should be further restrictions on visitor numbers to the island, both public and commercial.
- Allowing commercial fishing and shipping in the Habitat Protection Zone seemed counterproductive to the principles of protection.
- The threat of breeding albatrosses being killed through fishing and the impacts on breeding stocks of many different albatross species.
- Globally, marine debris (including plastic pollution) is an ongoing threat to our global oceans and to all marine creatures. This threat and its impacts on marine life will only continue to worsen into the future. Concerns about what will happen when it is out of sight at Macquarie Island.
- There should be protocols in place to mitigate and manage marine mammal ship strikes and chemical pollution spills.
- A need to be confident that under the definition of the Macquarie Island EEZ, Australia will not seek to explore or exploit the natural resources of the waters suprajacent to the seabed and of the seabed and its subsoil together with other activities such as the production of energy from water, currents and wind.

Director of National Parks response

The Director notes the wide range of feedback regarding pressures impacting on the Macquarie Island marine environment and considers that the final recommended design of the Macquarie Island Marine Park appropriately acknowledges these pressures. These matters will be considered in more detail through the development of the South-east Marine Park Network Management Plan.

The Director acknowledges that understanding and (where possible) managing the impacts of some threats (e.g. marine pollution, climate change) will require policy and regulatory interventions outside the scope of the current process, and will call for coordinated approaches, such as through partnerships with relevant organisations.

While marine parks cannot prevent the global, indirect impacts of climate change, as noted by several submissions, marine parks can build resilience and improve ecosystem health by reducing other pressures which enables these areas to better adapt to environmental changes.

The Director notes industry comments on the challenges that climate change and resulting ecological shifts pose for future spatial planning and management thinking, which are relevant both in the context of terrestrial and marine environments. The Director has recently released a Climate Change Statement, which sets out key principles that will guide the Director's planning for adaptation and resilience, and, over the next decade, will increase focus and investment on this critical policy area. While the associated proposal from industry to develop a "Future of Seafood" strategy is beyond the Director's remit, the Director would welcome future engagement on this subject. The Director also notes that the Government's commitment to develop a Sustainable Ocean Plan will present opportunities to foster cross-sectoral responses to emerging pressures such as climate change.

3.2.7 Comments on ongoing management of the marine park

Many submissions provided comment on the future management of an expanded Macquarie Island Marine Park. Across the submissions, the main points raised were:

- That there is a need for adequate funding and resources, to ensure best practise management, research and monitoring.
- That connectivity and cross-jurisdictional management between multiple protected areas should be improved, including across the Macquarie Island Marine Park, the Tasmanian Macquarie Island Nature Reserve and the Macquarie Island World Heritage Area.
- That future management programs should be precautionary, adaptive, long term, collaborative, low impact and enforceable.
- That management actions should recognise the interconnectedness between the species that inhabit Macquarie Island and surrounding waters.
- That proactive communications and marketing should be supported, to educate about the values of the park, and about how commercial fishing can co-exist with marine parks, particularly in relation to the Macquarie Island Toothfish Fishery.
- That regular fisheries independent surveys should be supported, to monitor the objectives of the marine park and monitor the response of Patagonian Toothfish and benthic ecosystems over time.
- That future expansion of other commercial fishing methods in the Habitat Protection Zone should be limited.
- That research should utilise non extractive methods for monitoring wildlife in highly protected areas, and bycatch mitigation research should be supported.
- That monitoring, surveillance and interception of commercial fishing activities by illegal or foreign fishing vessels should be undertaken.

Director of National Parks response

The Director acknowledges and welcomes comments in relation to future management of the expanded Macquarie Island Marine Park. Management arrangements for the expanded park will be established under the South-east Marine Parks Network Management Plan. There will be a separate statutory consultation process on the draft management plan. The Director will ensure these comments—together with those received as part of the separate and concurrent consultation on the South-east Network management review—are considered in developing the draft management plan.

3.2.8 Comments on national and international leadership

Many of the submissions referenced national and international initiatives relevant to the proposed expansion of Macquarie Island Marine Park. Commentary included the following:

- That the proposed expansion would see Australia's protected marine estate rise to 48 per cent, well above the 30 per cent benchmark as appropriate for a rich, well-developed nation with such outstanding marine diversity.
- That the fishing industry proposal would still result in more than 30 per cent of each of the 9 'Pew Assessment Zones' to be included in highly protected zoning, and thereby would contribute to the Government's 30x30 ambitions.
- Support for Australia's 30x30 commitment under COP15, and Australia's commitment to marine protection.
- That the expanded park boundaries along with the new High Seas agreement would facilitate increased protection across the Subantarctic region.
- That this expansion and subsequent increase in Australia's marine park 'footprint' should not detract from the need to continue to raise science-driven protection elsewhere in Australia.
- That the Australian Government should work with State Governments to include proportionate protection of State Waters in marine parks, and to improve integration and coordination across both levels of Government.
- That the revised Macquarie Island Marine Park's adherence to the National Representative System of Marine Protected Areas' principles of Comprehensiveness, Adequacy and Representativeness should serve as an example for a revision of all marine parks in the South-east Network.
- That enhancing the protection of the Macquarie Island World Heritage Area would demonstrate our commitment to protecting our national environment, particularly important in the context of the proposal to include the Great Barrier Reef World Heritage Area on the 'in-danger' list.

Director of National Parks response

Australia supports the 30x30 target adopted under the Kunming-Montreal Global Biodiversity Framework and is a member of the Global Ocean Alliance, High Ambition Coalition for Nature and People, and the High-Level Panel for a Sustainable Ocean Economy. As part of their agreement to work collectively to protect and conserve 30 per cent of Australia's marine areas by 2030, all Commonwealth, State and Territory Environment Ministers have agreed to explore opportunities for strengthening marine protection to secure the health of our ocean in the face of climate-related changes and other emerging pressures.

Australia has one of the world's largest and most sophisticated representative systems of marine protected areas, covering 45 per cent of Australian waters (or 4 million square kilometres). The Director notes that the Australian Government has indicated that it wants Australia to be at the forefront of global leadership on oceans and marine protection. In this context, the Director considers that international targets provide guidelines that should be considered a minimum, rather than an upper limit for marine protections.

3.2.9 Comments on the consultation process

Two submissions from the commercial fishing and seafood industry raised concerns about the transparency and fairness of the consultation process undertaken by Parks Australia on the proposed expansion. The specific concerns raised included:

- that the objectives of the proposed design appear to leave no room for meaningful industry engagement, and that industry engagement to date has occurred in good faith to no avail;
- that inadequate stakeholder engagement with the seafood sector and affected industry, would amount to a failure of obligations under the EPBC Act;
- that administrative law principles were not observed, to the detriment of transparency, fairness, proportionate outcomes and the opportunity for proper engagement; and
- that non-government organisations and international activists have inappropriately influenced the evidence and decision-making process.

The submissions note a desire to support efficient and transparent engagement processes into the future, built on partnerships and collaboration, listening and compromise.

Director of National Parks response

The Director has complied with statutory consultation requirements set out in the EPBC Act in preparing this report. This has included the minimum 60 day consultation period undertaken from 20 March to 22 May 2023, which invited comments on the draft proposal to expand Macquarie Island Marine Park.

In addition, the Director, through Parks Australia officials, had early engagement with the two companies with statutory fishing rights in the Macquarie Island Toothfish Fishery. This engagement took place over several months, was undertaken in collaboration with the Australian Fisheries Management Authority, and sought to better understand the operations of the Fishery and options and opportunities associated with the proposed expanded marine park. The Minister for the Environment and Water also met and subsequently had phone calls with representatives of the two companies.

The Director has made extensive efforts to afford all stakeholders with the opportunity to provide any comments on the proposal, including the fishing industry, prior to and during the formal statutory consultation process. The Director has considered all the comments provided as part of the proposal developed, including adjustments made to take into account the evidence provided by the fishing operators, where appropriate.

The Director looks forward to continuing to engage with industry and other stakeholders as management arrangements for the new park are elaborated through the South-east Network Management Plan.

3.2.10 Comments not relevant to this process

Some submissions provided comments on items that were not relevant to the proposed expansion of Macquarie Island Marine Park. These comments were reviewed but not considered further in this report and are therefore not recorded in depth.

Some examples include comments on:

- the success and importance of the eradication program that has taken place on Macquarie Island.
- The global significance of the Southern Ocean generally, and the need to increase protection across all jurisdictions.
- Slow progress of marine park proposals with the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR).
- Fisheries management concerns.

3.2.11 Non-statutory comments

One submission was provided after the public consultation period closed and has also been acknowledged in this report, but recorded under this separate heading. Key comments from this submission included:

- A comment on the commitment to the Kunming-Montreal Global Biodiversity Framework
- A comment on Australia's domestic commitments through the Australian Government's 2022 Nature Positive Plan: better for the environment, better for business.
- That the proposal is consistent with increased global ambitions for marine conservation as well as long-standing national science-based policy of creating comprehensive, adequate and representative systems of protected areas.

Additionally, 6 'DoGooder' campaign submissions were provided outside the consultation period from 23-31 May, and they did not provide any new comments.



Photo: Royal Penguins (Kim Kliska Australian Antarctic Division)

4. Recommended Park design in response to comments received

The final recommended design for the Macquarie Island Marine Park incorporates modest amendments from the consultation proposal released for public comments in March 2023 (see Director’s response under section 3.2.3). The final recommended design would result in a minor increase in the proportion of IUCN IV zone and a minor reduction in the area of the IUCN II zone, through two small extensions to the southern part of the Habitat Protection Zone.

The final recommended design provides for the existing IUCN Ia to remain in place, considering its value as an important foraging ground for seabirds, seals and penguins that breed on the island. Most areas of the previous Habitat Protection Zones (IUCN IV), in addition to the new park area would become an IUCN II zone. A new Habitat Protection Zone (Macquarie IUCN IV) would be established to allow for continued fishing activity.

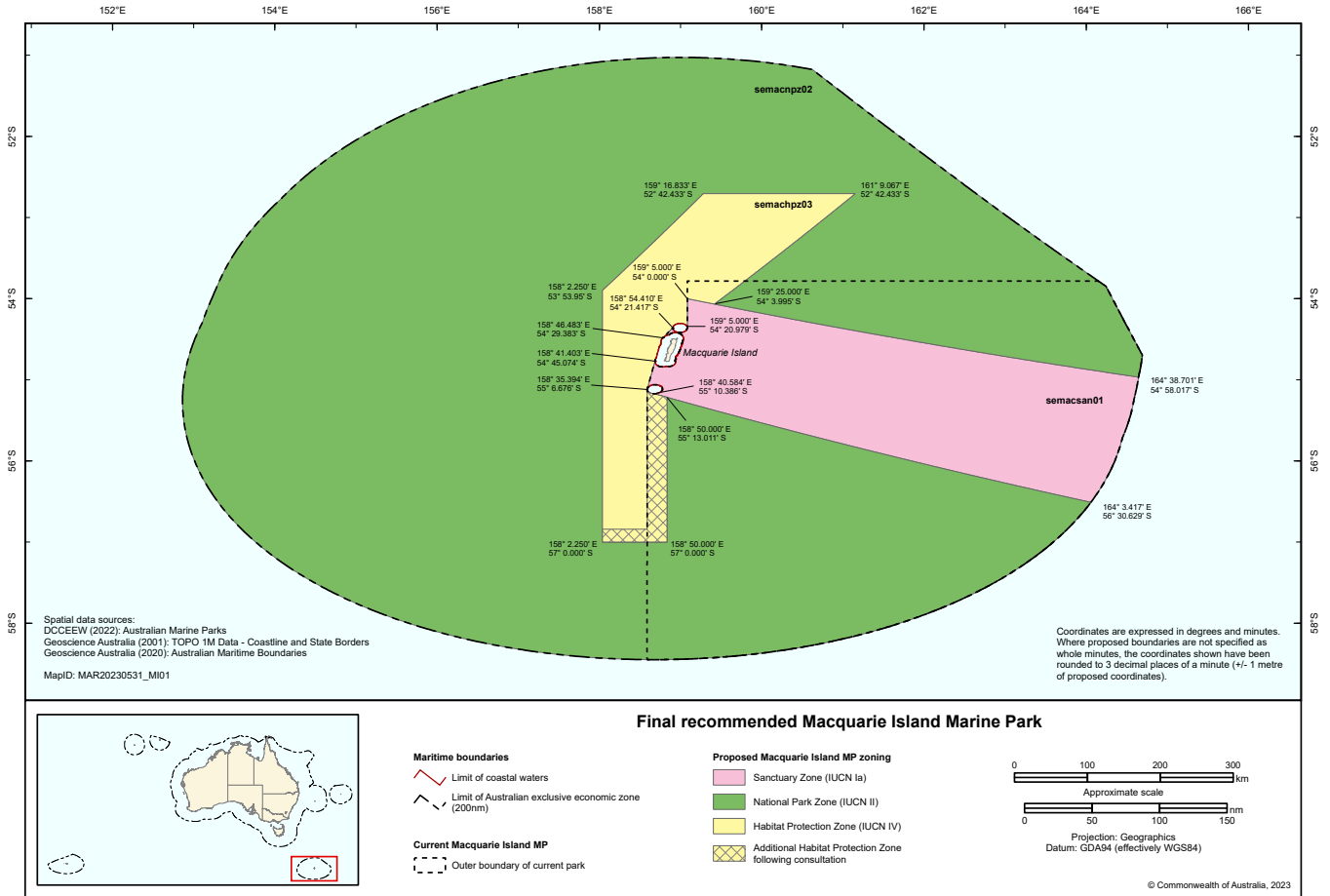
A map showing the final recommended design overlaid on the draft consultation proposal is at Appendix A.

The breakdown of area by zone type for the final recommended and consultation designs can be found below:

Zone type	Consultation design (per cent of total park area)	Final recommended design (per cent of total park area)
Sanctuary Zone (IUCN Ia)	12 per cent	12 per cent
National Park Zone (IUCN II)	82 per cent	81 per cent
Habitat Protection Zone (Macquarie) (IUCN IV)	6 per cent	7 per cent

Appendix A

Final recommended Macquarie Island Marine Park design



Appendix B

Unique submissions by sector

Publication name	Sector
BirdLife Australia	Conservation (including environmental NGOs)
Organisation Private	
Tasmanians for Marine Parks	
Individual anonymous	
Individual anonymous	
Individual private	
Individual anonymous	
The Australia Institute Tasmania	
World Wildlife Fund – Australia	
Macquarie Island Conservation Foundation	
Organisation anonymous	
Environment Tasmania	
International Fund for Animal Welfare	
The Nature Conservancy *	
Seafood Industry Australia	Industry
Austral Fisheries and Australian Longline	
Australian Marine Sciences Association	Research
Ian D. Cresswell, Nicholas J. Bax, Andrew J. Constable, Keith Reid, and Anthony D. M. Smith	
Dr Julie McInnes (IMAS/UTAS), Penelope Pascoe (IMAS/UTAS), Prof Ben Raymond (AAD), Prof Mary-Anne Lea (IMAS,UTAS)	
Professor Jessica Meeuwig	
Dr Peter Kyne	
Organisation - anonymous	
Individual - private	
Melanie Mackenzie	

Publication name	Sector
ESRAG Moreton Bay	General public
Individual anonymous	
Jane Murphy	
Monica Davis	
Individual anonymous	
Individual - private	
Allison Strine	
Individual - private	
Individual - private	
Individual - private	
Mike Grunwald	
Bob Holderness-Roddam	
Individual anonymous	
Individual anonymous	
Stephen Townsend	
Individual - private	
Department of Defence	Australian Government

* non-statutory component of the submission received outside the public consultation period.



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