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South Australia

National Parks and Wildlife (Protected Animals—Marine Mammals) Regulations 2025

under the *National Parks and Wildlife Act 1972*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *National Parks and Wildlife (Protected Animals—Marine Mammals) Regulations 2025*.

2—Commencement

These regulations come into operation on 1 September 2025.

3—Regulations under section 68(1)(c) of Act

These regulations are made under section 68(1)(c) of the Act.

Notes—

1 Under section 68(1)(c) of the Act a person must not undertake or continue an act or activity in relation to a protected animal that is contrary to regulations promulgated under that section unless the person acts pursuant to the Act or a permit granted by the Minister under section 68(2) or another provision of the Act or pursuant to some other Act or statutory instrument.

2 Under section 68(2) of the Act the Minister may grant a permit to a person to undertake an act or activity in relation to a protected animal that would otherwise contravene section 68(1).

4—Interpretation

(1) In these regulations, unless the contrary intention appears—

Act means the *National Parks and Wildlife Act 1972*;

aircraft means any machine or equipment designed to be flown by a person who has control over its speed and direction of movement but does not include a hovercraft;

calf means—

(a) in the case of a dolphin—a dolphin that is generally in close proximity to an adult dolphin of the same species and is less than half the length of that dolphin; and

(b) in the case of a whale—a whale that is generally in close proximity to an adult whale of the same species and is less than half the length of that whale;

Encounter Bay Whale Nursery Protection Area—see Schedule 1 clause 1;

Fowlers Bay Whale Nursery Protection Area—see Schedule 1 clause 2;

motorised vessel means a vessel that has a motor or engine as its principal source, or 1 of its principal sources, of motive power;

observe, in relation to a marine mammal, means—

(a) to watch or listen to the marine mammal; or

(b) to film or take photographs of the marine mammal; or

(c) to make audio, video or other recordings of the marine mammal,

(including by means of remotely controlled equipment);

personal watercraft means a jet ski or other motorised vessel designed to be operated by a person standing, sitting astride or kneeling on the vessel but not seated within the vessel;

prescribed vessel means any of the following vessels:

(a) a personal watercraft;

(b) a vessel used to engage in water skiing;

(c) a vessel used to engage in parasailing;

(d) a hovercraft;

(e) a hydrofoil;

(f) a wing-in-ground effect craft;

prescribed viewing structure means a jetty, boardwalk or other man-made viewing platform or structure;

protection area means—

(a) the Encounter Bay Whale Nursery Protection Area; or

(b) the Fowlers Bay Whale Nursery Protection Area; or

(c) the Sleaford Bay Whale Nursery Protection Area;

pup means a young seal or sea lion that is less than 1 metre in length or is suckling;

signs of disturbance—see regulation 9;

Sleaford Bay Whale Nursery Protection Area—see Schedule 1 clause 3;

submersible means a vessel designed to be operated or used underwater;

swimmer includes a person using a bodyboard, boogie board or surfboard;

vessel means a boat or other craft, or a device, that is designed—

(a) to be operated or used on or in water; and

(b) to be navigated or manoeuvred by a person who has control over its speed and direction of movement,

and includes a submersible but does not include a bodyboard, boogie board or surfboard.

(2) In these regulations, all lines in spatial descriptions are geodesics based on the Geocentric Datum of Australia (***GDA2020***) as defined in the determination under section 8A of the *National Measurement Act 1960* of the Commonwealth for the recognised-value standard of measurement position, and all coordinates are expressed in terms of GDA2020.

5—Application of regulations

(1) These regulations only apply to, and in relation to, marine mammals that—

(a) are protected animals; and

(b) are in the wild.

(2) These regulations do not apply to a person to the extent that—

(a) the person is acting reasonably in the best interests of a marine mammal that—

(i) is suffering from injury, disease or exhaustion; or

(ii) is stranded; or

(iii) is entangled or otherwise incapacitated by material of human origin; or

(b) the person is responding in a reasonable manner to an emergency involving danger to human life or damage to the environment; or

(c) the person is acting in accordance with the directions or instructions of a warden.

Part 2—Interaction with marine mammals

Division 1—Vessels

6—Interpretation

In this Division, a reference to a ***person who is in control of a vessel*** includes a reference to a swimmer who is using a submersible or other vessel.

7—Application of Division

This Division only applies in relation to a vessel if the observing of marine mammals or swimming near marine mammals is the purpose, or 1 of the purposes, for which the vessel is being used.

8—Distance to be kept by prescribed vessels

A person who is in control of a prescribed vessel must not move the vessel closer than 300 metres to a marine mammal.

9—Distance to be kept by other vessels

(1) A person who is in control of a vessel that is not a prescribed vessel must not—

(a) move the vessel closer than 100 metres to a whale; or

(b) move the vessel closer than 50 metres to a marine mammal other than a whale.

(2) A person who is in control of a vessel that is not a prescribed vessel must not move the vessel closer than 300 metres to a whale if—

(a) the whale—

(i) shows signs of disturbance; or

(ii) appears to be sick or injured; or

(iii) is stranded; or

(iv) is entangled or otherwise incapacitated by material of human origin; or

(v) is a calf; or

(vi) is within a protection area; or

(b) there are 2 vessels already within 300 metres of the whale.

(3) A person who is in control of a vessel that is not a prescribed vessel must not move the vessel closer than 150 metres to a marine mammal other than a whale if—

(a) the marine mammal—

(i) shows signs of disturbance; or

(ii) appears to be sick or injured; or

(iii) is stranded; or

(iv) is entangled or otherwise incapacitated by material of human origin; or

(v) is a calf or pup; or

(b) there are 2 vessels already within 150 metres of the marine mammal.

Examples—

The following are examples of a dolphin or whale showing signs of disturbance:

- attempts to leave an area;
- attempts to leave waters in the vicinity of a vessel;
- hasty diving;
- changes in breathing patterns;
- increased time diving as compared with time spent at the surface of waters;
- changes in acoustic behaviour;
- the onset of aggressive behaviour such as tail slashing or trumpet blowing.

The following are examples of a seal or sea lion showing signs of disturbance:

- rapid movement from land towards water;
- sudden awakening from sleep on land;
- the onset of vocalisation or growling;
- attempts by a female to shield a pup with her body or by her movements.

10—Operation of vessels close to marine mammals

(1) A person who is in control of a vessel that is within 300 metres of a whale must not—

(a) approach the whale head on or tail on; or

(b) drop an anchor from the vessel; or

(c) allow the vessel to remain within 300 metres of the whale for more than 60 minutes.

(2) A person who is in control of a vessel that is within 150 metres of a marine mammal other than a whale must not—

(a) approach the marine mammal head on or tail on; or

(b) drop an anchor from the vessel; or

(c) allow the vessel to remain within 150 metres of the marine mammal for more than 60 minutes.

(3) If a whale moves towards a vessel that is within 300 metres of the whale, the person who is in control of the vessel must not use, or continue using, the vessel—

(a) to enable the observation of the whale; or

(b) for the purposes of swimming, or enabling persons to swim, near the whale,

unless the person either maintains the vessel's position or moves it away from the whale.

(4) If a marine mammal other than a whale moves towards a vessel that is within 150 metres of the marine mammal, the person who is in control of the vessel must not use, or continue using, the vessel—

(a) to enable the observation of the marine mammal; or

(b) for the purposes of swimming, or enabling persons to swim, near the marine mammal,

unless the person either maintains the vessel's position or moves it away from the marine mammal.

(5) While a vessel is within 300 metres of a whale, the person who is in control of the vessel must not move the vessel between that whale and another whale that is within 300 metres of the vessel.

(6) While a vessel is within 150 metres of a marine mammal other than a whale, the person who is in control of the vessel must not—

(a) move the vessel between a dolphin and another dolphin that is within 150 metres of the vessel; or

(b) move the vessel between a seal or sea lion and another seal or sea lion that is within 150 metres of the vessel.

(7) If a dolphin is swimming on a pressure wave created ahead of the bow of a vessel, the person who is in control of the vessel must, while the dolphin is so swimming, maintain the vessel's direction and speed unless it is necessary for the vessel to stop, in which case, the person must reduce the vessel's speed gradually.

(8) If a whale shows signs of disturbance by the presence of a vessel that is within 300 metres of the whale, the person in control of the vessel must move the vessel to at least 300 metres from the whale and keep the vessel at that distance until the whale no longer shows signs of disturbance.

(9) If a marine mammal other than a whale shows signs of disturbance by the presence of a vessel that is within 150 metres of the marine mammal, the person in control of the vessel must move the vessel to at least 150 metres from the marine mammal and keep the vessel at that distance until the marine mammal no longer shows signs of disturbance.

11—Speed of motorised vessels close to marine mammals

A person who is in control of a motorised vessel that is within—

(a) 300 metres of a whale; or

(b) 150 metres of a marine mammal other than a whale,

must not operate the vessel at a speed exceeding 4 knots.

Division 2—Aircraft

12—Distance to be kept by aircraft

(1) This regulation only applies in relation to an aircraft if the observing of marine mammals is the purpose, or 1 of the purposes, for which the aircraft is being used.

(2) A person who is in control of a gyrocopter or helicopter must not fly it—

(a) at an altitude of less than 500 metres above a marine mammal; or

(b) at an altitude of less than 500 metres above any part of a circular area that has a marine mammal at its centre and a radius of 500 metres.

(3) A person who is in control of an aircraft other than a gyrocopter or helicopter must not fly it—

(a) at an altitude of less than 300 metres above a marine mammal; or

(b) at an altitude of less than 300 metres above any part of a circular area that has a marine mammal at its centre and a radius of 300 metres.

(4) If a marine mammal shows signs of disturbance by the presence of an aircraft, the person in control of the aircraft must not use, or continue using, it to enable the observation of the marine mammal unless the person flies the aircraft away from the marine mammal until the marine mammal no longer shows signs of disturbance.

Division 3—People

13—Interpretation

In this Division, a reference to a ***swimmer*** includes a swimmer who is snorkelling or using scuba or hookah equipment but does not include a swimmer who is using a submersible or other vessel.

14—Distance to be kept by swimmers

(1) A swimmer must not move closer than 30 metres to a marine mammal.

(2) A swimmer must not move closer than 300 metres to a whale if the whale—

(a) shows signs of disturbance; or

(b) appears to be sick or injured; or

(c) is stranded; or

(d) is entangled or otherwise incapacitated by material of human origin; or

(e) is a calf.

(3) A swimmer must not move closer than 150 metres to a marine mammal other than a whale if the marine mammal—

(a) shows signs of disturbance; or

(b) appears to be sick or injured; or

(c) is stranded; or

(d) is entangled or otherwise incapacitated by material of human origin; or

(e) is a calf or pup.

(4) A swimmer must not remain within—

(a) 300 metres of a whale; or

(b) 150 metres of a marine mammal other than a whale,

for more than 30 minutes.

15—Distance to be kept by persons on land

(1) A person who is on land must not move closer than 30 metres to a seal or sea lion (whether the seal or sea lion is on land or in water).

(2) A person who is on land must not move closer than 50 metres to a marine mammal (whether the marine mammal is on land or in water) if the marine mammal—

(a) shows signs of disturbance; or

(b) appears to be sick or injured; or

(c) is stranded; or

(d) is entangled or otherwise physically incapacitated by material of human origin; or

(e) is a calf or pup.

(3) Subregulations (1) and (2) do not apply if a person is on a prescribed viewing structure and no seal or sea lion is present on the structure at the same time.

(4) If a seal or sea lion present on a prescribed viewing structure moves closer than 30 metres to a person, the person must maintain their position on the structure or move away from the seal or sea lion.

16—Feeding marine mammals

A person must not—

(a) feed a marine mammal; or

(b) dispose of any material into water if—

(i) the person knows, or ought reasonably to know, that a marine mammal is in the vicinity; and

(ii) the material is likely to be eaten, ingested or otherwise absorbed by the marine mammal.

17—Touching marine mammals

A person must not touch a marine mammal.

18—Noise or lights near marine mammals

A person who is—

(a) within 300 metres of a whale for the purpose of observing the whale; or

(b) within 150 metres of a marine mammal other than a whale for the purpose of observing the marine mammal,

must not—

(c) make, or cause to be made, a noise that is likely to frighten or otherwise cause distress to the whale or other marine mammal because of its loudness or suddenness or for any other reason; or

(d) play back a recording of sounds made under water in a manner that is likely to be heard by the whale or other marine mammal; or

(e) use underwater a torch, flash unit or any other form of artificial lighting that is likely to be seen by the whale or other marine mammal.

Part 3—Miscellaneous

19—Restrictions on commercial activities

(1) Subject to subregulation (2), a person must not, for fee or reward—

(a) use an aircraft, vessel or other means to take another person into the vicinity of a marine mammal to enable the other person to observe the animal or swim near the animal; or

(b) assist another person in the vicinity of a marine mammal to observe the animal or swim near the animal.

(2) Subregulation (1) does not prevent a person from taking another person to a place, as part of a tour operated for fee or reward, to enable the other person to observe a marine mammal from a prescribed viewing structure.

20—Expiation of offences

The expiation fee for an alleged offence against section 68(1) of the Act comprised of contravening these regulations is $315.

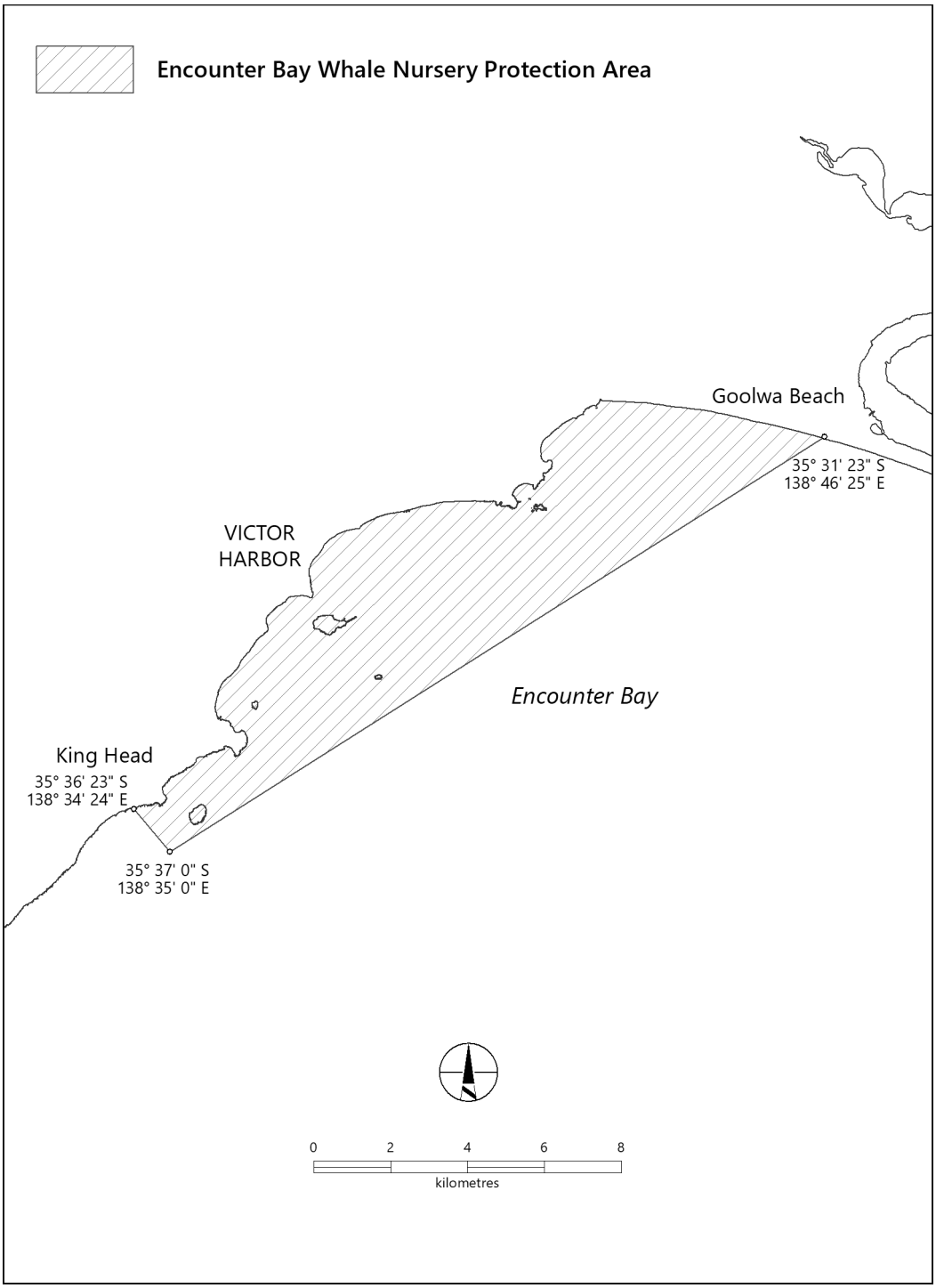
Schedule 1—Protection Areas

Note—

The maps in this Schedule are provided for convenience of reference only.

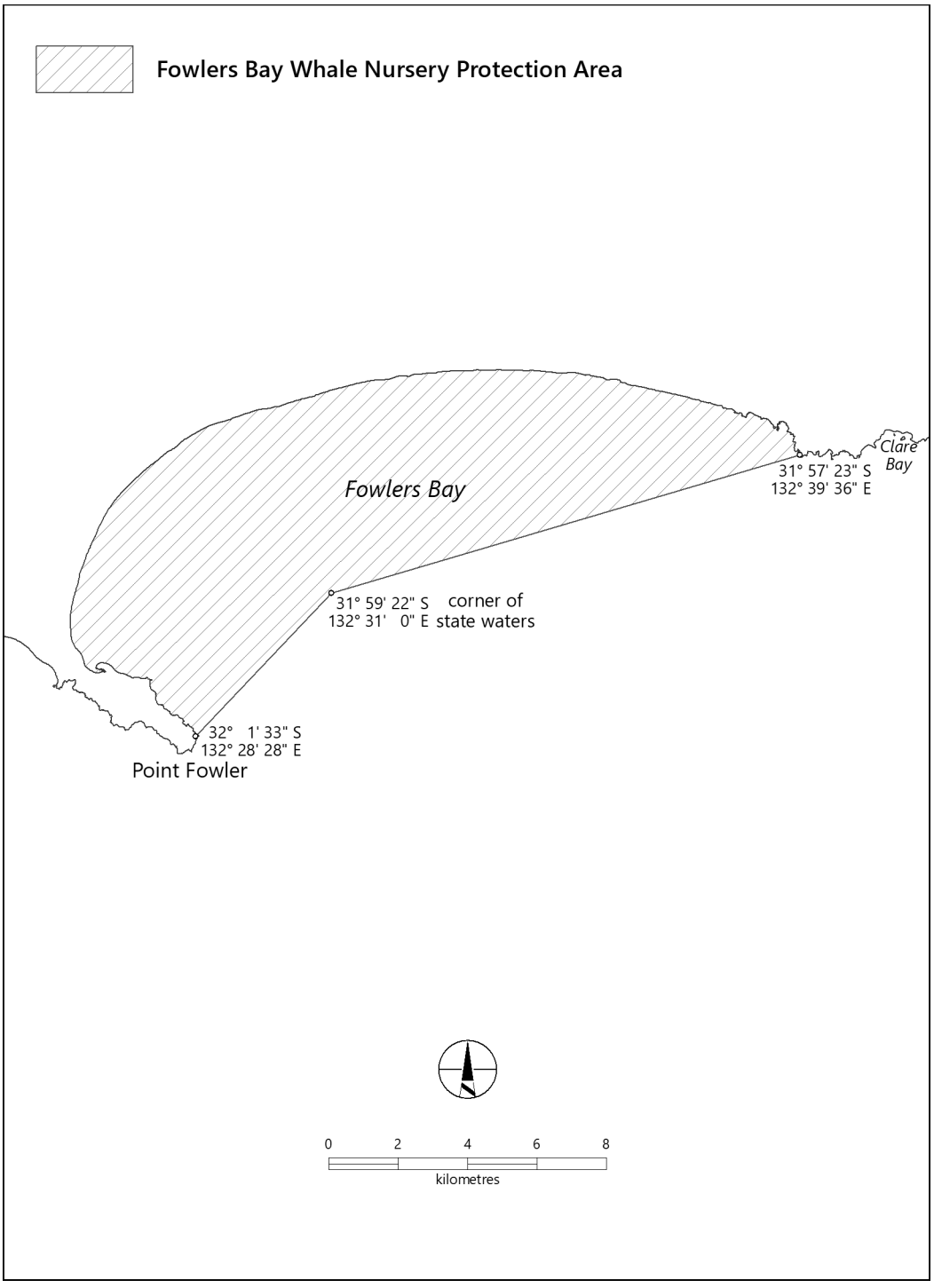
1—Encounter Bay Whale Nursery Protection Area

The Encounter Bay Whale Nursery Protection Area comprises the area bounded by a line commencing at a point at the mean high water mark approximately 750 metres west of King Head, position latitude 35°36′23″ South, longitude 138°34′24″ East, then approximately 1.5 kilometres south-easterly to position latitude 35°37′0″ South, longitude 138°35′0″ East, then to a point at the mean high water mark near the Goolwa Beach car park, position latitude 35°31′23″ South, longitude 138°46′25″ East, then to the point of commencement along the mean high water mark.



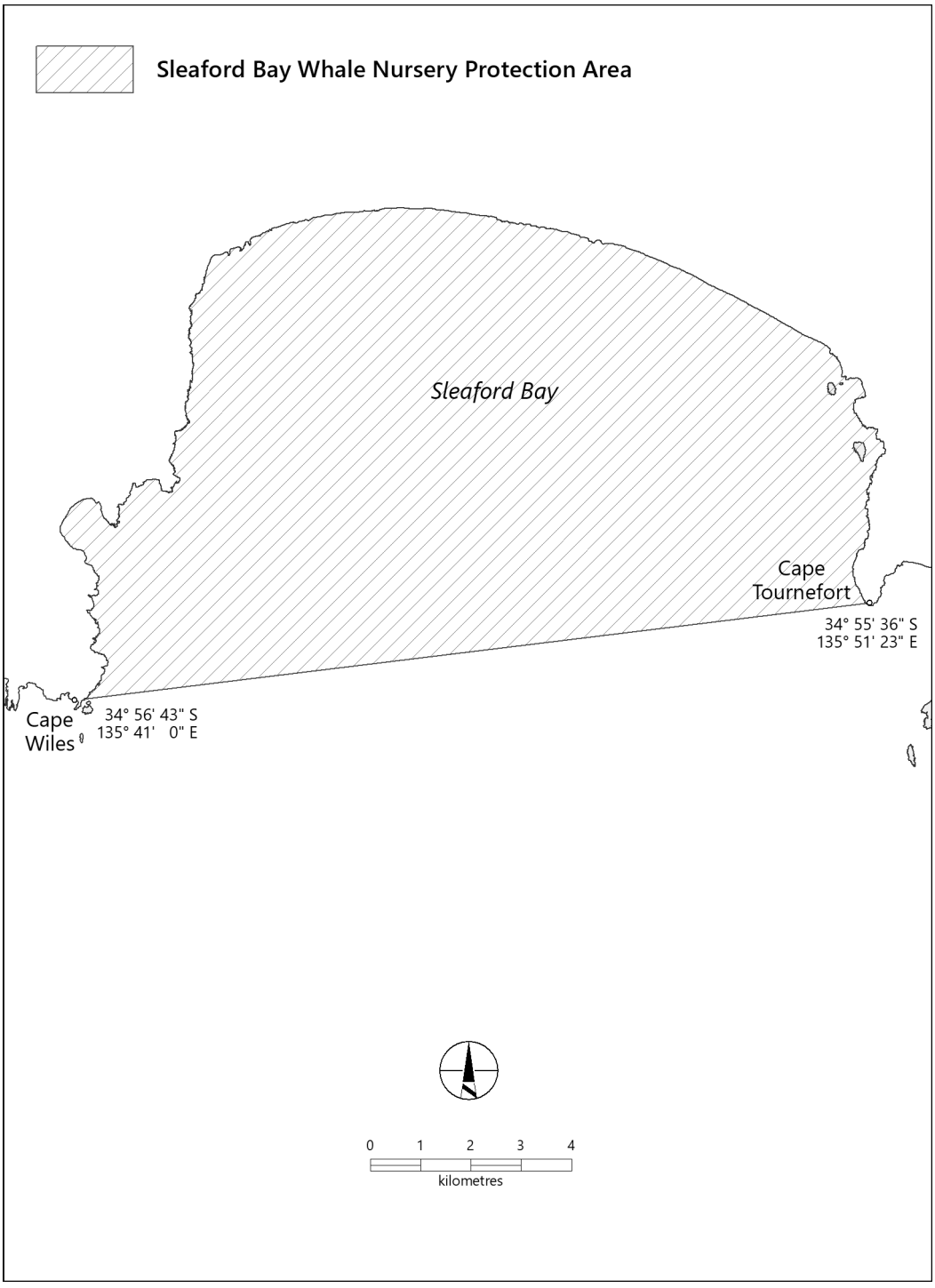
2—Fowlers Bay Whale Nursery Protection Area

The Fowlers Bay Whale Nursery Protection Area comprises the area bounded by a line commencing at the Point Fowler mean high water mark, position latitude 32°1′33″ South, longitude 132°28′28″ East, then approximately 5.6 kilometres north-easterly to a point being the corner of the State waters, position latitude 31°59′22″ South, longitude 132°31′0″ East, then north-easterly to a point at the mean high water mark, approximately 2 kilometres west of Clare Bay, position latitude 31°57′23″ South, longitude 132°39′36″ East, then to the point of commencement along the mean high water mark.



3—Sleaford Bay Whale Nursery Protection Area

The Sleaford Bay Whale Nursery Protection Area comprises the area bounded by a line commencing near the Cape Wiles mean high water mark, position latitude 34°56′43″ South, longitude 135°41′0″ East, then approximately 16 kilometres easterly to the Cape Tournefort mean high water mark, position latitude 34°55′36″ South, longitude 135°51′23″ East, then to the point of commencement along the mean high water mark.



Schedule 2—Repeal of *National Parks and Wildlife (Protected Animals—Marine Mammals) Regulations 2010*

The *National Parks and Wildlife (Protected Animals—Marine Mammals) Regulations 2010* are repealed.

Editorial note—

As required by section 10AA(2) of the *Legislative Instruments Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 31 July 2025

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