

EXPLANATORY STATEMENT

ISSUED BY THE AUTHORITY OF THE ATTORNEY-GENERAL

Seas and Submerged Lands Act 1973

Seas and Submerged Lands Amendment Proclamation 2005 (No. 1)

Section 10B of the *Seas and Submerged Lands Act 1973* (the Act) provides that the Governor-General may, from time to time, by Proclamation, declare, not inconsistently with Article 55 or 57 of the United Nations Convention on the Law of the Sea (Law of the Sea Convention), or any relevant international agreement to which Australia is a party, the limits of the whole or of any part of the exclusive economic zone of Australia.

The Proclamation revokes the *Seas and Submerged Lands Amendment Proclamation 2004 (No. 1)* of 16 December 2004 and declares the outer limits of Australia's exclusive economic zone consistent with boundaries agreed between Australia and New Zealand.

The exclusive economic zone is a maritime zone that may extend up to 200 nautical miles from the coast of a State and in which the coastal State has sovereign rights for the purpose of exploring and exploiting, conserving and managing the living and non-living resources, including those resources on or under the sea bed.

The Australian Minister for Foreign Affairs and his New Zealand counterpart signed the *Treaty between the Government of Australia and the Government of New Zealand establishing certain Exclusive Economic Zone Boundaries and Continental Shelf Boundaries* (the Treaty) on 25 July 2004.

The outer limits of Australia's exclusive economic zone were first declared in a Proclamation of 26 July 1994. The *Seas and Submerged Lands Amendment Proclamation 2004 (No. 1)* was made on 16 December 2004. The Proclamation of 16 December 2004 amended the Proclamation of 26 July 1994 to ensure that the outer limit of Australia's exclusive economic zone in relation to New Zealand is consistent with the Treaty.

The Australian signature text of the Treaty contained five erroneous coordinates in relation to that part of the exclusive economic zone generated by Macquarie Island. These errors also occur in the Proclamation of 16 December 2004. The errors in the Treaty have been rectified by an Exchange of Notes. The Proclamation is required to ensure Australian law reflects the Treaty as rectified.

The Proclamation will commence on the day on which the Treaty enters into force. The Treaty will enter into force when Australia and New Zealand advise each other that their respective requirements for entry into force have been finalised. From Australia's perspective, the making of Proclamations declaring the outer limits of Australia's exclusive economic zone and continental shelf in relation to New Zealand is the only action of a legislative nature required before the Treaty can enter into force.

The Proclamation is consistent with Article 55 and 57 of the Law of the Sea Convention (which define and set the limits of the exclusive economic zone).

No public consultation was undertaken in relation to the Proclamation, as it merely makes minor changes to a previous Proclamation.

The Proclamation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.