

EXPLANATORY STATEMENT

ISSUED BY THE AUTHORITY OF THE ATTORNEY-GENERAL

Seas and Submerged Lands Act 1973

*Seas and Submerged Lands (Limits of Continental Shelf in the
Tasman Sea and South Pacific Ocean) Proclamation 2005*

Section 12 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 76 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 any part of the continental shelf of Australia.

The Proclamation revokes the *Seas and Submerged Lands (Limits of Continental Shelf in the Tasman Sea and South Pacific Ocean) Proclamation 2004* of 16 December 2004 and declares the outer limits of Australia's continental shelf consistent with boundaries agreed between Australia and New Zealand.

The continental shelf of a coastal State comprises the submerged prolongation of the land territory of the coastal State - the seabed and subsoil of the submarine areas that extend beyond its territorial sea to the outer edge of the continental margin, or to a distance of 200 nautical miles where the outer edge of the continental margin does not extend up to that distance. The continental shelf of a coastal State may extend beyond 200 nautical miles where certain criteria in the Law of the Sea Convention are satisfied. A coastal State has sovereign rights for the purpose of exploring and exploiting the resources of its continental shelf.

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 Governor-General in Council approved signature of the Treaty on 21 July 2004.

The *Seas and Submerged Land (Limits of Continental Shelf in the Tasman Sea and South Pacific Ocean) Proclamation 2004* was made on 16 December 2004. That Proclamation was intended to declare the outer limits of Australia's continental shelf as it relates to New Zealand, consistent with the Treaty.

The Australian signature text of the Treaty contained five erroneous coordinates in relation to that part of the continental shelf 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 76 of the Law of the Sea Convention (which defines the Continental Shelf).

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*.