

SEAS AND SUBMERGED LANDS AMENDMENT PROCLAMATION (NO.2) 2019

EXPLANATORY STATEMENT

Issued by the authority of the Attorney-General

under section 10B of the Seas and Submerged Lands Act 1973

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

Article 55 of UNCLOS provides that the EEZ is an area beyond and adjacent to the territorial sea, subject to the specific legal regime established in Part V of UNCLOS, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of the Convention. Article 57 provides that the EEZ shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

The limits of Australia's EEZ were first declared on 26 July 1994 in the *Seas and Submerged Lands Act 1973 - Proclamation under Section 10B* (EEZ Proclamation), which was amended in 2005 to give effect to the 2004 *Treaty between the Government of Australia and the Government of New Zealand establishing certain Exclusive Economic Zone and Continental Shelf Boundaries*.

The EEZ Proclamation was most recently amended in March 2019 to implement the EEZ boundary between Australia and Timor-Leste in the Timor Sea, in accordance with Article 4 of the *Treaty Between Australia and the Democratic Republic of Timor-Leste Establishing their Maritime Boundaries in the Timor Sea* (the Treaty).

The purpose of the *Seas and Submerged Lands Amendment Proclamation (No.2) 2019* (the Proclamation) is to amend the EEZ Proclamation to ensure that Australia's EEZ boundary with Timor-Leste properly aligns with Australia's Proclamation in respect of the outer limits of the EEZ in Timor Sea West. The Proclamation also provides for formatting changes and amends previous minor errors in the Proclamation.

The Proclamation is consistent with Australia's obligations under Articles 55 and 57 of UNCLOS, and with other relevant international agreements to which Australia is a Party.

Details of the Proclamation are set out at [Attachment A](#).

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

No public consultation was undertaken in relation to the Proclamation.

Authority: Section 10B of the *Seas and Submerged Lands Act 1973*

Details of the Seas and Submerged Lands Amendment Proclamation (No.2) 2019

Section 1 – Name

Section 1 gives the name of the Proclamation as the *Seas and Submerged Lands Amendment Proclamation (No.2) 2019*.

Section 2 – Commencement

Section 2 provides that the whole of the instrument will commence the day after the Proclamation is registered.

Section 3 – Authority

Section 3 confirms that the instrument is made under section 10B of the *Seas and Submerged Lands Act 1973* (the Act).

Section 4 – Schedules

Section 4 clarifies that items in the Schedule have the effect of amending or repealing sections of the *Seas and Submerged Lands Act - Proclamation under Section 10B*. Section 4 also clarifies that the other items in the Schedule have effect according to their terms.

Schedule 1 – Amendments

Items 1 and 2 provide that the reference to the use of different datum sets are revised to refer to reformatted subparagraphs under the Proclamation.

Items 3 and 4 repeal the phrase ‘The line’ and replaces it with ‘(1) The line’. The Proclamation has been reformatted to provide for three different subsections under Paragraph 2. This amendment provides for the first of three subsections under Paragraph 2 of the Proclamation.

Item 5 inserts coordinate (xa) into the Proclamation to ensure Australia’s boundary with Timor-Leste aligns with Australia’s existing EEZ boundary in the Timor Sea West.

Item 6 repeals the existing subparagraph and inserts ‘then north-easterly along the geodesic to the point of Latitude 11°20’05.0996” S, Longitude 126°30’55.5968” E and continuing from this point south-easterly along the geodesic to the point identified in paragraph 2(za)’. This clarifies that Australia’s EEZ boundary in the Timor Sea West concludes at point (za).

Item 7 adds the subheading ‘(2) The line’, which provides for the second subheading under Paragraph 2 of the Proclamation.

Item 8 repeals the existing subparagraph and inserts ‘commencing at the point of Latitude 11°20’02.90” S, Longitude 126°31’58.40” E;’. While the coordinate remains the same, the addition of the text ‘commencing at the point...’ clarifies that Australia’s EEZ boundary with Timor-Leste commences at point (za).

Item 9 repeals 'E;' and replaces it with 'E.' The addition of a full stop at the end of this subsection clarifies that Australia's EEZ boundary with Timor-Leste ends at this coordinate as agreed under the Treaty.

Item 10 provides for the third and final subsection under Paragraph 2 by including the title '(3) The line'.

Item 11 repeals the existing subparagraph and inserts 'continuing, from the point identified in paragraph (2)(zf), north-easterly along the geodesic to the point of Latitude 10°28'05.1256" S, Longitude 128°13'55.6444" E'. This clarifies that Australia's EEZ boundary in the Arafura Sea commences at point (zf).

Item 12 amends a previous minor error in the Proclamation to insert a seconds symbol where there was previously a minutes symbol.

Item 13 amends a previous minor error in the Proclamation to insert the word 'E' where this word was previously missing.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Seas and Submerged Lands Amendment Proclamation (No.2) 2019

The *Seas and Submerged Lands Amendment Proclamation 2019* is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the disallowable legislative instrument

The *Seas and Submerged Lands Amendment Proclamation (No.2) 2019* amends the EEZ Proclamation to ensure that Australia's EEZ boundary with Timor-Leste properly aligns with Australia's Proclamation in respect of the outer limits of the EEZ in Timor Sea West. The Proclamation also provides for formatting changes and amends previous minor errors in the Proclamation.

The Proclamation is made under section 10B of the *Seas and Submerged Lands Act 1973*. Under that provision, the Governor-General may, from time to time, by Proclamation declare, not inconsistently with Articles 55 or 57 of the *United Nations Convention on the Law of the Sea* (UNCLOS) or any relevant international agreement to which Australia is a party, the limits of the whole or any part of the EEZ of Australia.

The Proclamation is consistent with Australia's obligations under Articles 55 and 57 of UNCLOS, and with other relevant international agreements to which Australia is a Party.

Human rights implications

The *Seas and Submerged Lands Amendment Proclamation (No.2) 2019* does not engage any of the applicable rights or freedoms.

Conclusion

The *Seas and Submerged Lands Amendment Proclamation (No.2) 2019* is compatible with human rights as it does not raise any human rights issues.