



PRIME MINISTER

FOR MEDIA

FRIDAY, 4 FEBRUARY 1983

IMPLEMENTATION OF THE OFFSHORE CONSTITUTIONAL SETTLEMENT

The Commonwealth, after extensive consultation with the States, has completed implementation of measures which achieve a significant adjustment of powers and responsibilities in the offshore area.

The remaining key elements of the Offshore Constitutional Settlement reached at the Premiers' Conference in June 1979 have been proclaimed to come into effect on Monday 14 February 1983. From that date, the re-ordering of powers and responsibilities in the offshore area, as agreed by the Commonwealth and the States, will be fully operative.

The measures to commence on 14 February 1983 are:

- the Coastal Waters (State Title) Act 1980,
- the Coastal Waters (Northern Territory Title) Act 1980,
- the Petroleum (Submerged Lands) Amendment Act 1980 and associated Acts,
- the Fisheries Amendment Act 1980, and
- new baselines from which the breadth of Australia's territorial sea is to be measured.

These measures are additional to the Coastal Waters (State Powers) Act 1980, the Coastal Waters (Northern Territory Powers) Act 1980 and the Seas and Submerged Lands Amendment Act 1980 which came into force on 1 January last year.

The Settlement represents the completion of a most successful exercise in co-operative federalism.

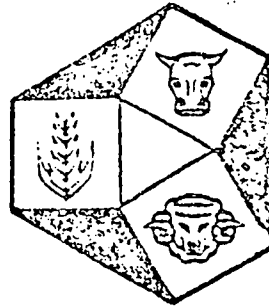
The High Court's decision in the Seas and Submerged Lands Case in 1975 meant that the Commonwealth could have exercised legal dominance in the offshore area, denying to the States any say in the resources of the offshore area and in the regulation of activities that take place in that area. The Government, however, adopted a course of consultation and co-operation consistent with its belief that the territorial sea is an area which has traditionally been a State responsibility and is best left for local jurisdiction except on matters of over-riding national or international significance.

The Settlement will enable us all effectively to exercise our rights and responsibilities with regard to offshore Australia and will be of benefit to all governments and to the people of Australia.

My colleagues the Attorney-General, and the Ministers for National Development and Energy and for Primary Industry, will be issuing separate statements on the details.

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PRIMARY INDUSTRY MEDIA RELEASE



STATEMENT BY
THE MINISTER FOR
PRIMARY INDUSTRY

CANBERRA
4 February 1983.

PI 83/15.

OFFSHORE CONSTITUTIONAL SETTLEMENT - FISHERIES ASPECTS

The Prime Minister's announcement of the commencement of the Offshore Constitutional Settlement was a landmark in the history of Australia's fishing industry, Mr Peter Nixon, the Minister for Primary Industry, said today.

Mr Nixon said the Settlement offered a real prospect of removing many of the Commonwealth/State jurisdictional divisions in Australian waters.

"The way is now clear for the Commonwealth and the States to work toward removing as many of the jurisdiction lines as possible, using the new Part IVA of the Commonwealth Fisheries Act and the matching provisions of State laws," Mr Nixon said.

"Commonwealth and State fisheries officials have already begun discussions aimed at formulating recommendations about the application of a single law, Commonwealth or State, for the management of particular fisheries from low-water mark to the outer edge of the 200 mile Australian fishing zone and the exercise of executive functions under that law."

Mr Nixon said the outcome of these discussions would be expressed in formal legal arrangements between the Commonwealth and the States.

"It will take some months to complete the discussions, including consultation with the fishing industry."

Mr Nixon said that while there were some fisheries which were best managed by the States, the Government saw a continuing role for the Commonwealth in the management of fisheries.

He said the only immediate change to fisheries jurisdiction would result from the proclamation of straight baselines under the Seas and Submerged Lands Act. This will bring within State coastal waters a number of areas of waters that were formerly under Commonwealth jurisdiction. In all other cases, until a Commonwealth/State arrangement comes into force, the status quo, of State fisheries laws applying in coastal waters (extending 3 nautical miles seaward of either a straight baseline or low water mark where no straight baseline has been proclaimed) and Commonwealth laws applying in proclaimed waters beyond coastal waters, will continue.

Mr Nixon said the new fisheries provisions were an important element of the offshore settlement, establishing a framework for future Commonwealth and State co-operation in the management of an important primary industry. In 1981/82, the fishery-based industries contributed more than \$A 300 million to national export earnings, as well as providing an important component of domestic food supplies.



PRESS RELEASE BY THE ATTORNEY-GENERAL

OFFSHORE ARRANGEMENTS - A UNIQUE ACHIEVEMENT

The Attorney-General, Senator Peter Durack, O.C., said that the final steps announced today to implement the remaining key elements of the Offshore Constitutional Settlement completed a unique achievement in the history of Federal/State relations.

The Offshore Settlement brought an end to a long-term dispute between the Commonwealth and the States. Complex and contentious issues associated with the offshore area had bedevilled Commonwealth/State relations in Australia for over a decade. The basic constitutional issues were resolved by the High Court in the Seas and Submerged Lands Case in 1975 in favour of the Commonwealth. However, this still left the Commonwealth Government with the option either to assert to the full its legal dominance in the offshore area, or to adopt a course of co-operation and restraint that would lead to an appropriate allocation of rights and responsibilities among all Governments in Australia. The second course was chosen, culminating in the Offshore Constitutional Settlement agreed to at the Premiers' Conference in June 1979.

The Standing Committee of Attorneys-General played a central role in devising innovative measures to carry out the agreed arrangements.

Commonwealth legislation to ensure that the States and the Northern Territory possessed constitutional powers in the offshore area came into force on 1 January 1982. These consisted of the Coastal Waters (State Powers) Act 1980, the Coastal Waters (Northern Territory Powers) Act 1980 and the Seas and Submerged Lands Amendment Act 1980. The passage since then of complementary State petroleum and fisheries

legislation and the successful completion of further consultations on implementation with the States and the Northern Territory, made possible the steps that were being announced today.

The steps announced by the Prime Minister today consisted of the proclamation of the commencement from Monday, 14 February 1983, of the following Commonwealth Acts:

Coastal Waters (State Title) Act 1980

Coastal Waters (Northern Territory Title) Act 1980

Petroleum (Submerged Lands) Amendment Act 1980 and

associated Acts

Fisheries Amendment Act 1980.

A most significant related step that was announced today was the proclamation under the Seas and Submerged Lands Act 1973 of new baselines from which the breadth of the territorial sea of Australia is to be measured. This proclamation would also come into force on Monday, 14 February. Adoption of these baselines, which had been prepared in consultation with the States as part of the Offshore Constitutional Settlement, would mean a significant enlargement of the areas which come directly under Australian sovereignty.

The Government believed that the self-governing status that the Northern Territory achieved in 1978 made it appropriate that the Northern Territory also should share in the benefits of the Settlement. It therefore shares in the measures the commencement of which is announced today.

Commencement of the Commonwealth Acts would trigger the commencement of the complementary legislation passed by all the States and the Northern Territory concerning offshore petroleum mining and fisheries. This legislation and the Commonwealth petroleum and fisheries Acts made provision for the establishment and operation of joint authorities as agreed to under the Offshore Constitutional Settlement.

Title Acts

The Title Acts will vest in each of the States and the Northern Territory proprietary rights and title in respect of the seabed of the adjacent territorial sea. This measure, by conferring rights of ownership, will support the grant already made of legislative powers, and provide an assurance to the States that the Offshore Settlement will have permanency and stability.

The Commonwealth's international obligations in the offshore area will not be affected. The seabed owned or used by the Commonwealth or an authority of the Commonwealth for any specific Commonwealth purpose is not included in the grant to the States. The Commonwealth's right to use the seabed for national purposes, such as defence or navigational aids, will be preserved. It has been expressly provided that the right and title conveyed by the State Title Act is subject to the operation of the Great Barrier Reef Marine Park Act 1975.

New Baselines

For the purpose of the Title Acts and for other purposes, the baselines from which the territorial sea is now to be drawn will be the new baselines the proclamation of which is to come into force on Monday, 14 February. Up till now, our territorial sea of 3 miles has been mainly drawn from low water, normally understood as mean low water. The new baselines adopt instead the low water datum known as Lowest Astronomical Tide (LAT), which is the lowest level which can be predicted to occur under average meteorological conditions. The choice of LAT, rather than mean low water, means that significantly greater areas will come under Australian sovereignty, particularly along the northern coastline of our continent where the tidal fluctuations are most marked.

In accordance with international legal principles, straight baselines have also been drawn where the coastline is deeply indented or there is a fringe of islands or a bay

is not more than 24 miles wide. The waters involved include such large areas as Spencer Gulf, Gulf St. Vincent and Investigator Strait adjacent to the coast of South Australia, Shark Bay and the Bonaparte Archipelago adjacent to the coast of Western Australia, the waters of or connected with the Van Dieman Gulf off the Northern Territory coast, and large areas off the coast of Queensland.

Some of the waters enclosed by the straight baselines are or may already be part of Australia as historic bays or waters over which Australia already has sovereignty. The new baselines will serve to underline the status of such waters as part of our national territory. Consideration is being given to the status of certain waters off South Australia that may be the subject of a declaration under section 8 of the Seas and Submerged Lands Act 1973 as being historic bays or waters, and the present proclamation should not be taken in any way as prejudicing the outcome of that consideration, any more than it could or should be taken to prejudice future claims that may be made by Australia in the light of developments in the international law of the sea. The South Australian waters are to be considered by a group consisting of the Commonwealth Solicitor-General and Mr P. Brazil, Deputy Secretary of the Attorney-General's Department, and of the South Australian Solicitor-General and a person to be nominated by South Australia. This group is to be asked to report to Attorneys-General within 6 months from the commencement of its examination.

The steps announced today in relation to baselines are major and significant, and are designed to advance the interests of Australia as a whole, and with that the interests of the States and the Northern Territory.

In view of the provisions of the Torres Strait Treaty, the Commonwealth has prepared a separate Proclamation under the Seas and Submerged Lands Act 1973 declaring the outer limits of the territorial sea around certain islands in the Torres Strait to be the limits provided in respect of those

island by the terms of the Treaty. That in itself is a significant step towards implementing the Torres Strait Treaty as soon as possible.

In the implementation of the Offshore Constitutional Settlement the Commonwealth and the States have shown what can be achieved, through negotiation, in practical sharing of power between Governments. The Settlement achieves a significant adjustment of powers and responsibilities between the Commonwealth and the States. It does this, within the framework of the Constitution without the need for referendum or other formal action to alter our constitutional structure itself. The Commonwealth and the States, by their co-operation, have brought about a comprehensive settlement of problems that have caused difficulties in Commonwealth/State relations for well over a decade. The Settlement will provide benefits to all Governments and the people of Australia. It will enable us all to exercise effectively our rights to the resources of offshore Australia as well as our right and responsibility to preserve and protect our marine environment.

CANBERRA
4 FEBRUARY 1983
14/83



PRESS STATEMENT

by the Minister for National Development and Energy

83/8

PROCLAMATION OF PETROLEUM (SUBMERGED LANDS) AMENDMENT ACT 1980 AND ASSOCIATED ACTS

The Minister for National Development and Energy, Senator Sir John Carrick, today gave further details of amendments of the Petroleum (Submerged Lands) Act 1967 and associated legislation introduced as part of the Offshore Constitutional Settlement. The Prime Minister announced earlier today that the legislation will come into force on 14 February 1983.

Senator Carrick said that the legislation, incorporating amendments passed in 1980 and 1981, will regulate offshore petroleum activities on Australia's continental shelf in areas adjacent to the States and the Northern Territory beyond the three mile territorial sea and in areas surrounding the Commonwealth Territories of Ashmore and Cartier Islands, the Coral Sea, Heard and McDonald Islands and Norfolk Island. New State and Northern Territory legislation, which will come into force on the same day as the Commonwealth legislation, will regulate offshore petroleum activities within their respective three mile territorial seas.

The two sets of legislation contain a common mining code which will govern all aspects of exploration for and production of petroleum, such as the grant and renewal of titles, the work obligations of explorers and safety requirements. This means that explorers for petroleum will be subject to the same rules in all the offshore areas of Australia. The mining code is substantially the same as that contained in the 1967 legislation but the opportunity has been taken to amend some provisions shown by experience to be defective or inadequate in some way. The opportunity has also been taken to increase the fees and penalties which had not been changed since 1967.

The amendments do not affect the sharing of royalties from offshore petroleum operations which will continue to be on the same basis as under the 1967 legislation.

The Commonwealth legislation establishes Joint Authorities for each State and the Northern Territory adjacent areas consisting of the Commonwealth Minister for National Development and Energy and the relevant State or Northern Territory Minister. The Joint Authorities will decide important questions of title under the legislation, including the grant, renewal and transfer of exploration permits and production licences and safety issues. Decisions in matters within the responsibility of the Joint Authorities will rest finally with the Commonwealth Minister ensuring that the Commonwealth will exercise its proper Constitutional responsibilities.

Administration of the legislation will continue to be the responsibility of the State and Northern Territory Ministers, as Designated Authorities under the legislation, and their Departments will continue to handle day-to-day matters and to supervise offshore operations. Matters requiring decisions by a Joint Authority will be referred by the State to the Commonwealth.

Amendments to the Act also extend the legislation to offshore areas not presently covered by the legislation. These areas are the Coral Sea and areas adjacent to Norfolk Island and to Heard and McDonald Islands. All petroleum activities in areas adjacent to the Territories of Heard and McDonald Islands and Norfolk Island will be administered by the Commonwealth. Early steps will be taken to release these areas for petroleum exploration to assess their potential.

Senator Carrick stressed that special care has been taken to ensure continuity in the administration of offshore areas. Transitional provisions under the Commonwealth and the State and Northern Territory legislation will ensure that there is no disruption to ongoing projects and that the rights of the existing permittees and licensees are fully protected. Existing title holders whose title areas straddle the three mile territorial sea boundary line will be able to continue operations on conditions not less favourable than the existing ones for the remaining title period. The rights of title holders on renewal

of existing titles to be carried out under the provisions of the relevant Commonwealth, State and Northern Territory Acts are similarly protected.

Senator Carrick said that existing or prospective title holders wishing to clarify aspects of the legislation should approach the relevant Commonwealth, State or Northern Territory Department.

CANBERRA
4 February 1983

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