

Chapter 6

Fisheries Management

Rachel Baird

6.1 Introduction

Under international law, Australia has the right to claim jurisdiction over fish stocks (and other natural resources) seaward from the territorial sea baselines to 200 nm. Australia claimed an Exclusive Economic Zone (EEZ) in 1994, the same year it ratified the *United Nations Convention on the Law of the Sea* (LOSC).¹ However, access to the fisheries resources in the Australian maritime domain is managed by various legislative instruments passed by the Commonwealth and the States and Territories.² This reflects the 1979 Offshore Constitutional Settlement (OCS) under which it was agreed that the existing division of responsibility would continue with State and Territory law generally applying to the 3 nm limit and Commonwealth law beyond that boundary to 200 nm. Further, it was agreed that fisheries could be managed by one set of laws, Commonwealth or State, as agreed between the Commonwealth or the State(s) concerned.³ To this end the establishment of four Joint Fisheries Authorities was proposed to provide greater flexibility in the management of fisheries which straddle the jurisdictional boundaries agreed upon between the States and the Commonwealth.⁴

This chapter reviews the management framework for commercial and recreational fisheries in the Australian maritime domain. Australians who participate in recreational fishing do so under State or Territory law. Commercial fishing is regulated under Commonwealth, State and Northern Territory law depending on the location of the fishery. Whilst it was agreed

1 By Proclamation made 26 July 1994 under the *Seas and Submerged Lands Act 1973* (Cth) which entered into force 1 August 1994. Commonwealth, *Special Gazette* No S 290, 29 July 1994.

2 *Fisheries Act 2000* (ACT) applies to inland waters.

3 Commonwealth of Australia, *Offshore Constitutional Settlement: A Milestone in Co-operative Federalism* (Australian Government Printing Services, 1980) 10.

4 *Ibid*, see section 6.3, Cooperative Fisheries Management for a Review of Joint Fisheries Authorities.

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