

## Chapter 2

# The International Legal Framework

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### 2.1 Introduction

The legal framework for Australian coastal and marine law depends on two legal regimes. The first is the national legal regime which is predominantly based on the Commonwealth Constitution, the State Constitutions, and relevant Commonwealth, State and Territorial statutes, including some pre-Federation colonial instruments. The second is the international legal regime founded principally upon the law of the sea which has given to Australia ever increasing sovereign rights and jurisdictional capacity with respect not only to Australian coastal waters and the territorial sea, but also to an ever-expanding array of offshore zones. Beyond Australia's internal waters, the regulation and management of all waters to the edge of the continental shelf fall within the parameters of international law and especially the law of the sea. This chapter reviews the international legal framework within which Australian coastal and marine law operates. Particular consideration is given to the international law of the sea, and the provisions of the 1982 *United Nations Convention on the Law of the Sea* (LOSC).<sup>1</sup>

### 2.2 Overview of the International Legal Framework

Under international law states are recognised as having sovereignty over their territory. This sovereignty is far reaching, and extends to the control and regulation of all activities which occurs within that territory, including the capacity to exploit and manage natural resources and also to protect the environment as the state sees fit. This sovereignty extends to all of the land territory of the state, including those lands where sovereignty may be contested.<sup>2</sup> Sovereignty also extends to the air space over that territory, with

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1 Opened for signature 10 December 1982, 1833 UNTS 397 (entered into force 16 November 1994) (LOSC).

2 This is a relevant issue for Australia given that its claim to the Australian Antarctic Territory (AAT) is contested and only formally recognised by four other states. By

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