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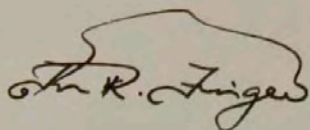
CABINET DECISION

NO. 813

Submission No.: 701

Title: PROPOSED NORTHERN TERRITORY MARINE LEGISLATION.

Cabinet decided that the Northern Territory Government accept in principle responsibility for all State-type marine functions subject to satisfactory arrangements being made with the Commonwealth Government through the Interdepartmental Committee on Constitutional Development for the Northern Territory regarding the extent of functions to be transferred, funding and staffing arrangements.



(M.R. FINGER),
Secretary to Cabinet.
15 August, 1979.

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THE NORTHERN TERRITORY OF AUSTRALIA

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Copy No.1.....

FOR CABINET

SUBMISSION No. 701

Title:	PROPOSED NORTHERN TERRITORY MARINE LEGISLATION
Cabinet Member	HON R. M. STEELE, MINISTER FOR TRANSPORT AND WORKS
Purpose:	Introduction and enactment of Northern Territory marine legislation.
Relation to existing policy:	Consistent with existing Policy to assume full measure of Self Government on State-type functions and in keeping with Commonwealth agreement to transfer such responsibility.
Timing/ legislative priority:	HIGH PRIORITY: To enable N.T. marine legislation to come into operation progressively from January 1980.
Announcement of decision, tabling, etc.:	Public announcement of Government intention prior to introduction of new N.T. marine legislation.
Action required before announcement:	Set up industry Consultative Group: Series of meetings with Industry. Formal advice to N.T. Port Authority.
Staffing implications, numbers and costs, etc.:	Staffing has been covered in a separate submission for the establishment of a Transport Commission within Department of Transport and Works.
Total cost:	This aspect has been covered in the cabinet submission proposing the setting up of a Transport Commission.

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Department/AuthorityOFFICE OF THE PUBLIC SERVICE COMMISSIONER.....

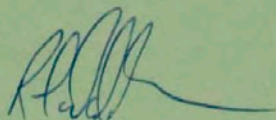
COMMENT ON CABINET SUBMISSION No.

TITLE:PROPOSED N.T. MARINE LEGISLATION.....

COMMENTS:

No objection to the recommendation.

Comments on staffing implications are covered in the comments to the "Proposed N.T. Transport Commission Legislation" submission.



R.L. DONALDSON

for Public Service Commissioner

SIGNED:

DESIGNATION:

DATE: 3.8.79

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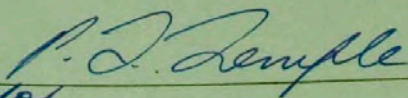
Department/Authority DEPARTMENT OF THE TREASURY

COMMENT ON CABINET SUBMISSION No.

TITLE: PROPOSED NORTHERN TERRITORY MARINE LEGISLATION

COMMENTS:

SUBMISSION SUPPORTED.


SIGNED: A B ASHLEY

DESIGNATION: UNDER-TREASURER

DATE: 7 August 1979

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Department/Authority DEPARTMENT OF LAW

COMMENT ON CABINET SUBMISSION No.

TITLE: PROPOSED NORTHERN TERRITORY MARINE LEGISLATION

COMMENTS:

Subject to the transfer of executive responsibility for intra-Territory marine transport and any necessary amendments to Commonwealth legislation, there appear to be no constitutional or legal barriers to this proposal.

With regard to Commonwealth legislation it should be noted that the new Territory legislation will not be able to operate until the Commonwealth Navigation Act is amended. It is possible that amendments to other items of Commonwealth legislation will be required but these are presently being considered by the Department of Law.

SIGNED: 

DESIGNATION: CROWN SOLICITOR

DATE: 8 August 1979

(1) THE ISSUES

- (a) Accept transfer of State-type marine responsibility and functions now carried out by the Commonwealth and assume State-type responsibility for marine functions not previously carried out in the Northern Territory.
- (b) Introduce Northern Territory marine legislation as outlined in Attachment 'A'.
- (c) Revision and updating of existing N.T. marine legislation.

(2) THE BACKGROUND

- (a) At present the outdated and ineffective Marine Board Act and Ordinance (1881-1971) of South Australia still applies in the Northern Territory. Action needs to be taken to cease its application to the Northern Territory.
- (b) Apart from this legislation the only Northern Territory marine controls relate to oil pollution in coastal waters and the Ports Act, which is mainly concerned with the commercial operation of the Port of Darwin.
- (c) Otherwise, Commonwealth legislation applies and the Northern Territory has no formal input.
- (d) This causes two major problems;
 - (i) Commonwealth legislation is based on interstate and overseas movement and is not sufficiently sensitive to the needs of intra-territory shipping.
 - (ii) The N.T. Government does not have the major say in a wide range of marine matters of vital interest to the Northern Territory - legal, administrative planning and policy matters.
- (e) The Hon. R. M. Steele, Minister for Transport and Works in his statement to the Legislative Assembly on Transport Policy on 27 February 1979 stated;

"The Government is currently identifying administrative legal and policy requirements for the Northern Territory to assume full state-type responsibilities for marine and air matters, so that the Northern Territory will be able to take over appropriate elements of these responsibilities later this year".

- (f) Prior to the High Court Ruling on the Sea and Submerged Land Act in 1976, which confirmed Commonwealth jurisdiction over the sea and seabed from low water mark, the States were of the opinion that they had the right of control over coastal waters to the three mile limit and were operating accordingly.
- (g) Following the High Court Decision, the Commonwealth decided that the States may control Coastal Waters to the 3 mile limit, pending formal agreements being reached on actual areas of responsibility.
- (h) At the June 1979 Premiers Conference, agreement was reached between the Commonwealth, the States and the Northern Territory whereby the States and the Northern Territory would assume responsibility for adjacent coastal waters up to the 3 mile limit.
- (i) (i) The Seas and Submerged Land Act is to be amended to reflect this decision with complimentary State and N.T. legislation to be enacted at the same time.
(ii) This places the Northern Territory in an equal position with the States and with the added advantage of being able to incorporate these latest developments into State-type marine legislation for the first time.

(3) CONSIDERATION OF THE ISSUES

- (a) Transfer of State-type functions now carried out by the Commonwealth.
 - (i) At present, the Commonwealth Navigation Act 1912 applies to shipping in the Northern Territory including intra-territory shipping.
 - (ii) International & National standards are prescribed in the Navigation Act with certain exemption provisions applying specifically to manning of local coastal trade vessels
 - (iii) Department of Transport firmly support the view that appropriate State-type marine legislation is needed in the Territory and if local legislation similar to that enacted in the States is introduced, application of relevant provisions of the Navigation Act could be discontinued.

(iv) In order to make way for the introduction of State-type marine legislation in the Northern Territory, it is necessary for the Commonwealth to change Self-Government Regulations to give the Territory clear executive authority over marine matters and to amend the Navigation Act and possibly other Commonwealth legislation to ensure that it no longer applies.

(v) Marine functions not previously carried out in the N.T. include;

- . survey and licencing of certain commercial craft operating in areas outside of the Port of Darwin.
- . survey of fishing vessels
- . commercial craft operations on inland waters
- . examinations and certification of masters and seamen for fishing and commercial vessels
- . prevention of collisions
- . wrecks and salvage

These functions will be covered in the proposed marine legislation.

(b) The type of Northern Territory marine legislation proposed is outlined at Attachment 'A'.

(c) (i) It is proposed to rename the Northern Territory Port Authority as the Darwin Harbour Board to make way for the introduction of the new marine legislation. This is the subject of a separate Cabinet Submission intended to be considered in conjunction with this paper as a necessary parallel action.

(ii) The proposed marine legislation is intended to cover broad Territory wide marine matters as distinct from those particular functions and responsibilities which might be attached to the Darwin Harbour Board (renamed).

(4) ADMINISTRATIVE ARRANGEMENTS

As a practical approach for the effective enforcement of small craft safety regulations covering boat registration and boat driver licensing, it is proposed to appoint Territory Parks and Wildlife Rangers, Fisheries Inspectors and N.T. Police Officers as honorary Inspectors under the Marine Act and Regulations.

Also it is intended where practical to utilise Motor Vehicle Registry facilities for the administration and inspection of power boat registration and for the licensing of power boat drivers.

(5) OPTIONS

The options are to introduce Northern Territory State-type legislation as is proposed in this submission or to persist with the present unsatisfactory situation under partial Commonwealth control and to continue to ignore those marine functions and activities not covered by legislation of any type.

It is considered that we have no alternative but to proceed with the introduction of legislation as proposed.

(6) PUBLIC IMPACT OF THE RECOMMENDATIONS

(a) Fishing Industry

The greater number of vessels which would be covered by the legislation are fishing vessels. Similar requirements are applied by the States and the standards adopted under the legislation will be equivalent to those in the States. This will bring N.T. fishing vessels into line with State based vessels operating in similar waters. Many N.T. fishing vessels already meet Queensland and Western Australian requirements and it is expected that most vessels from these States now plying in Territory waters will transfer their home base to the N.T. once covering legislation is available.

(b) Commercial Vessels

The impact of the new legislation on these vessels will be minimal. Most N.T. owned and registered vessels have been surveyed and issued with certificates by the Commonwealth to standards which are at least equal to those proposed under the new legislation.

(c) Seafarers and Shipowners

(i) In some cases seafarers and shipowners will require time in which to adjust to new manning requirements, standards of crew accommodation and safety measures. At the same time certain crew members and certificated officers will require time in which to gain higher qualifications as prescribed.

- (ii) Exemptions may need to be granted for a period and provided this type of flexibility is allowed there should be little objection.

(d) Small Boat Owners

- (i) Owners of fishing dingies, car top boats and similar small vessels powered by small outboard motors may object to the control of such boats where they are to be operated in inland waters only.
- (ii) These controls will be seen by many as an unnecessary and inconvenient restriction on a popular recreational sport and are not proposed for inclusion in the legislation at this stage.

(7) EMPLOYMENT CONSIDERATIONS

It is confidently expected that when the proposed legislation comes into force in the Territory many of the 400 fishing vessels now operating in our waters which are registered and surveyed in Western Australia and Queensland will accept local controls and avail themselves of new repair and survey facilities now being constructed.

This must create additional employment opportunity and at the same time will ensure the commercial viability of the new slipway.

(8) CO-ORDINATION

Consultations have been held and are continuing with the following Departments/Authorities on a number of matters;

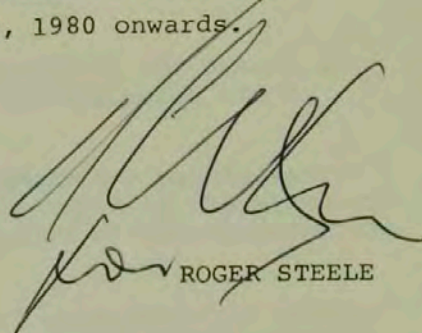
- . Chief Minister's - constitutional effects - transfer of powers aboriginal liaison.
- . Law - amendments to Commonwealth Navigation Act 1912, Self-Government Regulations and other Commonwealth Legislation.
- . Industrial Development - fisheries division
- . Mines and Energy - carriage of dangerous goods at sea
- . Territory Parks and Wildlife Commission boating on reserves etc.
- . Commissioner of Police - enforcement aspects of legislation
- . Northern Territory Port Authority - effects of new legislation on Ports Act and functions of N.T.P.A.

(9) RECOMMENDATIONS

That Cabinet approves -

- (a) the acceptance by the Government of responsibility for

- all State-type marine functions including provision of inshore navigational aids and hydrographic surveys;
- (b) the preparation and introduction of marine legislation to cover;
- (i) the application in the Northern Territory of Uniform Shipping Laws Code which sets out uniform requirements for the construction, survey and manning of commercial vessels including fishing vessels;
 - (ii) the adoption of State-type marine legislation modified to suit local requirements for pleasure craft, inland waters vessels and other small craft not covered by the Uniform Shipping Laws Code.
 - (iii) provisions for welfare and protection of seafarers, collision regulations, dangerous goods, carriage of passengers, unsafe ships, investigation of shipping casualties, pilotage, ship reporting, removal of wrecks, marine navigational aids, advisory committees and licencing, construction and maintenance of jetties.
 - (iv) private shipping law relating to wreck and salvage, limitation of liability, sea carriage of goods, the arrest of sea going ships and the usual legal provisions normally included in legislation of this nature.
- (c) that appropriate action be taken to effect the necessary changes to the Self-Government Regulation to provide executive authority over 'State-type marine matters' and to amend the relevant provisions of the Navigation Act 1912 and possibly other Commonwealth legislation to give legal effect to the proposed legislation.
- (d) priority drafting and progressive enactment of the proposed legislation from January, 1980 onwards.



ROGER STEELE

BRIEF OUTLINE OF PROPOSED MARINE LEGISLATION

The proposed Marine Legislation will:-

- (a) provide for the application in the Northern Territory of the Uniform Shipping Laws Code approved by the Marine and Ports Council of Australia which sets out uniform requirements for the construction, survey and manning of commercial vessels including fishing vessels;
- (b) set out along the lines already followed in State-type legislation but modified to suit local conditions requirements for the construction, survey, registration and operation of pleasure craft, inland waters vessels and other small craft not covered by the Uniform Code;
- (c) include provisions for the welfare and protection of seafarers employed in Northern Territory ships in matters such as conditions of employment, their health and their accommodation;
- (d) lay down the manning requirements for Northern Territory vessels not covered by the Uniform Code and provisions for the training examination and certification of seafarers serving in such ships;
- (e) provide for the application of the International Collision Regulations to all ships in Northern Territory waters;
- (f) apply the usual maritime safety requirements relating to the handling of dangerous goods, hazardous cargoes, carriage of passengers, unsafe ships and the investigation of shipping casualties;
- (g) make the usual provisions relating to pilotage area, pilotage authorities and the licencing of pilots in the waters of the Territory.
- (h) incorporate appropriate exemptions with international provisions to make possible a gradual introduction of a smooth implementation of the new requirements with minimum disruption to the industry;
- (i) require position reporting by ships at sea to assist in search and rescue operations;
- (j) include provisions relating to the removal by the owners of vessels wrecked in Northern Territory waters which are a danger to navigation.
- (k) provide for the acquisition, establishment and maintenance of marine aids to navigation in inshore areas of the Northern Territory waters which are not the concern of the Commonwealth but which are used by local ships;
- (l) make provision for the establishment of committees of advice which may advise and make recommendations on matters related to the legislation;

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- (m) include provisions relating to the private law on subjects such as-
 - (i) wreck and salvage
 - (ii) limitation and exclusion of shipowners liability
 - (iii) sea carriage of goods
 - (iv) arrest of sea going ships
- (n) provide for the issue of licences to engage in the carriage of goods and passengers by water or the provision of shipping services within the Territory; and
- (o) make the usual provisions relating to jurisdiction, legal proceedings, averment, evidence, delegating, recovery of fines, liabilities of officers, detention of ships officers, prosecutions and penalties.
- (p) provision for the construction, maintenance and preservation of jetties and other works.