

EXPLANATORY STATEMENT

Issued by the Authority of the Assistant Minister for the Environment and Water Resources

Antarctic Treaty (Environment Protection) Act 1980 (Cth)

Antarctic Treaty (Environment Protection) Proclamation 2007

Subsection 8(2) of the *Antarctic Treaty (Environment Protection) Act 1980* ('the Act') provides that the Governor-General may, by Proclamation, declare an area to be an Antarctic specially protected area (ASPAs) and, by the same or another Proclamation, may declare an area to be an Antarctic specially managed area (ASMA). However, subsection 8(3) of the Act provides that an area may not be declared to be an ASPA or an ASMA unless the Antarctic Treaty Consultative Parties have adopted a management plan in respect of the areas. Australia is an Antarctic Treaty Consultative Party under the Antarctic Treaty and the proposed Proclamation seeks to give effect to measures agreed to by Antarctic Treaty Consultative Parties under the Antarctic Treaty in domestic law.

The purpose of the Proclamation is to revoke the *Antarctic Treaty (Environment Protection) Proclamation 2005* and:

- declare 4 new ASPAs (ASPAs Nos 162, 165, 166 and 167 as set out in Schedule 1 to the Proclamation);
- declare 1 new ASMA (ASMA No 1 as set out in Schedule 2 to the Proclamation);
- revoke existing declarations of ASPAs Nos 116, 127, 131, 134 and 136 made under the *Antarctic Treaty (Environment Protection) Proclamation 2005* and make new declarations; and
- re-declare all other existing ASPAs and ASMAs.

Three of the ASPAs included in the Proclamation, ASPAs Nos. 165, 166 and 167, are new ASPAs adopted at the 29th Antarctic Treaty Consultative Meeting (ATCM). ASPA No 162 was adopted at the 27th ATCM.

The purpose of the declaration of ASMA No 1 is to reflect the adoption of a new ASMA at the 29th ATCM.

The revocation and re-declaration of ASPAs Nos 116, 127, 131, 134 and 136 would reflect amendments adopted by the 29th ATCM to the management plans of these ASPAs. In broad terms, the amendments adopted by the 29th ATCM reflect boundary changes, update information and obligations to be included in permits, reflect re-formatting of previous plans to conform to current styles, and correct some errors in the previous plans.

All relevant Treaty Parties, including Australia, unanimously agreed to these measures at the 27th and 29th ATCMs.

To be consistent with current drafting practices and to consolidate all ASPAs and ASMAs, a new proclamation was made rather than an amending proclamation.

ASPAs and ASMAs are designated in order to protect outstanding environmental, scientific, historic, aesthetic or wilderness values or ongoing planned scientific research. Paragraph 19(1)(d) of the Act provides that it is an offence to enter or carry on any activity in an ASPA without a permit. Paragraph 19(1)(e) of the Act provides that it is an offence to carry on any activity in an ASMA otherwise than as authorised by the plan of management relating to the area.

Where an area is proclaimed to be an ASPA or an ASMA, the subsoil beneath any land or sea-bed, extending to 1000 m below the surface, as specified in the Proclamation, is deemed to be within the area.

The Proclamation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* and commenced on the day after it was registered on the Federal Register of Legislative Instruments.

The details of the Proclamation are included in the **Attachment**.

ATTACHMENT

Details of the Antarctic Treaty (Environment Protection) Proclamation 2007

Section 1 – Name of Proclamation

This section provides that the title of the Proclamation is the *Antarctic Treaty (Environment Protection) Proclamation 2007*.

Section 2 – Commencement

This section provides for the Proclamation to commence on the day after registration on the Federal Register of Legislative Instruments.

Section 3 – Revocation

This section revokes the earlier Proclamation, the *Antarctic Treaty (Environment Protection) Proclamation 2005*.

Section 4 - Definitions

This section defines ASMA and ASPA. It refers to definitions in subsection 3(1) of the *Antarctic Treaty (Environment Protection) Act*.

Section 5 – Declaration of Antarctic specially protected areas and Antarctic specially managed areas

This section declares all sites described in Schedule 1 to be Antarctic specially protected areas and those in Schedule 2 to be Antarctic specially managed areas. This section further declares ASPAs and ASMAs to include the subsoil beneath the surface of any land and seabed to a depth of 1000m.

Section 6 – Cessation of effect of certain declarations in Schedule 1

The declarations as ASPAs of areas 125, 127, 144, 146 and 150 were to expire after 31 December 2010. At the 29th Antarctic Treaty Consultative Meeting (ATCM), ASPA No 127 was designated for an indefinite period. Therefore reference to Part 27 is removed from this section. This is to accord with the terms of Measure 1 of 2006 adopted by the 29th ATCM. Management plans for areas 125, 144, 146 and 150 are due to expire after 31 December 2010.

Schedule 1

Describes all the Antarctic specially protected areas.

Four new ASPAs are being declared in the Proclamation. ASPA Nos. 165, 166 and 167 are new ASPAs adopted at the 29th ATCM by Measure 1 of 2006. ASPA No 162 was adopted at the 27th ATCM by measure 2 of 2004.

Revised management plans for previously declared ASPA Nos 116, 127, 131, 134 and 136 were adopted by the 29th ATCM by measure 1 of 2006. In broad terms, the amendments adopted by the 29th ATCM reflect boundary changes, update information and obligations to be included in permits, reflect re-formatting of previous plans to conform to current styles, and correct some errors in the previous plans. The Proclamation reflects the adoption of changes to ASPA Nos 116, 127, 131, 134 and 136.

The Proclamation also re-declares all other ASPAs that were proclaimed by *Antarctic Treaty (Environment Protection) Proclamation 2005*.

Schedule 2

Describes all the Antarctic specially managed areas.

A new ASMA is declared in this Proclamation. The purpose of the declaration of ASMA No. 1 is to reflect the adoption of a new Antarctic specially managed area at the 29th ATCM by Measure 2 of 2006.

The Proclamation also re-declares all other ASMAs that were proclaimed by *Antarctic Treaty (Environment Protection) Proclamation 2005*.