

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Sustainability, Environment, Water, Population and Communities

Antarctic Treaty (Environment Protection) Act 1980 (Cth)

Declaration of Specially Protected Species

Subsection 7C(1) of the *Antarctic Treaty (Environment Protection) Act 1980* ('the Act') provides that if a species of native seal, native bird, or native plant is specified in Annex II to the *Protocol on Environmental Protection to the Antarctic Treaty* ('the Protocol') for the purpose of designation as a specially protected species, the Minister may, by notice in the Gazette, declare that species to be a specially protected species.

At Antarctic Treaty Consultative Meeting III ('ATCM') the *Agreed Measures for the Conservation of Antarctic Fauna and Flora* ('Agreed Measures') were adopted by Antarctic Treaty Consultative Parties. This instrument, promulgated under the terms of the Antarctic Treaty, introduced the concept of specially protected species as a mechanism for Antarctic faunal conservation. At ATCM IV the Agreed Measures were amended as a result of Recommendation 17 to include all species of the genus *Ommatophoca rossi* ('Ross Seal') to be a specially protected species. This recommendation came into effect on 1 November 1982 pursuant to Article 9(4) of the Antarctic Treaty. The Agreed Measures were superseded by the Protocol (adopted at Special ATCM XI), and the specially protected status of the Ross Seal was carried over to be listed in Appendix A to Annex II to the Protocol.

The *Antarctic Seals Conservation Regulations 1986* ('Seals Regulations') made under the Act implemented into domestic law the special protections accorded to the Ross Seal under the Protocol (regulation 4(2B)). In 2007, the Seals Regulations were repealed and the provisions concerning the protection of Antarctic seals were transferred to the Act. In order to ensure that the Ross Seal continues to be protected in accordance with the Protocol, the Minister must declare that it is a specially protected species under section 7C of the Act.

This declaration seeks to give effect to measures agreed to by Antarctic Treaty Consultative Parties under the Antarctic Treaty in domestic law. The purpose of the Declaration is to ensure the conservation of the Ross Seal by attributing to it various protections afforded to specially protected species under the Act. These protections include enhanced permit restrictions for taking, killing, injuring or otherwise interfering with a specially protected species.

The Office of Best Practice Regulation has indicated that a Regulatory Impact Assessment is not required for this declaration (OBPR ID: 11553)

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