

EXPLANATORY STATEMENT

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

Antarctic Treaty (Environment Protection) Act 1980 (Cth)

Antarctic Treaty (Environment Protection) Amendment Proclamation 2010 (No. 1)

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. Subsection 8(6) of the Act provides that the Governor-General may, by Proclamation, vary the boundaries of an ASPA or ASMA in accordance with an amendment of the management plan adopted by the Antarctic Treaty Consultative Parties.

Australia is an Antarctic Treaty Consultative Party under the Antarctic Treaty and the 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 amend the *Antarctic Treaty (Environment Protection) Proclamation 2007* by declaring new ASPAs and ASMAs and by varying eight existing ASPAs.

The Proclamation declares five new ASPAs and three new ASMAs, respectively:

- Sabrina Island, Northern Ross Sea, Antarctica (ASPAs No. 104);
- Mount Harding, Grove Mountains, East Antarctica (ASPAs No. 168);
- Amanda Bay, Ingrid Christensen Coast, Princess Elizabeth Land, East Antarctica (ASPAs No. 169);
- Marion Nunataks, Charcot Islands, Antarctic Peninsula (ASPAs No. 170);
- Narebski Point, Barton Peninsula, King George Island (ASPAs No. 171);
- Amundsen-Scott South Pole Station, South Pole (ASMA No. 5);
- Larsemann Hills, East Antarctica (ASMA No. 6); and
- South West Anvers Island and Palmer Basin (ASMA No. 7).

The 30th, 31st and 32nd Antarctic Treaty Consultative Meetings (ATCM) adopted management plans for the new ASPAs and ASMAs in 2007, 2008 and 2009 respectively. ASPAs No. 104 is the exception, having been adopted by the ATCM prior to the requirement for management plans. A management plan for ASPAs No. 104 was adopted at the 32nd ATCM allowing for a declaration to be made in this Proclamation.

The Proclamation also varies the boundaries of eight existing ASPAs declared under the *Antarctic Treaty (Environment Protection) Proclamation 2007*:

- Litchfield Island, Arthur Harbour, Anvers Island, Palmer Archipelago (ASPA No. 113);
- Cape Royds, Ross Island (ASPA No. 121);
- Cape Crozier, Ross Island (ASPA No. 124);
- Rothera Point, Adelaide Island (ASPA No. 129);
- Clark Peninsula, Budd Coast, Wilkes Land (ASPA No. 136);
- North-west White Island, McMurdo Sound (ASPA No. 137);
- Ardley Island, Maxwell Bay, King George Land (ASPA No. 150); and
- Botany Bay, Cape Geology, Victoria Land (ASPA No. 154).

The variation of these ASPAs in the Proclamation reflects amendments adopted by the 30th, 31st and 32nd ATCM to the boundaries of these ASPAs. In broad terms, the amendments adopted by the ATCM to the management plans for these ASPAs 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 30th, 31st and 32nd ATCMs.

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 makes it an offence for a person to enter or carry on any activity in an ASPA. Paragraph 19(1)(e) of the Act makes it an offence for a person 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 subsections 5(3) and (4) of the *Antarctic Treaty (Environment Protection) Proclamation 2007*, 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) Amendment Proclamation 2010 (No. 1)

Section 1 – Name of Proclamation

This section provides that the title of the Proclamation is the *Antarctic Treaty (Environment Protection) Amendment Proclamation 2010 (No. 1)*.

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 – Amendment of the Antarctic Treaty (Environment Protection) Proclamation 2007

This section provides that Schedule 1 amends the *Antarctic Treaty (Environment Protection) Proclamation 2007*.

Schedule 1

Describes new and revised Antarctic Specially Protected Areas (ASPAs) and Antarctic Specially Managed Areas (ASMAs).

Five new ASPAs are being declared in the Proclamation. Management plans for ASPA Nos. 168, 169 and 170 were adopted at the 31st ATCM by Measures 2, 3 and 4 of 2008 respectively. ASPA No. 171 was adopted at the 32nd ATCM by Measure 13 of 2009. ASPA No. 104 had been adopted by the ATCM prior to the requirement for management plans, and therefore could not be declared in the protected area proclamation. At the 32nd ATCM a management plan was adopted for ASPA No. 104 by Measure 3 of 2009 allowing now for a declaration to be made.

Eight existing ASPAs are being varied in the Proclamation due to amendments adopted by ATCM to the boundaries of these ASPAs. At the 30th ATCM, by Measure 1 of 2007, a revised management plan for previously declared ASPA No. 129 was adopted. Revised management plans for ASPA Nos. 124, 137 and 154 were adopted at the 31st ATCM by Measures 7, 9 and 11 of 2008 respectively. Revised management plans for ASPA Nos. 113, 121, 136 and 150 were adopted at the 32nd ATCM by Measures 4, 5, 7 and 9 of 2009 respectively. In broad terms, the amendments adopted by the ATCM to the management plans for these ASPAs 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 the boundaries of ASPA Nos 113, 121, 124, 129, 136, 137, 150 and 154.

Four new ASMAs are being declared in this Proclamation. Management plans for ASMA Nos. 5 and 6 were adopted at the 30th ATCM by Measure 2 of 2007. ASMA No. 7 was adopted at the 31st ATCM by Measure 1 of 2008 and the management plan was subsequently revised at the 32nd ATCM by Measure 2 of 2009.