

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 2011 (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 specified in the Proclamation to be an Antarctic specially protected area (ASPAs) and, by the same or another Proclamation, may declare an area specified in the Proclamation 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 area. 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 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 proposed Proclamation is to amend the *Antarctic Treaty (Environment Protection) Proclamation 2007* (the Principal Proclamation) by varying six ASPAs and one ASMA.

The proposed Proclamation would vary the boundaries of the following six existing ASPAs and one ASMA declared under the Principal Proclamation:

- Beaufort Island, McMurdo Sound, Ross Sea (ASPAs No. 105);
- Cape Hallett, Northern Victoria Land, Ross Sea (ASPAs No. 106);
- Arrival Heights, Hut Point Peninsula, Ross Island (ASPAs No. 122);
- Byers Peninsula, Livingston Island, South Shetland Islands (ASPAs No. 126);
- Canada Glacier, Lake Fryxell, Taylor Valley, Victoria Land (ASPAs No. 131);
- Cape Adare, Borchgrevink Coast (ASPAs No. 159); and
- McMurdo Dry Valleys, Southern Victoria Land (ASMA No. 2).

The variation of these ASPAs and one ASMA in the proposed Proclamation reflects amendments adopted by the 33rd and 34th Antarctic Treaty Consultative Meetings (ATCM) to vary the boundaries of these ASPAs and ASMA. In broad terms, amendments adopted by the ATCM to the management plans for these ASPAs and ASMA 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 33rd and 34th 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 other 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 metres below the surface, as specified in subsections 5(3) and (4) of the Principal Proclamation, is deemed to be within the area.

The Office of Best Practice Regulation has indicated that a Regulatory Impact Assessment is not required for the Proclamation. (OBPR ID: 12944).

The Proclamation 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.

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

ATTACHMENT

Details of the *Antarctic Treaty (Environment Protection) Amendment Proclamation 2011 (No. 1)*

Section 1 – Name of Proclamation

This section provides that the title of the Proclamation is the *Antarctic Treaty (Environment Protection) Amendment Proclamation 2011 (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 revised Antarctic Specially Protected Areas (ASPAs) and Antarctic Specially Managed Areas (ASMAs).

Six existing ASPAs are being varied in the Proclamation due to amendments adopted by ATCM to the boundaries of these ASPAs. At the 33rd ATCM, boundary changes were made to ASPA No 105 by Measure 4 of 2010 and changes were made to the boundaries, maps and management plans for ASPAs 106 and 159, by Measures 5 and 11 of 2010 respectively. At the 34th ATCM changes were made to the boundaries, maps and management plans for ASPA Nos. 122, 126 and 131 by Measures 3, 4 and 6 of 2011 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 105, 106, 122, 126, 131 and 159.

One existing ASMA is to be varied in the Proclamation. At the 34th ATCM changes were adopted for ASMA No 2, including amendments to its boundaries, maps and management plan by Measure 10 of 2011.