

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for the Environment

Antarctic Treaty (Environment Protection) Act 1980 (Cth)

Antarctic Treaty (Environment Protection) Amendment (2012 and 2013 Measures – Historic Sites and Monuments) Proclamation 2014

Subsection 8A(1) of the *Antarctic Treaty (Environment Protection) Act 1980 (the Act)* provides that the Governor-General may, by Proclamation, declare an historic site or monument specified in the Proclamation to be an historic site or an historic monument. However, subsection 8A(2) of the Act provides that a site or a monument may not be declared to be an historic site or an historic monument unless the Antarctic Treaty Consultative Parties have approved the listing of the site or the monument as an historic site of monument under Article 8 of the Annex V to the Madrid Protocol.

Subsection 8A(3) of the Act provides that the Governor General may, by Proclamation, vary or revoke a Proclamation made under subsection 8A(1) in respect of a site or monument if the Antarctic Treaty Consultative Parties have amended or revoked the listing of the site or monument as an historic site or monument.

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 – Historic Sites and Monuments) Proclamation 2007 (the Principal Proclamation)* to declare four additional Antarctic Historic Sites and Monuments (HSMs) following their adoption at the 36th Antarctic Treaty Consultative Meeting (ATCM) in 2013, and to vary the description of seven existing HSMs declared under the Principal Proclamation. The Proclamation also makes consequential amendments to repeal spent provisions and notes.

The Proclamation declares the following four new HSMs:

- Location of the first permanently occupied German Antarctic research station “Georg Forster” at the Schirmacher Oasis, Dronning Maud Land (HSM No. 87);
- Professor Kudryashov’s Drilling Complex Building, Vostok Station (HSM No. 88);
- Upper “Summit Camp”, Mount Erebus (HSM No. 89); and
- Lower “Camp E”, Mount Erebus (HSM No. 90).

At the 36th ACTM in 2013 all relevant Treaty Parties, including Australia, unanimously approved the listing of HSM 87 under Measure 18, HSM 88 under Measure 19, HSM 89 under Measure 20 and HSM 90 under Measure 21.

The Proclamation varies the description of the following existing HSMs declared under the Principal Proclamation:

- Bust and plaque at 'Pole of Inaccessibility' (HSM No. 4);
- Stone and plaque at Mabus Point, Queen Mary Land (HSM No. 7);
- Monument sledge and plaque at Mabus Point, Queen Mary Land (HSM No. 8);
- Cemetery on Buromskiy Island, Queen Mary Land (HSM No. 9);
- Observatory at Bunger Hills, Queen Mary Land (HSM No. 10); and
- Tractor and plaque at Vostok Station (HSM No. 11); and
- Statue at Trinity Peninsula, Antarctic Peninsula (HSM No. 37).

All relevant Treaty Parties, including Australia, unanimously approved the variation of the descriptions of the above HSMs under Measure 11 at the 35th ATCM in 2012.

Subsection 19(1B) of the Act provides that a person is guilty of an offence if the person does an act and the action causes any damage to or in an historic site, or destroys, causes damage to or the removal of an historic monument.

The Office of Best Practice Regulation has indicated that a Regulatory Impact Assessment is not required for the Proclamation as it is likely to have minor impacts on business (OBPR ID: 17270).

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](#).



Australian Government
Department of the Environment
Australian Antarctic Division

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Antarctic Treaty (Environment Protection) Amendment (2012 and 2013 Measures—Historic Sites and Monuments) Proclamation 2014

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

Australian legislation implements components of the Antarctic Treaty system into Australian law, including the *Antarctic Treaty (Environment Protection) Act 1980*, giving effect to the Protocol on Environmental Protection to the Antarctic Treaty, which sets out environmental protection obligations. Annex V to the Protocol provides a legal framework for the establishment of historic sites and monuments within Antarctica. At each year's Antarctic Treaty Consultative Meeting new historic sites and monuments may be nominated and existing descriptions for previously adopted sites and monuments may be updated. This Legislative Instrument reflects those changes that have been made from 2012 to 2014.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Dr. Tony Fleming
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Details of the *Antarctic Treaty (Environment Protection) Amendment (2012 and 2013 Measures–Historic Sites and Monuments) Proclamation 2014*

Section 1 – Name

This section provides that the title of the instrument is the *Antarctic Treaty (Environment Protection) Amendment (2012 and 2013 Measures–Historic Sites and Monuments) Proclamation 2014*.

Section 2 – Commencement

This section provides for the instrument to commence on the day after it is registered on the Federal Register of Legislative Instruments.

Section 3 – Authority

This section provides that the instrument is made under section 8A of the *Antarctic Treaty (Environment Protection) Act 1980*.

Section 4 – Schedules

This section provides that that Schedule 1 amends the *Antarctic Treaty (Environment Protection – Historic Sites and Monuments) Proclamation 2007 (the Principal Proclamation)* as set out in the Schedule.

Schedule 1

Item 1 substitutes a new note outlining where on the internet, in 2014, it is possible to find details of Antarctic historic sites and monuments. The note in the Principal Proclamation was out of date and no longer current.

Item 2 repeals the current section 4 of the Principal Proclamation as the section is now spent.

Item 3 renames Note 1 to “Note” as a consequence of the amendment in Item 4. .

Item 4 repeals Note 2 in Schedule 1, as the note is now spent.

Items 5, 6 and 7 vary the descriptions of historic sites and monuments (**HSMs**). The descriptions of HSM No. 4, HSM No.’s 7 to 11, and HSM No. 37 were all varied at the 35th Antarctic Treaty Consultative Meeting (**ATCM**) in 2012.

Item 8 lists and describes four new HSMs adopted at the 36th ATCM in 2013.