

## EXPLANATORY STATEMENT

Issued by the Authority of the Minister for the Environment and Energy

*Antarctic Treaty (Environment Protection) Act 1980 (Cth)*

*Antarctic Treaty (Environment Protection) Amendment (Historic Sites and Monuments) Proclamation 2016*

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 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 monument as an historic site or an historic 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 historic 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 two additional Antarctic Historic Sites and Monuments (**HSMs**) and to vary the description of one existing HSM declared under the Principal Proclamation. The additions and variation were adopted at the 38<sup>th</sup> and 39<sup>th</sup> Antarctic Treaty Consultative Meetings (**ATCM**) in 2015 and 2016.

The Proclamation declares the following two new HSMs:

- Lame Dog Hut at the Bulgarian Base St. Kliment Ohridski, Livingston Island (HSM No. 91); and
- Oversnow heavy tractor “Kharkovchanka” that was used in Antarctica from 1959 to 2010 (HSM No. 92).

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

- Wooden pole and cairn (I), and wooden plaque and cairn (II), both located at Penguins Bay, south coast of Seymour Island (Marambio), James Ross Archipelago (HSM No. 60).

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: 21151).

Prior to the 38<sup>th</sup> and 39<sup>th</sup> ATCMs the Australian Government conducted consultations with Antarctic scientists, tourism operators and non-government organisations on proposals being taken to the ATCM, including new HSMs and variations to descriptions of HSMs.

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

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 (Historic Sites and Monuments) Proclamation 2016**

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 in 2015 and 2016.

**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. Nick Gales**  
**Director**  
**Australian Antarctic Division**

**November 2016**

**Details of the *Antarctic Treaty (Environment Protection) Amendment (Historic Sites and Monuments) Proclamation 2016***

**Section 1 – Name**

This section provides that the title of the instrument is the *Antarctic Treaty (Environment Protection) Amendment (Historic Sites and Monuments) Proclamation 2016*.

**Section 2 – Commencement**

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

**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 varies the description of Historic Site and Monument No. 60, which was varied at the 39<sup>th</sup> Antarctic Treaty Consultative Meeting (ATCM) in 2016.

Item 2 lists and describes two new Historic Sites and Monuments adopted at the 38<sup>th</sup> ATCM in 2015.