

## **EXPLANATORY STATEMENT**

(Issued by Authority of the Minister for the Environment)

*Environment Protection and Biodiversity Conservation Act 1999*

*Environment Protection and Biodiversity Conservation Amendment (Heard Island and McDonald Islands) Proclamation 2014*

Subsection 350(1) of the *Environment Protection and Biodiversity Conservation Act 1999* (the Act) provides that the Governor-General may revoke or amend a Proclamation by another Proclamation.

Subsection 390J(5) of the Act provides for the Governor-General to make a Proclamation revoking or amending the Proclamation of a conservation zone established under the Act.

The purpose of the Proclamation is to:

- amend the Proclamation declaring the Heard Island and McDonald Islands Marine Reserve (the Reserve); and
- revoke the Proclamation of the interim Conservation Zone adjoining the Reserve.

The Reserve was declared by Proclamation under section 344(1) of the Act on 3 October 2002 for the purpose of ‘protecting the conservation values of Heard Island and McDonald Islands and the adjacent unique and vulnerable marine ecosystems’. It covers an approximate area of 65 000 square kilometres. Possessing a unique subantarctic ecosystem that is highly susceptible to human impacts, the Reserve is categorised as an International Union for Conservation of Nature Category 1a Strict Nature Reserve. Human activities in the Reserve are subsequently strictly managed and mostly limited to scientific research and monitoring.

At the same time that the Reserve was declared, four areas that had been proposed for inclusion in the Reserve were declared an interim Conservation Zone under section 390D of the Act to facilitate further scientific assessments to determine whether these areas possessed values that warranted conservation and protection in the Reserve. The Conservation Zone covers an approximate area of 12 000 square kilometres. The scientific assessments were concluded in 2009. They recommend that approximately 6 200 square kilometres of the Conservation Zone should be added to the Reserve on the basis of its high conservation value and that the remaining area of Conservation Zone (approximately 5 800 square kilometres) should be released into the surrounding Exclusive Economic Zone on the basis that values in this area are likely to be adequately represented elsewhere in the Reserve (see the Attachment).

Subsection 351(1) of the Act requires the Minister to consider a report from the Director of National Parks (the Director) on a Commonwealth Reserve proposal before the Governor-General makes a Proclamation to declare a Reserve, or a Proclamation to revoke or amend a Proclamation. Under subsection 351(2) of the Act, when preparing the report, the Director must publish a public notice stating the subject matter to be dealt with by the Proclamation

and invite the public to comment on the same. Under paragraph 351(2)(b), the Director must consider any comments made in response to the invitation for public comment. Subsection 351(5) provides for a period of at least 60 days after the notice is published for public comments to be made.

The Director published a notice in the *Gazette* on 21 December 2011 inviting comments on the proposal. It specified that comments must be sent by 22 February 2012. A report prepared by the Director pursuant to s351(1) was considered by the Minister.

The Proclamation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Proclamation commenced the day after it was registered on the Federal Register of Legislative Instruments.

Map showing areas of the Conservation Zone proposed for addition to the Heard Island and McDonald Islands Marine Reserve

