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Australian politics and Antarctic sovereignty: themes, protagonists and antagonists

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Australia's claim to the Australian Antarctic Territory (AAT) is not widely recognised internationally. Discussing enforcement of Australian domestic law in the Southern Ocean, defending the territorial claim and other emotive issues related to Antarctica therefore requires some domestic sensitivity to broader international diplomacy. Using qualitative and quantitative analysis methods to identify the political parties who most often raise issues of Antarctica, the major themes of Antarctic policy and politics since 1998, and the discussions of Antarctic sovereignty by political parties. Through this analysis, the different approaches of the Australian Labor Party, the Federal Liberal-National Party Coalition and the Australian Greens to Antarctic sovereignty-related issues are identified and discussed. While broadly there is tripartisan support for Antarctic policies, some differences between political parties do exist.

Introduction

Australia claims sovereignty over almost 6 million km² of the Antarctic continent. The Australian Antarctic Territory (AAT) is not widely recognised internationally. Antarctic Treaty Article IV does not extinguish or diminish Australia's claim. Article IV does not prevent Australia, for example, from explicitly discussing the AAT in domestic politics. Discussing enforcement of Australian domestic law in the Southern Ocean, defending the territorial claim and other emotive issues related to Antarctica requires some sensitivity to broader international diplomacy. This paper is an analysis of how Australian political parties have navigated this path between domestic politics and international diplomacy in regards to Australia's sovereignty in and around Antarctica.

Using a quantitative data analysis from the Australian Government's Parlinfo Database as a basis this paper identifies the dominant themes, protagonists and antagonists of Australian Antarctic and Southern Ocean politics and policies since 1998. The paper then more narrowly analyses how the Liberal-National Party Coalition, the Australian Labor Party and the Australian Greens deal with the concept of Australian sovereignty in a space broadly viewed as internationalised.

Australia, Antarctica and the Australian Antarctic Territory

Australia's links to Antarctica spans from their Gondwanaland connection, to the Heroic Era of exploration, to the signing of the Antarctic Treaty in 1959 and involvement in the development of its subsequent instruments.

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Since 1933, Australia has claimed sovereignty over a portion of the Antarctic continent (*Australian Antarctic Territory Acceptance Act 1933* (Cth)). Sovereignty is defined here in a territorial sense, being the ‘plenary competence of a State or ... the totality of the rights and duties of a State which are recognised by international law’ (Triggs 1981, 126; see also Castellino and Allen 2003; Crawford 2006).

Australia’s claim to the Australian Antarctic Territory (AAT) consists of approximately 6 million km² of the Antarctic continent. Only Norway, New Zealand, France and the UK recognise this sovereign claim (Commonwealth of Australia 1999c). It is widely accepted in international law that a country that claims sovereignty over uninhabited land is required to effectively occupy that territory (Jennings 1963; Shaw 2008; Triggs 1986). Due to the inhospitable conditions of Antarctica, the effectiveness of a claimant’s occupation and the ability of a state to even claim Antarctic territory are often questioned by non-claimant countries and scholars (Beck 1994; Triggs 1986).

To avoid international discord over the seven territorial claims in Antarctica, including Australia’s, Antarctic Treaty Article IV puts the issue of sovereignty aside for its duration. Article IV (2) states:

No acts or activities taking place while the present Treaty is in force shall constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in Antarctica or create any rights of sovereignty in Antarctica. No new claim, or enlargement of an existing claim, to territorial sovereignty in Antarctica shall be asserted while the present Treaty is in force.

Article IV is, therefore, ‘an agreement to disagree’ over the territorial claims (Scott 2013, 22). Article IV does not extinguish the existence of the AAT, and so it follows that Australian Governments can be explicit in their discourse about the existence of the AAT, while still being faithful to its obligations under Article IV (2). This analysis discusses how Australian governments and political parties navigate the sensitivities that could arise at the interface between domestic politics and international diplomacy. As will be discussed, nowhere are the delicacies of navigating domestic policies and statements over Australia’s Antarctic sovereignty more clear than when certain issues in the Southern Ocean arise.

A coastal state has rights to the adjacent territorial sea, contiguous zone, exclusive economic zone (EEZ) and extended continental shelf under the 1982 United Nations Convention on the Law of the Sea (LOS). Australia proclaimed the AAT EEZ in 1994, though only a small number of enforceable laws against Australian citizens exist (Anton 2009; Kaye 2011). Australia produces maps and charts with the AAT EEZ shown (Dodds 2011; Geoscience Australia 2010). Some material also depicts the extended continental shelf adjacent to the AAT EEZ (Geoscience Australia 2010). Australia included the data concerning the continental shelf in their submission to the Commission for the limits of the continental shelf (Baird 2004; Jabour 2008). At the time, Australia asked that the AAT EEZ extended continental shelf data, for the time being, not be considered by the Commission (see Jabour 2008).

The sub-Antarctic Australian Territory of Heard Island and McDonald Islands (the ‘HIMI’), and the State of Tasmania’s Macquarie Island will also be discussed in this analysis. Australian sovereignty over the HIMI and Macquarie Island are uncontested, and are raised frequently in the context of ‘Antarctic’ issues, particularly in regards to fishing. The Southern Ocean, therefore, is included as a platform for issues of Antarctic sovereignty in Australian political discourse.

In this paper, the term ‘Antarctica’ or ‘Antarctic’ refers to general observations and obligations of the continent as a whole. The term ‘AAT’ is used to refer specifically to Australia’s claim to the Antarctic continent.

Australia’s policy challenges within the broader international sphere and the Antarctic Treaty System have been consistently addressed by scholars (e.g. Bateman and Schofield 2012; Bergin

and Haward 2007; Crawford and Rothwell 1990; Davis 2007; Haward 2010; Haward, Hall, and Kellow 2007). Looking within, however, less has been said about the domestic politics of Antarctica broadly, and how Australian governments and political parties discuss, debate and decide issues related to the AAT particularly.

Of the scholarship addressing Australian domestic politics and Antarctica, Haward, Hall, and Kellow (2007) suggest two broad Antarctic policy drivers. The first is the domestic political agenda. The domestic political agenda is made up of a policy community consisting of agencies and non-government organisations (NGOs), and a ‘buttress’ provided by ‘longstanding and bipartisan political support’ (Haward, Hall, and Kellow 2007, 22; Haward and Cooper 2014). The second policy driver is the involvement of Australia in the development and ratification of international agreements.

Haward and Cooper (2014) highlight the often rigorous debate that surrounds Antarctic, AAT and Southern Ocean affairs, especially in regards to the sub-Antarctic islands. The authors highlighted Australia’s long-standing commitment to the Antarctic region, and a commitment by parties to maintaining the strength of the Antarctic Treaty, while ‘never derogating from its claim to the AAT’ (Haward and Cooper 2014, 69).

The issue of Australia and Antarctica, broadly speaking, is one that largely transcends Australian domestic politics with more commonalities than differences in party approach. The issues relating to Australian sovereignty over the AAT and its EEZ, however, are a different story. As will be discussed, political parties found their policies, both in government and opposition, and within their election platforms, in different ways.

The Australian federal political system has been dominated by two major parties since 1910. These parties are the Australian Labor Party (the ‘ALP’) and the ‘Coalition’. The ‘Coalition’ refers to an agreement between the Liberal Party of Australia, the National Party of Australia, the Northern Territory’s Country Liberal Party and the Liberal-National Party of Queensland at the Federal level on the basis of generally shared interests. As the Coalition is mostly viewed as one party, especially when holding government, they have been merged for the purposes of this discussion but for any time that specific party affiliation within the Coalition is deemed notable. The terminology of ‘in government’ and ‘in opposition’ refers to the position of either the Coalition or the ALP at any one time (see Table 1). In recent years the Australian Greens party (‘the Greens’) has become a third grouping in Australian Federal politics. The inclusion of the Greens, a minor party, in the analysis was necessary due to the sheer volume of Greens discourse in the data collected. For reasons that will become clear the Greens have been, and will likely continue to be, a protagonist and antagonist for Australian Antarctic affairs.

Methodology of analysis

To synthesise the discourse of Australian politics and the AAT, the Parliament of Australia’s Parlinfo database was utilised. The availability of data from the Parlinfo database enables a broad-

Table 1. Australian federal parliaments.

Parliament Number	39th Parliament	40th Parliament	41st Parliament	42nd Parliament	43rd Parliament	44th Parliament
Date	10 November 1998–8 October 2001	12 February 2002–31 August 2004	16 November 2004–17 October 2007	12 February 2008–19 July 2010	28 September 2010–5 August 2013	12 November – (current)
Government	Coalition	Coalition	Coalition	Australian Labor Party	Australian Labor Party	Coalition

spectrum discursive analysis of an entire area of policy over a long period of time.¹ Using a mixture of methods to qualitatively and quantitatively analyse Australia’s domestic discourse of Australia’s presence in Antarctica, the aim of this research was threefold. The first aim was to identify which parties were the instigators of Antarctic issues in Parliament. The second was to identify what Antarctic issues were most discussed in the political sphere. The final aim was to analyse how political parties dealt with the internationally contentious claim Australia holds over the AAT.

Political parties and the issue of Antarctica

To discover who raised issues of ‘Antarctica’, the ‘Antarctic’, the ‘Australian Antarctic Territory’, the ‘AAT’ and the ‘Southern Ocean’ (the ‘keywords’), relevant documents were downloaded from the Parlinfo Database. These documents included: Hansard transcripts from the Senate, the House of Representatives; transcripts from Senate, House and Joint Committees; political party media releases and ‘doorstop’ statements to the press by the three main political parties. After filtering out colloquial uses of the key terms, the remaining ~13,000 documents were analysed.

The data were divided into Parliaments (Table 1) rather than divided on a yearly basis for comparison reasons, for issues such as illegal, unreported and unregulated (IUU) fishing and whaling transcended years. The Parliament comparison method provided more holistic results. The 39th Parliament was chosen as a starting point to both reasonably limit the amount of data and to coincide with the coming into force in 1998 of the *Protocol on Environmental Protection to the Antarctic Treaty* (the ‘Madrid Protocol’).

The political parties that spoke to issues, or asked questions of, Antarctica, the Antarctic, the AAT and the Southern Ocean during sittings in the House of Representatives and the Senate were collated for each Parliament. For questions asked in the chamber, the party of the instigator of the question was recorded. For bill readings or ministerial speeches containing substantive Antarctic material, the party of the Minister or Senator giving the address was recorded.

With the exception of the current 44th Parliament, the party in opposition raised more issues about Antarctica in the House of Representatives and Senate (Figure 1). When the Greens were included, however, the opposition were always dominant in the entire discourse. This result is

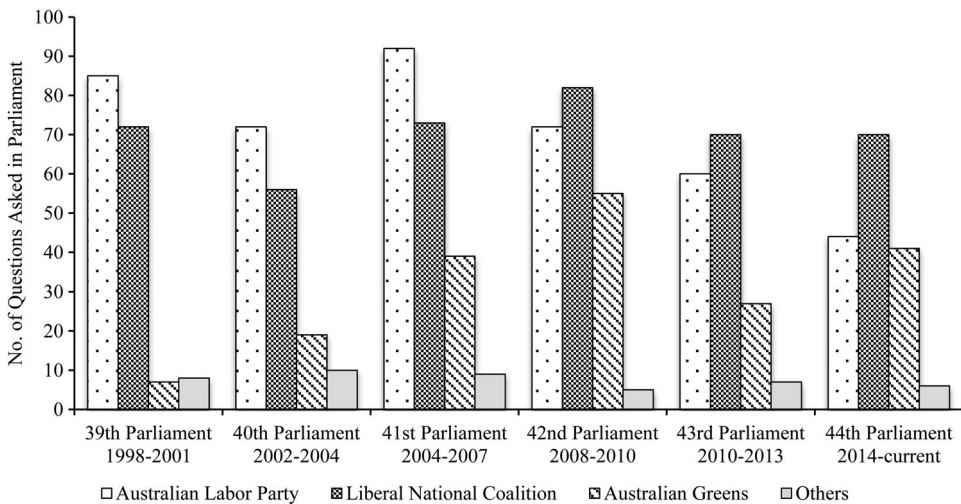


Figure 1. Antarctica in Australian parliaments.

unsurprising given the role of the opposition to raise contentious issues in the Parliament, as well as the volume of environmental issues Antarctica gives rise to. It is an issue, therefore, to which the Greens pay particular attention, especially given the party has had specific Antarctic and/or Whaling portfolios for the duration of the Parliaments under analysis (Australian Greens 2015a). It is also noted that when compared to the two major parties, per representative, the Australian Greens showed a significant emphasis on Antarctic-related questions.

The issues of Antarctica in Australian parliaments

The issues raised were thematically based on a lexical search of all coded segments using the keywords (Table 2: Themes). Of the more than 35,000 results, words that could be unambiguously related to Antarctica were grouped into 12 major themes.

The results show the broad issue-based trends of Antarctic issues in Australian Parliaments since November 1998 (Table 3). These percentage results are the frequency of the key words from Table 2, as mentioned across the documents from each Parliament.

These results show the focus of Australia’s policies regarding the AAT. There are, of course, concessions made as to the non-mutually exclusive nature of the terms and the limitations of quantitative methodology in analyses of this type. When aligned with events such as carbon taxation debates and Antarctic whaling seasons, however, there is an unmistakable correlation between Antarctic-related events occurring at the time and the data themselves.

The issues shown in Table 3 are broad in nature. ‘Climate change’ for example, appears because of the use of Antarctica as an example of the effects of climate change and the citing of climate science originating from the continent (e.g. Commonwealth of Australia 2008a). In contrast, IUU fishing is mentioned frequently in the context of protecting Australia’s sovereignty. These more nuanced comments on Australia’s presence, claim and domestic involvement with Antarctica and specifically the AAT are the focus of this analysis.

To distil further a contextual analysis of statements related directly to sovereignty, a further lexical analysis was done. These results provide an insight into the approaches of the three political parties as they navigate the internationally sensitive issue of Australia’s claim to the AAT.

Table 2. Themes.

Theme	Words & Terms
Sovereignty	Territory, sovereign, territorial, borders, jurisdiction
Environment	Environment, conservation, species, Madrid Protocol, meteorology
Science and Research	CSIRO, education, research, science, scientific, scientist, university, students
Climate Change	Climate, carbon, warming, ozone, greenhouse, emissions, temperature, sea level, sea ice, atmosphere, renewable, melting
Whaling	Whaling, whales, Japanese, Sea Shepherd, protest, International Court of Justice, sanctuary
Fishing	Fishing, illegal, toothfish, CCAMLR, fishery, IUU, krill
Antarctic Treaty	Treaty, Antarctic Treaty
Tasmania	Tasmania, Hobart, gateway
Defence & Border Protection	Defence, operation, patrol, Customs, security, surveillance, Navy, monitoring, border protection, Oceanic Viking, defend, military
Administration and Infrastructure	Antarctic Division, funding, ships, station, plane, boats, aircraft, Infrastructure, runway, assets, <i>Aurora Australis</i> , bases, icebreaker, airlink
Industry & Mining	Industry, mining
Tourism	Tourism, tourist

Table 3. Antarctic themes across parliaments.

Theme	39th	40th	41st	42nd	43rd	44th
	Parliament 1998–2001	Parliament 2002–2004	Parliament 2004–2007	Parliament 2008–2010	Parliament 2010–2013	Parliament 2014–current
	(% of overall discussion)	(% of overall discussion)	(% of overall discussion)	(% of overall discussion)	(% of overall discussion)	(% of overall discussion)
Sovereignty	10	7	12	9	16	8
Environment	13	12	13	11	13	7
Science & Research	11	14	12	17	14	26
Climate Change	15	11	14	20	12	10
Whaling	3	1	12	11	5	6
Fishing	11	18	9	5	5	5
Antarctic Treaty	3	2	4	4	5	1
Tasmania	5	4	2	3	5	7
Defence & Border Protection	11	13	10	8	8	13
Administration & Infrastructure	12	14	8	9	11	14
Industry & Mining	4	3	3	2	3	3
Tourism	2	1	1	1	3	0

All mentions of the words ‘territory’, ‘territorial’, ‘sovereign’, ‘sovereignty’, ‘borders’ and ‘claim’ were extracted and analysed, again with only those in a specific Antarctic or Southern Ocean context. Of those documents, another lexical search was conducted which identified the main themes, giving contextual results (Figure 2). It is noted that a quantitative analysis of these documents cannot synthesise the finer points of approaches of political parties in the area of Antarctic sovereignty. As shown in Figure 2, however, such an analysis does provide us with evidence of the issues that give rise to discussions of Australia’s sovereign claim.

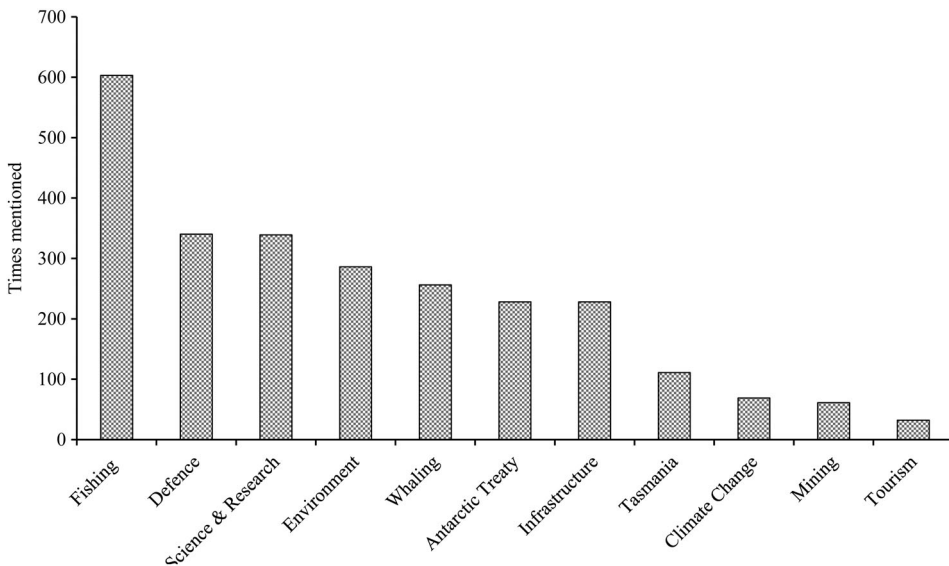


Figure 2. Context of sovereignty statements: 39th–44th parliaments (1998–present).

The analysis shows that sovereignty-related events located in the Southern Ocean (fishing, defence and whaling), rather than activities occurring on the Antarctic continent itself, raise the most mention by political parties.

The domestic politics of the Southern Ocean

IUU fishing, defence and whaling issues make up over half of the discourse of Antarctic sovereignty in the analysis. The issues of foreign flagged vessels partaking in activities, which reasonably affront the Australian public, would therefore create a political discourse clearly identifiable in government records.

IUU Fishing

At over 600 mentions, the incursions of foreign flagged IUU vessels into the HIMI EEZ comprise the majority of statements in regards to Australian sovereignty over the AAT and in the Southern Ocean (e.g. Commonwealth of Australia 2003a; Commonwealth of Australia 2004a). The discussions of sovereignty and fishing in the Southern Ocean are almost exclusively focused on IUU fishing rather than the conduct of legal operators under the strict controls of the Australian Fisheries Management Authority.

In the Coalition-led 39th Parliament, surveillance of IUU fishing activities in the Southern Ocean began to emerge as an issue (11% – Table 3), both within the Coastwatch Committee and with the *Fisheries Legislation Amendment Bill 1999*. The *Amendment Bill* was amended to include forfeiture and enforcement provisions to combat IUU fishing, ‘particularly in remote areas of the [fisheries] zone such as our sub-Antarctic Territories’ (Commonwealth of Australia 1999a, 9674). The Togo-flagged IUU fishing vessel *South Tomi* pursuit in April 2001, and highly publicised Greenpeace coverage of the Patagonian toothfish fishery and related albatross bycatch ran parallel with the Joint Committee of Public Accounts and Audit consideration of better infrastructure for the Southern Ocean (Commonwealth of Australia 2001b).

IUU fishing (18% – Table 3) became the dominant discourse of the Coalition-led 40th Parliamentary term. There was an increasing profile of the poaching of Patagonian toothfish by IUU fishing vessels in the Southern Ocean, including the highly publicised fishing vessel (FV) *Viarsa* chase. The Coalition government had to address the issue in Parliament through a series of highly publicised policies such as the 20% increase in surveillance flights and the doubling of days at sea by Australian Customs vessels (Commonwealth of Australia 2003b). There is, of course, considerable thematic overlap with IUU fishing policies themes and the theme in Table 3 regarding assets, infrastructure and administration (14%), defence (13%) and environment (12%) all garnering particular attention in the context of IUU fishing.

Also during the 40th Parliament, the *Fisheries Legislation Amendment (High Sea Fishing Activities and Other Matters) Bill 2003* emphasised Australia’s responsibilities under the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR), as well as regional cooperation under other regional fisheries management organisations (see Commonwealth of Australia 1999b). Acknowledgement of Australia’s international duty was also shown in the Coalition media releases of the time. For example, the Coalition’s ‘Securing Australia’s Interests’ document emphasised the role of Australia in environmental agreements such as CCAMLR (Liberal Party of Australia 2004, Part 6). In addition, the *Treaty Between the Government of Australia and the Government of the French Republic on Cooperation in the Maritime Areas Adjacent to the French Southern and Antarctic Territories, Heard and the McDonald Islands* was signed in late 2003. This was the culmination of negotiations over joint patrols of the sub-Antarctic islands.

In a sign, perhaps, of the success of such policies, fishing fell dramatically as a thematic issue in the 41st Parliament (9%), with the apparent effectiveness of the Southern Ocean patrols lessening the political attention surrounding the issue.

Whaling

More vexed, though mentioned less in the narrower context of sovereignty (Figure 2), is the issue of whaling. In terms of Australian sovereignty, whaling activity occurred almost exclusively south of the HIMI EEZ, in the AAT EEZ.

As the AAT is not widely recognised, the waters around the Antarctic continent are often treated as the high seas rather than as the AAT EEZ or ‘Australian waters’. Japan does not recognise Australia’s claim to the AAT or its EEZ (Commonwealth of Australia 1999b). Article VI of the Antarctic Treaty states that nothing within it ‘shall prejudice or in any affect the rights, or the exercise of the rights, of any State under international law with regard to the high seas in that area’. The path the Australian government must tread between domestic politics and international diplomacy, therefore, is a difficult one.

Whaling barely raised a mention in the 39th Parliament, despite the Australian Whale Sanctuary being established by the *Environment Protection and Biodiversity Conservation Act 1999* (Cth). Perhaps the muted response could be the result of the Greens only holding one seat in the Senate. It is more likely, however, that the tripartisan nature of the whaling issue meant any debate was unnecessary.

In the Coalition-led 41st Parliament, however, the rise of whaling as a policy and political issue (12%) was in parallel with highly publicised on-water campaigns by NGOs, which rose to prominence in 2005 through successful media campaigns. The *Humane Society International Inc v Kyodo Senpaku Kaisha Ltd* (2006) 154 FCR 425 decision, where Japanese whaling was deemed illegal under Australian law, perhaps elevated whaling to become an election issue between Kevin Rudd’s ALP and incumbent PM John Howard’s Coalition. The persistent call by the Greens to ban Japanese whaling may have assisted in the doubling of their Senate seats. Public discussion of this issue became more vehement during election time with ALP suggestions of armed patrols in the AAT EEZ aimed at stopping Japanese whaling fleets showing a lack of nuance when acknowledging the intricacies of the Antarctic Treaty and its obligations under Article IV (Rudd 2007).

Whaling (12% – Table 3) was a lesser issue in the ALP-led 42nd Parliament. Unlike its earlier proceedings the Full Court of Australia’s *Humane Society International Inc v Kyodo Senpaku Kaisha* [2008] FCA 3 injunction against the Japanese whaling fleet was not mentioned in any of the records. Whaling discourse seemed to peak late in the term, when Prime Minister Rudd announced in the months leading up to the federal election that the Government was taking the Japanese to court, a promise made at the previous election (Hunt 2009; McCurry 2010). This announcement happened just before Julia Gillard replaced Kevin Rudd as Prime Minister and leader of the ALP. In the 43rd Parliament, with submissions lodged with the International Court of Justice, Prime Minister Julia Gillard began the second ALP-led term with climate change instead being the theme most closely related with Antarctica. This is in line with the debates in Parliament surrounding the Carbon Tax (see discussion below).

Early in the Coalition-led 44th Parliament, Greens Senator Peter Whish-Wilson raised issues of whaling, sovereignty and asset capacity (Commonwealth of Australia 2014a, 2113). The Senator berated the new government for not sending the Australian Customs Vessel *Ocean Protector* to be a ‘cop on the beat’ in the Southern Ocean during the Japanese whaling season (Commonwealth of Australia, Senate, 26 March, 2014, 2113). The International Court of Justice delivered its judgement *Whaling in the Antarctic (Australia v Japan)* (2014) ICJ 148 in March

2014. The government response appears to have been muted given the lack of discussion in the data. It is noted that in the 41st Parliament, the Coalition had chosen not to take legal action against Japan in the International Court of Justice (e.g. Prime Minister Howard, Commonwealth of Australia 2005c, 321).

Political party statements & stances on Southern Ocean sovereignty

Given the international sensitivities of enforcing Australian law in the AAT EEZ, the Greens could be seen as the most bold party in mentioning enforcement of laws against non-Australian citizens in the AAT EEZ, and in publicising policies aimed at internationally flagged vessels. While whaling was not the dominant discourse in the Hansard documents (Figure 2), it certainly raised issues that highlight the stressful conduit between domestic politics and international diplomacy. This rhetoric was mostly recently raised by the Greens over the issue of asset deployment to intercept refugee vessels in the north of Australia, at the expense of Australian sovereign interests in the south (Whish-Wilson 2015).

Statements by NGOs in regards to whaling and IUU fishing often leave out the discussion of sovereignty and the nuances of Antarctic Treaty Article IV. For example, the Sea Shepherd Conservation Society repeatedly stated that IUU vessels in the Southern Ocean, in the Antarctic Treaty area, were in 'Australian waters' (Sea Shepherd Conservation Society 2015). This was likely done to attempt to elicit a response from the Australian government to send assistance, or to at least place public pressure on political parties to respond. These statements become prominent in the media and are often adopted by parties in media releases (see for example Australian Greens 2015b; Australian Greens 2014b). The adoption of these statements by Australian political parties could be seen by some as potentially undermining the broader object and purpose of the Antarctic Treaty, which ensures peace by focusing on scientific endeavour on the continent as a whole, rather than the national protection of the individual claims through enforcement of domestic laws against foreign vessels in waters widely seen as the high seas.

Perhaps in realisation of this issue in broader international discourse, the Greens also linked the protection of NGO vessels in the Southern Ocean during protests as an Australian Government responsibility (AAP 2013). Again, however, this would have called for enforcement of an Australian law against the Netherlands and Japanese flagged vessels. McGrath (2008) stated this could be done through a particular interpretation of the Antarctic Treaty's Article VIII regarding the jurisdiction of Contracting Parties. Australia, however, has mostly excluded foreign nationals from civil and criminal prosecution in Australian courts, for example, under the *Antarctic Treaty (Environment Protection) Act 1980* (Cth) s7 and the *Antarctic Marine Living Resources Conservation Act 1981* (Cth) s7 for activities that occur within the AAT and AAT EEZ.

Very little was said in the 44th Parliament of the unregulated Nigerian fishing vessel *Thunder*, which was trailed by an NGO protest vessel from the Southern Ocean. The IUU vessel was seen fishing for Patagonian toothfish in the Southern Ocean, in waters near the AAT EEZ (though not inside the AAT EEZ according to the coordinates publicly provided). It was stated by the Greens that '[t]he Australian government is in full knowledge that a notorious toothfish pirate vessel is off the coast of the Australian territory of Heard Island' (Australian Greens 2014a). In fact, the vessel was outside of both the HIMI and AAT EEZs, although the NGO protest vessel and *Thunder* did later transit through the AAT EEZ waters.

The same incident shifted to discussions of assets and infrastructure, with the Australian Defence Vessel *Ocean Shield* called upon to intercept the vessel in the Southern Ocean (Australian Greens 2014a). Persistent questioning by Senator Peter Whish-Wilson as to the protection of the sovereign waters of the AAT EEZ has been corrected on Hansard records by Coalition and ALP members, and also by third-party witnesses in various committees in the *Australia's*

future activities and responsibilities in the Southern Ocean and Antarctic waters, a report tabled by the Australian Greens (e.g. Commonwealth of Australia 2014b, 2).

The Coalition government, on the other hand, seems to have been careful not to frame Japanese whaling and IUU fishing off the AAT EEZ in the same fashion; instead they linked the importance of presence and patrols to environmental concerns (Commonwealth of Australia 2004b). Responses to IUU fishing in the HIMI and Macquarie Island EEZs, however, elicit far more direct reactions, reflecting the non-contentious nature of their sovereignty.

The Coalition's MP Dr Sharman Stone is a spokesperson of note on the topic of whaling, and has regularly stated that diplomacy was the key to solving the whaling dispute, rather than attempting to enforce Australian jurisdiction over Japan (Liberal Party of Australia 2008). The Coalition was vehemently opposed to the opposition leader Kevin Rudd's suggestion armed naval personnel were to board Japanese whalers, with then Coalition Environment Minister Malcolm Turnbull stating 'the consequences for relations between our two countries could only be described as catastrophic' (Darby 2007).

Coalition opposition to the more dramatic rhetoric of Australian sovereignty in the AAT EEZ was also shown through Coalition MP Phillip Ruddock's acceptance of the lack of enforceability of Australian law against the Japanese from the HSI litigation (Martin 2005). Queensland Coalition Senator Ian MacDonald is also notable in his consistent observance of the object and purpose of Article IV of the Antarctic Treaty, with the data analysis showing Senator MacDonald to be the most prolific spokesperson on Antarctic matters and politics of all parties (see Commonwealth of Australia 2010). In many of Senator MacDonald's statements he acknowledges the critical lack of international recognition of the AAT and its EEZ in terms of lack of enforceability. This was synthesised during the 43rd Parliament where he stated:

I smile to myself when the whaling issue comes up and people get hairy-chested and say what Australia should be doing with Australia's sovereign waters around the Antarctic continent. I always smile when I hear that because I think, anyone who follows this realises that 'Australia's waters' around Antarctica are in fact non-existent. Very few people recognise Australia as having any sovereign interest in the waters around Antarctica. So in terms of our ability to 'police' whaling by various nations or, I might say, the activities of those who would foolishly put their own lives and the lives of others at risk in opposing whaling, I do not know that Australia constitutionally or legally has any great jurisdiction in those areas. (Commonwealth of Australia 2012a, 2638)

In contrast, the ALP has been more dramatic and somewhat inconsistent in its rhetoric on sovereignty and the AAT EEZ. For example, when PM Rudd stated his policy of boarding by Naval personnel onto Japanese whalers, he said:

When you look quite plainly at the provisions which pertain to Australia under our right to uphold our sovereignty when it comes to Australian fishing zones and Australian fishing waters, we have every right to ensure that our sovereignty in relation to those waters is upheld (Rudd 2007, 2).

But for a brief moment in 1994, the AAT EEZ is not designated as an Australian Fishing Zone (see Kaye 1995, Chapter 8). The issue of having an armed patrol actively boarding vessels within 200 nm of the Antarctic coast is also potentially in contravention of Articles I and VI of the Antarctic Treaty, as well as Australian domestic law. Article I states that '[t]here shall be prohibited, inter alia, any measures of a military nature'. Boarding of certain IUU vessels under CCAMLR may, however, be permitted should the members approve such an activity by consensus, in order to enforce a Conservation Measure.

In 2003, opposition ALP leader MP Mark Latham suggested the creation of a Coastguard as an ALP election policy, a suggestion used in the context of combatting Japanese whaling activities

in the Southern Ocean (Australian Labor Party 2003). This again implies that the ALP's expression of Australian sovereignty could be through explicit force, rather than the peaceful status quo obligation stemming from the Antarctic Treaty, or dispute resolution via other international forums. Later, perhaps noticing the limitations, the ALP government maintained the same conceptual policy but instead ordered Japanese whaling vessels away from the territorial sea of Macquarie Island (Darby 2012a). Like the HIMI EEZ, Macquarie Island's sovereignty is not contested, and it was an action that could satisfy the clamouring public without damaging Australia's Antarctic diplomacy.

Science, climate change and sovereignty of the continent

While science and climate change are separated in the data analysis, it is fully acknowledged that the two themes in broader Antarctic discourse are interwoven, with much of the Australian Antarctic Science Program involving climate science. Science and climate are not the dominant themes in specific sovereignty-related discourse (Figure 2). However, they are dominant discourses in the broader Antarctic themes (Table 3).

Science

With Antarctica being the continent for peace and science (Antarctic Treaty Preamble & Article I), Australian politics on Antarctic sovereignty is often subtly interwoven with Australia's scientific program. Science is often described as: 'the currency of influence in the Antarctic Treaty System' (Press 2014, 30), which could translate into Australia's practice of 'effective occupation', the legal grounding most rely upon when discussing the validity of the claims to Antarctica. Though as can be seen in Figure 2, the rhetoric on science, research and sovereignty is less overt than IUU fishing, whaling and the related aspects of defence.

In the 40th Parliament the administrative and scientific themes also included the Joint Standing Committee on the National Capital and External Territories' investigation into the adequacy of funding for the Australia's Antarctic Program (Commonwealth of Australia 2004c). This report, delivered in the 41st Parliament, was intended to inquire and report upon the funding of the programs run by the Australian Antarctic Division (AAD) (Commonwealth of Australia 2005a). These transcripts show little in the way of political debate in the process, little mention of sovereignty and therefore are indicative of a fairly consistent approach by the political parties.

In the context of science, and in conjunction with Tasmanian regional development, sovereignty was raised at the end of the 43rd term of government. Tasmanian Independent MP Andrew Wilkie questioned the government over funding cuts that directly impacted Tasmanian-based Antarctic science institutions (Commonwealth of Australia 2013, 6280). This issue foretold an emerging political discourse focused on the regional development policies of Tasmania, seated within the politics of Antarctica.

Funding discussions by the Coalition during the 44th Parliament have been focused on science, research and capacity. This approach is tied to the broad, and seemingly stable, Coalition political approach to Antarctica. The 2014 funding announcement included a commitment to a new icebreaker that 'was necessary to ensure Australia hung onto its territory', and one that is 'critical for our long-term strategic concerns about Antarctic being a place of peace and science' (Hunt 2014). The tripartisan nature of science and research, with the exception of climate change policy and funding cuts, has muted much of the discourse from explicit mentions of sovereignty. Broadly, between the parties, science and research are paramount to maintaining a presence on the continent, with the quantification of the presence being the only time sovereignty is raised in this context.

Tasmania (7% – Table 3) was also inextricably linked to Antarctica in the 44th Parliament's Coalition's election-based *Economic Growth Plan for Tasmania*. This plan included '\$38 million to expand Hobart International Airport and secure Hobart as a world centre for Antarctic and Southern Ocean research' and a promise to '[m]ake Hobart the world class centre for Antarctic Research and capabilities by providing an additional \$24 million to establish a new Centre for Antarctic and Southern Ocean Research' (Liberal Party of Australia 2013, 11). There was also a promise to prepare a 20-Year Australian Antarctic Strategic Plan, which was to address 'Australia's generational interests in preserving and researching the Antarctic Environment.' In particular it would 'examine the long-term strategic challenges and needs for Australia in the Antarctic including our research requirements if we are to be an international Antarctic hub.' (Liberal Party of Australia 2013a)

During the 44th Parliament, the *20 Year Australian Antarctic Strategic Plan* was released in October 2014 with a strong focus on scientific research, which resulted in the dominant 26% thematic result (Press 2014). The government response to the document is expected in late 2015.

Climate change

Climate change is not often discussed in the context of sovereignty (Figure 2). This interesting comparison between its predominance in broader Antarctic themes and its minor role in the discussion of specific sovereignty issues shows the global context of Parliamentary discussions of climate change.

Climate change was the dominant overall Antarctic theme (15% – Table 3) in the 39th Parliament due to several legislative debates. The Joint Standing Committee on Treaties, focusing on the *Kyoto Protocol* negotiations, was held in 2000–01 (Commonwealth of Australia 2001a). The Environment, Communications, Information Technology and the Arts References Committee also had a strong focus on global warming in 2000. The results show the consistent use of Antarctica as a laboratory for the progression of a changing climate (Commonwealth of Australia 2000). This usage is shown again during the bill readings for the *Ozone Protection Amendment Bill 1998* and the *Renewable Energy (Electricity) Bill 2000*. The broader notions of the environment sat as a sentinel across all themes, with particular emphasis on the vulnerability of the Antarctic continent to climate change.

Climate change was again a dominant theme (14% – Table 3) in the 41st Parliament, and this in turn emerged as another key election issue. It is emphasised in the data that Antarctic science (13% – Table 3) is the climate change theme's partner in this discourse. This result is due to the consistent use of Antarctica as a contextual laboratory for climate change science. Therefore, Antarctica is brought into the discourse on science funding. Much of the climate change theme emerges from the *Carbon Change Action Bill 2006*, *Avoiding Dangerous Climate Change (Kyoto Protocol Ratification) Bill 2006*, the *National Greenhouse and Energy Reporting Bill 2007*, the Environment Communications, Information Technology and the Arts Committee of September 2007 (Commonwealth of Australia 2007a), and the Standing Committee on Industry and Resources in 2005 (Commonwealth of Australia 2005d). All of these discussions included detailed examples of Antarctic scientific endeavour on climate-based projects, particularly from the ALP and Australian Greens.

The change of government from Coalition to ALP in the 42nd Parliament involved, in some part, ALP election promises to sign the Kyoto Protocol, to take the Japanese to the International Court of Justice over its scientific whaling program and the flow of Australian Greens preferences to ALP seats nationally. It is, therefore, unsurprising that in Prime Minister Kevin Rudd's ALP 42nd Parliament, climate change became the dominant Antarctic-related theme (20% – Table 3). Climate and its link to Antarctic science (14%) featured heavily in the Carbon Pollution Reduction Scheme debates (see Commonwealth of Australia 2008a), the Standing Committee

on Climate Change, Water, Environment and the Arts (see Commonwealth of Australia 2008b) and the Select Committee on Climate Policy (see Commonwealth of Australia 2009b). Collaborative climate and Antarctic science was mentioned consistently, especially in the context of the Antarctic Climate and Ecosystems Cooperative Research Centre, various universities, the Bureau of Meteorology, the Commonwealth Scientific and Industrial Research Organisation (CSIRO) and the Australian Antarctic Division.

Climate (12% – Table 3) lessened in the discourse in the 43rd Parliament with Prime Minister Gillard’s legislative reforms of a carbon tax replacement to Rudd’s Emissions Trading Scheme. The *Clean Energy Act* was passed in 2011. This was a broader political debate, but one that appears to have had less focus on the scientific aspects, as evidenced by the lessening focus of Antarctica and science in the Hansard records than evidenced in previous governments.

In the 44th parliament Antarctica in conjunction with the climate also was consistently raised as the government attempted to undo the *Clean Energy Bill*, the retracting of which was a key election promise by the Coalition government.

While climate change and science are critical and major aspects of the broader Antarctic discourse, it is evident that the issues of climate change and science raised are less divisive in terms of sovereignty, and are therefore not part of the careful path trodden in terms of Antarctic Treaty Article IV and international diplomacy.

Sovereignty and World Heritage

Australia’s role in the development of the Antarctic Treaty System is often used as the normative ground of the stewardship over the sovereign claim. This particular result is raised within the sovereignty-based context of the environment, the Antarctic Treaty and mining (Figure 2).

Indicative of the less consistent attributes of ALP’s long-term Antarctic policies is the back down on the 2007 election platform of World Heritage status for Antarctica. While persistently advocated for years by Senator Bob Brown, in 2007 the ALP (at the time in opposition) agreed to push for World Heritage and then decided during the 42nd Parliament that ‘existing treaty arrangements provided protection for the Antarctic in a way that would not necessarily be guaranteed or advanced by World Heritage nomination’ (Darby 2009).

MP Kelvin Thomson (ALP) reiterated this by stating that the nomination ‘not possible’ during the second reading of the *Antarctic Treaty (Environment Protection) Amendment Bill 2011* (Commonwealth of Australia 2012b, 2397).

The Greens have consistently stated that Antarctica should go on the UNESCO World Heritage register, even asking US President Barack Obama to get involved (Australian Greens 2011). The interface between sovereignty and World Heritage was illustrated in this debate between Senator Ian Campbell (Coalition) and Senator Bob Brown in the 41st Parliament:

- Senator Ian Campbell: ... but what about all of the nations that challenge the sovereignty of the nation-states who claim territory in Antarctica?
- Senator Brown: That is no problem.
- Senator Ian Campbell: Do we just ignore those?
- Senator Brown: They are not going to stand in the way of World Heritage listing being accorded and a world park being established for Antarctica ... I think it is something the government should initiate. (Commonwealth of Australia 2005b)

This platform persists, with Senator Brown continuing in later discourse:

The argument that the Manager of Government Business gives for Antarctica already being well protected under various mechanisms is an argument for saying how easy and logical it is for giving it world park status and for moving for World Heritage listing. The argument that it needs a country with territorial claim – effectively, Australia has the largest territorial claim for Antarctica but has suspended it as part of the Antarctic Treaty organisation – puts Australia in the box seat to be making this move. The motion calls for Australia to be a leader in conserving Antarctica and in giving it the status of the top World Heritage listed item on the planet. The government should be proceeding with this and the Greens intend to continue – because it is logical, appropriate and it would do this country proud – to take a lead in seeing that Antarctica gets this status. (Commonwealth of Australia 2009a, 3338)

In stating, on the one hand, that listing relies on a territorial claim, and citing ‘suspension’ of this claim under the Antarctic Treaty on the other, the Greens seem to have an inconsistent approach to the explicit and implicit Treaty obligations in regards to state sovereignty in international law and diplomacy.

The Greens have also used the idea of World Heritage listing as a shield against mining in Antarctica (AAP 2010), despite the former AAD Director Press’ flat rejection that potential nomination would be ‘an own goal in political ice hockey’ as it could ‘actively renew debate on mining in Antarctica’ (Darby 2012b; Press 2012).

The Coalition has also raised the World Heritage Listing issue. In the 41st Parliament after Queensland Nationals Senator Barnaby Joyce stated Australia should ‘mine Antarctica before another country gets in first’ (Barlow 2006). The ALP then made the listing part of its upcoming election campaign (Albanese 2006). The statement (by Joyce) was condemned by both the Minister and Shadow Minister for the Environment (Canberra Times 2006). Coalition MP David Bushby has also stated that ‘[t]he extra layer of world heritage protection was ‘absolutely necessary’ to stop mineral exploitation of the frozen continent,’ (Darby 2012). This was denounced by Professor Don Rothwell (Darby 2012). Sen. Bushby’s statements came despite the Coalition calling the World Heritage listing a ‘gimmick’ in 2004 (AAP 2004). The Coalition suggested they would consider World Heritage listing in their pre-2013 election statements (Mounster 2013). Nothing more about World Heritage listing has emerged in more recent discourse.

Mining in Antarctica

Mining, and any resource extraction, is perceived as being at the core of potential sovereignty disputes. Therefore acts and statements of mining prohibition can be illustrative of the intent and will prevent such disputes under the guise of Article IV. All Australian political parties have maintained a tripartisan opposition to mining in Antarctica since the Hawke Government in 1989. It does not, however, feature prominently in the data results, perhaps because of the tripartisan support for on-going mining bans under the Madrid Protocol.

The initial response to the 20-Year Strategic Plan in 2014 seems to have reaffirmed the Coalition’s mostly consistent policies on sovereignty in Antarctica, stating that Australia had ‘made an ‘iron-clad commitment’ to working within the Antarctic Treaty System to try to establish an international consensus that the continent would remain free of mining for centuries to come’ (Hunt 2013; News Limited 2013). Further, Minister Greg Hunt clearly stated ‘[w]e are completely, absolutely and utterly opposed to any mining in Antarctica, ever’ (AAP 2015).

Despite the statement supportive of mining by Senator Joyce in the previous Coalition government, ‘mine Antarctica before another country gets in first’, the ban on mining in Antarctic has otherwise been consistently supported (Barlow 2006). Coalition Senator Ian Campbell, discussing Australian research into mineral resources, and in response to comments by Joyce, stated:

Hawke Labor government decided Australia would not pursue the mining convention in Antarctica and, as a result, Australia became a leading advocate for the Madrid Protocol, which includes a prohibition on mining in Antarctica. That has been a tripartisan policy ever since. Those are the facts, and I will not stand by and allow the Australian Labor Party to use this Senate committee to distract the resources of the Australian Antarctic Division to start basically a search on mineral resources and exploration in Antarctica. I will not allow that to happen while I am the environment minister. I am not going to allow time to be wasted because of the Labor Party's political shenanigans (Commonwealth of Australia 2006).

The ALP has had, since the Hawke government, a stable policy on the mining prohibition, up to the point of MP Mark Latham's potential 'own goal' that may have been scored should his statement on World Heritage listing become a policy (Darby 2012). However, like Senator Joyce's comment, these more flippant comments have seemingly had little impact on the broader tripartisan support for the on-going ban on mining as stated in the Madrid Protocol (Article 7).

Conclusion

Australia's Antarctic policies garner mostly tripartisan support from the two major parties and the Australian Greens. The use of science and evidence from Antarctica in climate change discourse shows a broad affinity with the continent. The passion of the dominant themes of anti-whaling and anti-IUU fishing shows vehemence against environmental threats to the region while science, research and presence are quieter sentinels of policies only occasionally afflicted by funding cuts.

The two major parties have navigated the difficult path between domestic politics and international diplomacy in regards to the Australia's internationally contentious claim over the AAT while they were in government.

The two major parties are less aligned with the diplomatic status quo when in opposition, and are more reactionary during election time. This is shown in the level of questions by parties in opposition (Figure 1), and by the rhetoric of whaling, IUU fishing, especially in the AAT EEZ and environmental protective measures so often mentioned in the same breath as World Heritage nomination, when on the opposing side of the chamber.

The approaches by each of the major political parties in terms of Australia's sovereign claim to 6 million km² of Antarctica, however, are perhaps more vexed than the general administration of the AAT. Broadly, the Coalition has shown a largely consistent approach to sovereignty in Antarctica, one that does not sway dramatically with election campaigns or the key events of IUU fishing and whaling. It appears the advice received and statements made by the Howard, Abbott and now Turnbull Coalition governments are more sensitive to the broad non-recognition of the AAT. This may be because of the stewardship of some Senators who give consistent knowledge and experience to the party rhetoric. Senator Ian MacDonald is one particular example of this. Despite out-of-step comments by Senators Joyce and Bushby while in opposition, and a briefly held platform on World Heritage listing, it appears that the united front shows at least some sound advice and careful consideration of the international diplomacy limb of Howard, Hall and Kellow's Australian Antarctic policy agenda (2007).

The ALP approach to the delicate international issue of Antarctic sovereignty could be considered as reactionary, and at times flippant, during periods of opposition and during elections. World Heritage nomination pledges, armed boarding parties in the AAT EEZ, delays of election pledges in the Whaling in the Antarctic litigation and abandoned ideas of a Coastguard to patrol the icy waters show a less considered and unified front to what is inherently a stable and tripartisan issue.

The moral fabric of the Australian Greens' Antarctic policies places the party in an interesting quandary. For a party who believes strongly in the environmental protection of Antarctica – to the

point of having a specific portfolio for the region – their policies are sometimes in conflict with international diplomacy and law. Vulnerable to the clamours of NGOs operating in the Southern Ocean, the Australian Greens statements sometimes ignore the legal realities of the contentious sovereign claims, especially in the Southern Ocean. These policies somewhat contradict and perhaps even undermine what is otherwise a passionate and devoted approach to the protection of the Antarctic environment.

Antarctica is consistently a policy area that attracts tripartisan support. The broader themes of climate change and science dominate over sovereignty discussions. The passion with which the sovereignty discussions are raised is indicative of Australia's close connections to the AAT and the continent broadly, and with stability in policy platforms, consistent approaches to dominant themes, careful attention to the delicate links between domestic politics and international diplomacy will assist in securing the continuation of Antarctica as a place of science and peaceful purposes.

Postscript

With the 44th Parliament now being led by Coalition Prime Minister Malcolm Turnbull, Antarctic issues may be elevated in importance through Prime Minister Turnbull's previous connection with Australia's Antarctic scientific research capacity and through his particular focus on science and innovation. During the 41st Parliament, while Minister for the Environment and Water Resources, the then Mr Turnbull MP stated that increased funding for Antarctic science would 'enhance our presence today in Antarctica ... to provide benefits for Antarctic research and the broader research community' (Commonwealth of Australia 2007b). Few Prime Ministers have held the Environment portfolio previous to holding office, so an Antarctic science theme in Australian politics may continue to grow in prominence.

Note

1. Parlinfo is the Australian federal government parliamentary database containing Hansard records, Bills, Senate journals, metadata on votes and proceedings, notice papers, Committee Reports, the Parliamentary Handbook, newspaper clippings, media releases and other related publications. (www.parlinfo.aph.gov.au).

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