

## **EXPLANATORY STATEMENT**

Issued by the authority of the Assistant Minister for Regional Development and the Territories

*Christmas Island Act 1958*  
*Mining Act 1978 (WA)(CI)*  
*Proclamation under section 16 (WA)(CI)*

### ***Christmas Island Mineral Field Proclamation 2019***

#### *Authority*

Section 8G(1) of the *Christmas Island Act 1958* provides that if a power is vested in (a) a Minister of Western Australia, (b) the Governor of Western Australia, or (c) the Governor-in-Council of Western Australia, by a West Australian law in force in the Territory under section 8A, the power is, in relation to the Territory, vested in the Minister instead of persons (a), (b) or (c).

Paragraph 16(1)(a) of the *Mining Act 1978 (WA)(CI)* provides that the Governor may, by proclamation, constitute any part of the State to be a mineral field.

The *Christmas Island Mineral Field Proclamation 2019* revokes the *Proclamation under section 16 (WA)(CI)*. This is consistent with subsection 33(3) of the *Acts Interpretation Act 1901* which provides that if an Act confers a power to make, grant or issue any instrument of a legislative or administrative character, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions to repeal, rescind, revoke, amend, or vary any such instrument.

#### *Purpose and Operation*

The *Christmas Island Mineral Field Proclamation 2019* proclaims the Territory of Christmas Island to be a mineral field, allowing phosphate mining on Christmas Island to operate in accord with the law.

#### *Impact and Effect*

This Instrument will not have any regulatory impacts or affect regulatory costs.

#### *Regulatory Impact Statement*

The Office of Best Practice Regulation considers the Proclamation is not likely to have a significant regulatory impact. Therefore, no Regulation Impact Statement is required (OBPR ID: 24563).

#### *Conditions to be Satisfied*

The *Mining Act 1978 (WA)(CI)* does not specify conditions that need to be satisfied before the power to make the Instrument may be exercised.

#### *Legislative Instrument*

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

### *Commencement*

The Instrument commences on the date after registration on the Federal Register of Legislative Instruments.

### *Consultation*

The Department consulted with Phosphate Resources Limited, the sole mining entity on Christmas Island, who noted the need for the proclamation of the Territory of Christmas Island to be a mineral field, to allow phosphate mining on Christmas Island to continue.

No other consultation was undertaken as the Instrument provides a continuation of the current arrangements.

## **Statement of Compatibility with Human Rights**

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

*Christmas Island Act 1958*

*Mining Act 1978 (WA)(CI)*

### ***Christmas Island Mineral Field Proclamation 2019***

This Disallowable 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 Disallowable Legislative Instrument**

The Disallowable Instrument proclaims the Territory of Christmas Island to be a mineral field and repeals the *Proclamation under section 16 (WA)(CI)*.

### **Human Rights Implications**

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

### **Conclusion**

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