

## EXPLANATORY STATEMENT

Issued by the authority of the Minister for Defence

*Defence Act 1903*

*Woomera Prohibited Area Rule 2014*

*Determination of Exclusion Periods for Amber Zone 1 and Amber Zone 2 for  
Financial Year 2021-2022 Amendment No.3*

### **Purpose**

Subsection 8(1) of the *Woomera Prohibited Area Rule 2014* provides that the Minister for Defence may, by legislative instrument, determine the exclusion periods for Amber Zone 1 in the Woomera Prohibited Area for a financial year.

The Minister has delegated the power to determine exclusion periods for a financial year pursuant to subsection 63(2) of the *Woomera Prohibited Area Rule 2014*.

In accordance with subsection 13(1)(a) of the *Legislation Act 2003* and subsection 33(3) of the *Acts Interpretation Act 1901* where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary any such instrument.

Therefore, during a financial year, exclusion periods determined by legislative instrument may be amended to vary access to zones within the Woomera Prohibited Area.

***Woomera Prohibited Area Rule 2014 Determination of Exclusion Periods for  
Amber Zone 1 and Amber Zone 2 for Financial Year 2021-2022 Amendment No.3***

Details of the Amendment are set out in Attachment 1.

### **Consultation**

Defence consulted on the general principles of exclusions periods in the WPA as part of the introduction of the *Woomera Prohibited Area Rule 2014*. Through this process, the persons who are directly affected by the exclusion periods were given the opportunity to comment on the Minister's power to determine exclusion periods, including detailing the direct or indirect impact an exclusion period would have on them or their business.

Additionally, Defence contacts those people who will be directly affected by the exclusion periods, including pastoralists, traditional owners and miners, when the exclusion period approaches.

As a result of the above, and on the basis that the amendment reduces the potential impact that exclusion periods have on affected persons by reducing the number of days that persons may be excluded from the WPA, specific consultation was not undertaken at the time of making this amendment.

### **Commencement**

This amendment commences on the day after registration.

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

A statement of compatibility with Human Rights is set out at Attachment 2.

## Attachment 1

### **Details of the Woomera Prohibited Area Rule 2014 Determination of Exclusion Periods for Amber Zone 1 and Amber Zone 2 for Financial Year 2021-2022 Amendment No.3**

The *Woomera Prohibited Area Rule 2014 Determination of Exclusion Periods for Amber Zone 1 and Amber Zone 2 for Financial Year 2021-2022* dated 4 March 2021 (the Determination) set out the dates on which holders of a permit issued under the *Woomera Prohibited Area Rule 2014* are excluded from entering the Amber Zone 1 and Amber Zone 2 during financial year 2021-2022.

The *Woomera Prohibited Area Rule 2014 Determination of Exclusion Periods for Amber Zone 1 and Amber Zone 2 for Financial Year 2021-2022 Amendment No.3* (the amendment Determination) will amend the Determination by removing the exclusion periods for Amber Zone 1 as set out in the table below.

<b>Exclusion Period</b>	<b>Zone to which the Exclusion Period applies</b>
23 May to 29 May 2022	Amber Zone 1
30 May to 5 June 2022	Amber Zone 1

## Statement of Compatibility with Human Rights

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

### Woomera Prohibited Area Rule 2014

*Determination of Exclusion Periods for Amber Zone 1 and Amber Zone 2 for Financial Year 2021-2022 Amendment No.3*

This amendment to the Determination under the *Woomera Prohibited Area Rule 2014* 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 Amendment

The *Woomera Prohibited Area Rule 2014 Determination of Exclusion Periods for Amber Zone 1 and Amber Zone 2 for Financial Year 2021-2022* made on 4 March 2021 under subsection 8(1) of the *Woomera Prohibited Area Rule 2014* exercised the power of the Minister for Defence by the delegate to determine the exclusion periods for Amber Zone 1 and Amber Zone 2 in the Woomera Prohibited Area for the financial year 2021-2022.

The Determination set out the dates in which holders of a permit issued under the *Woomera Prohibited Area Rule 2014* would be excluded from entering Amber Zone 1 and Amber Zone 2 during financial year 2021-2022.

The *Woomera Prohibited Area Rule 2014 Determination of Exclusion Periods for Amber Zone 1 and Amber Zone 2 for Financial Year 2021-2022 Amendment No.3* amends the Determination by omitting certain exclusion periods for Amber Zone 1 as set out in the Schedule to the amendment Determination.

#### Human rights implications

This instrument engages the following human rights:

- **Freedom of Movement – Article 12 of the International Covenant on Civil and Political Rights (ICCPR)**
- **The right to work and the right to just and favourable working conditions – the International Covenant on Economic, Social and Cultural Rights (ICESCR)**
- **The right to enjoy and benefit from culture – ICCPR and the right to take part in cultural life – ICESCR**

The Statement of Compatibility with Human Rights for the *Woomera Prohibited Area Rule 2014 Determination of Exclusion Periods for Amber Zone 1 and Amber Zone 2 for Financial Year 2021 - 2022* described how that Legislative Instrument would likely have limited the above human rights. By amending that Legislative Instrument

to omit the identified exclusion periods for Amber Zone 1, this Legislative Instrument positively affects those rights by reducing the times when those limitations will apply.

In particular, this amendment is considered to have a beneficial effect as it removes restrictions on access to the Woomera Prohibited Area. Those people with a permit to access Amber Zone 1 within the Woomera Prohibited Area will no longer be subject to exclusions and restrictions on their access during the periods specified in this amendment to the Determination.

### **Conclusion**

This Legislative Instrument is compatible with human rights as it promotes the protection of human rights by amending a Legislative Instrument to reduce limitations on human rights.

**Taylor Seawright, Acting Director Woomera Prohibited Area Coordination  
Office**