EXPLANATORY STATEMENT

Issued by the delegate of the Minister for Defence

Defence Act 1903

Woomera Prohibited Area (Exclusion Period for the Green Zone for 26 October 2026 to 29 November 2026) Determination 2026

Authority

The *Woomera Prohibited Area (Exclusion Period for the Green Zone for 26 October 2026 to 29 November 2026) Determination 2026* (the Determination) is made under subsection 8(1) of the *Woomera Prohibited Area Rule 2014* (Rule).

Subsection 8(1) of the Rule provides that the Minister may, by legislative instrument, determine exclusion periods for a financial year for the Green Zone in the Woomera Prohibited Area (WPA). Relevantly, subsection 8(4) of the Rule also provides that an exclusion period may apply to a part of a zone within the WPA.

Under subsection 63(2) of the Rule, the Minister may delegate the power to determine exclusion periods, including to an APS employee who holds or performs the duties of an Executive Level 1 position, or an equivalent or higher position, within the Department of Defence (Defence). On 12 September 2022, the Minister delegated this power by written instrument, to the Director of the Woomera Prohibited Area Coordination Office.

Background

In 2014, the *Defence Legislation Amendment (Woomera Prohibited Area) Act 2014* amended the *Defence Act 1903*. These amendments gave effect to the recommendations made in the Final Report of the Review of the Woomera Prohibited Area, released on 3 May 2011.

The amendments empower the Minister to make, by legislative instrument, rules in relation to the WPA. Accordingly, on 25 August 2014, the Minister exercised this power and made the Rule. Relevantly, the Rule allows for the issuing of permits for non-Defence members to access the WPA. Under the Rule, the Minister may prescribe zones within the WPA, and make provision for exclusion periods within those prescribed zones.

The legislative framework governing the WPA is predicated upon a coexistence model. It provides non-Defence users with greater certainty over Defence activity taking place within the WPA. It allows users to make commercial decisions with some assurance as to when they will be requested to leave the area due to scheduled Defence activity.

Details of the instrument

Details of the instrument are set out in **Attachment A**.

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Consultation

Defence consulted on the general principles of exclusion periods in the WPA as part of the drafting of the Rule. Through this process, the persons who are directly affected by the exclusion periods were consulted, and 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.

The Rule contains a number of mechanisms to limit the potential impacts that exclusion periods have on affected persons, including the notification requirements provided under section 9 and limitations on the number of days that persons may be excluded from the WPA under section 8.

The exclusion period specified in the Determination is based on prospective Defence testing requirements. As this exclusion period is contingent on Defence operational requirements, the actual duration and extent of the exclusion under the Determination may be subject to change. Where operationally feasible, an exclusion zone may be reduced or revoked to minimise disruption to non-Defence users. This approach ensures flexibility for Defence operations while maintaining the security and safety required to undertake Defence testing.

When an exclusion period approaches and when the extent of any testing is known, Defence contacts people who will be directly affected by an exclusion period, including pastoralists, traditional owners and mines. Defence provides timely and clear information about the exclusion period and area to ensure that affected persons are aware of any potential disruptions. Engagement with affected persons is conducted via email and relevant updates are conducted on Defence's official website to provide broader public accessibility to the information.

Additional consultation was not undertaken in relation to the making of this specific Determination. Considering the comprehensive consultation that was previously conducted during the development of the Rule and the ongoing consultation that Defence has with affected users in relation to an exclusion period, it was not considered necessary to consult further. The Determination operates within the framework established by the Rule, and does not introduce new impacts or changes that would warrant additional consultation.

Commencement

The Determination commences on the day after it is registered on the Federal Register of Legislation.

Repeal

The Determination will be repealed on 30 November 2026.

Parliamentary scrutiny

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

The Determination is subject to disallowance under section 42 of the *Legislation Act 2003*.

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A Statement of Compatibility with Human Rights has been prepared in accordance with subsection 9(2) of the *Human Rights (Parliamentary Scrutiny) Act 2011*. The Statement provides that the instrument is compatible with human rights because it promotes the protection of human rights, and to the extent that it may limit human rights, those limitations are necessary, reasonable and proportionate. The Statement of Compatibility with Human Rights is set out at **Attachment B**.

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Attachment A

Details of the Woomera Prohibited Area (Exclusion Period for the Green Zone for 26 October 2026 to 29 November 2026) Determination 2026

Section 1 – Name

Section 1 provides that the name of the instrument is the *Woomera Prohibited Area (Exclusion Period for the Green Zone for 26 October 2026 to 29 November 2026) Determination 2026* (the Determination).

Section 2 – Commencement

Section 2 provides that the Determination commences on the day after it is registered on the Federal Register of Legislation.

Section 3 – Authority

Section 3 provides that the Determination is made under subsection 8(1) of the *Woomera Prohibited Area Rule 2014* (the Rule).

Section 4 – Definitions

Section 4 sets out the meanings for key terms used throughout the Determination.

Section 5 – Exclusion Period

Section 5 determines exclusion periods for the green zone of the Woomera Prohibited Area.

Subsection 5(1) provides that for the purposes of paragraph 8(1)(c) of the Rule, the following exclusion periods are determined for the green zone:

(a) between 26 October 2026 and 1 November 2026; and

(b) between 2 November 2026 and 8 November 2026; and

(c) between 9 November 2026 and 15 November 2026; and

(d) between 16 November 2026 and 22 November 2026; and

(e) between 23 November 2026 and 29 November 2026.

Subsection 5(2) provides that for the purposes of subsection 8(4) of the Rule, the exclusion periods determined in paragraphs (1)(a), (b), and (c), the exclusion applies to the part of the green zone that is shaded blue on the map in Schedule 1. Subsection 5(2) also explains that the area of the exclusion period is contained within and bounded by a line commencing at latitude -30.546229, longitude 135.257831, connecting to a series of points, before re-connecting with the starting point. The map in Schedule 1 provides a visual representation of this area. For completeness, the total period during

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which access is excluded from this part of the green zone is between 26 October and 15 November 2026.

Subsection 5(3) provides that for the purposes of subsection 8(4) of the Rule, the exclusion periods determined in paragraphs (1)(d) and (e), the exclusion applies to the part of the green zone that is shaded blue on the map in Schedule 2. Subsection 5(3) also explains that the area of the exclusion period is contained within and bounded by a line commencing at latitude -30.546229, longitude 135.257831, connecting to a series of points, before re-connecting with the starting point. The map in Schedule 2 provides a visual representation of this area. For completeness, the total period during which access is excluded from this part of the green zone is between 16 and 29 November 2026.

The effect of section 5 is that non-Defence persons are prohibited from entering those parts of the green zone during the exclusion periods that apply to them.

Section 6 – Repeal

Section 6 provides that the Determination is repealed on 30 November 2026. This repeal date is immediately after the end of the final exclusion period determined in subsection 5(1) of the Determination.

Schedule 1 — Map of the Green Zone for exclusion periods between 26 October 2026 and 15 November 2026

Schedule 1 illustrates, in a map, the part of the green zone that the exclusion period for 26 October 2026 to 1 November 2026, 2 November 2026 to 8 November 2026, and 9 November 2026 to 15 November 2026 is determined for.

Schedule 2 — Map of the Green Zone for exclusion periods between 16 November 2026 and 29 November 2026

Schedule 2 illustrates, in a map, the part of the green zone that the exclusion period for 16 November 2026 to 22 November 2026 and 23 November 2026 to 29 November 2026 is determined for.

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Attachment B

Statement of Compatibility with Human Rights

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

Woomera Prohibited Area (Exclusion Period for the Green Zone for 26 October 2026 to 29 November 2026) Determination 2026

The *Woomera Prohibited Area (Exclusion Period for the Green Zone for 26 October 2026 to 29 November 2026) Determination* (Disallowable 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 Disallowable Legislative Instrument

Under subsection 8(1) of the *Woomera Prohibited Area Rule 2014* (Rule) the Minister may, by legislative instrument, determine exclusion periods for the Green Zone. Subsection 8(4) of the Rule allows for an exclusion period to apply to part of a zone within the Woomera Prohibited Area (WPA). In accordance with section 10 of the Rule, a permit will not provide permission for a person (referred to as 'permit holders') to be at a place in the Green Zone during the exclusion period determined by the Disallowable Legislative Instrument.

Human rights implications

The Disallowable Legislative Instrument engages the following human rights:

- the freedom of movement in Article 12 of the International Covenant on Civil and Political Rights (ICCPR);
- the right to work under Article 6 of the International Covenant on Economic, Social and Cultural Rights (ICESCR);
- the right to the enjoyment of just and favourable conditions of work under Article 7 of ICESCR;
- the right to enjoy and benefit from culture in Article 27 ICCPR; and
- the right to take part in cultural life under Article 15 ICESCR.

Freedom of movement

Article 12 of the ICCPR ensures the right to freedom of movement which includes the right for those who are lawfully within a country to move freely within that country.

The Disallowable Legislative Instrument specifies an exclusion period for a part of the Green Zone in the WPA, during which time permit holders are prohibited from entering. During this exclusion period, the WPA is used by Defence for testing activities relating to the defence of Australia. Accordingly, being physically in the part of the Green Zone during the exclusion period could endanger human life.

Therefore, any limitation on freedom of movement imposed by the Disallowable Legislative Instrument is considered reasonable, proportionate and necessary in these circumstances to maintain the security of Defence activities and protect personal safety. The Disallowable Legislative Instrument achieves this objective as the exclusion period prevents the movement of people through an area when Defence is undertaking its testing activities.

To ensure the Disallowable Legislative Instrument is reasonable and proportionate in the circumstances, the exclusion period declared is for a finite period of time. Further, and in accordance with subparagraphs 9(2)(a)(ii) and (iii) of the Rule, resource production purpose permit holders must

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be given at least 6 months' notice before an exclusion period begins, and other permit holders must be given at least twenty one days' notice before an exclusion period begins in the Green Zone. The Woomera Prohibited Area Coordination Office complies with these notification requirements and informs stakeholders of exclusion periods on its website before they come into effect. Defence also communicates regularly with affected permit holders who are contacted in the lead up to an upcoming exclusion period.

The above mechanisms ensure the limitation on the right to freedom of movement is reasonable, proportionate and necessary in these circumstances.

The right to work and the right to just and favourable working conditions

The right to work is protected under Article 6 of ICESCR, and Article 7 recognises the right to the enjoyment of just and favourable conditions of work, including a right to safe and healthy working conditions.

As raised above, exclusion periods determined by the Minister under section 8 of the Rule remove the right of persons to access parts of the WPA for the duration of the exclusion period due to Defence testing activities. This may prevent permit holders from being able to work, and prevent a body corporate from conducting its business activities in the WPA. In these circumstances, the right to work will be limited for the duration of the exclusion period to ensure personal safety and the security of permit holders.

Any limitations on the right to work and the right to just and favourable working conditions are considered reasonable, proportionate and necessary to ensure the security of Defence activities and protect personal safety. The limitations will achieve this objective by allowing Defence to undertake its testing activities while ensuring that people will not be put in danger. This includes evacuating people from places if their working conditions become dangerous or unfavourable (i.e. where there is a potential hazard caused by the testing of war materiel).

Further, the exclusion period is only for the specified timeframe in the Disallowable Legislative Instrument, with affected stakeholders given advance notice of the duration of the exclusion period, ensuring the limitation on the right to work is reasonable and proportionate.

The right to enjoy and benefit from culture and the right to take part in cultural life

Article 27 of the ICCPR protects the rights of all people to enjoy and benefit from culture. Article 15 of the ICESCR protects the right to take part in cultural life.

For First Nations people, enjoying and benefiting from culture and taking part in cultural life may include traditional, social and economic activities such as fishing or hunting and the right to live on traditional lands. The Disallowable Legislative Instrument may limit First Nations people's cultural rights, including the traditional use of land in the relevant zones for hunting, food gathering and ceremonial or religious purposes. Limiting access to the relevant zones will be for the purpose of Defence testing activities, the conduct of which could endanger human life should people be in the zone while this activity is taking place.

The limitation on these rights is reasonable, proportionate and necessary to maintain the security of Defence activities and ensure the safety of people who have access to this area. Once the exclusion period has ceased, First Nations people are able to access the WPA and enjoy and take part in cultural life as recognised in the ICCPR and ICESCR.

Conclusion

The Disallowable Legislative Instrument is compatible with human rights because, to the extent that it limits any rights, they are permissible limitations that serve the legitimate purpose of protecting

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human life and safeguarding Australia's security, defence, and international relations. While acknowledging that restrictions on freedom of movement, right to work and the right to enjoy and benefit from culture may affect a small number of individuals and corporations, these impacts are minimal given the limited use of the WPA. The measures are necessary to ensure the safety of all users and to uphold Australia's national security interests.

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