



Western Australia

# **Aboriginal Heritage Legislation Amendment and Repeal Act 2023**

---

As at 24 Oct 2023

Official Version

No. 23 of 2023

Published on [www.legislation.wa.gov.au](http://www.legislation.wa.gov.au)



# Aboriginal Heritage Legislation Amendment and Repeal Act 2023

## Contents

<b>Part 1 — Preliminary</b>		
1.	Short title	2
2.	Commencement	2
<b>Part 2 — Repeal of <i>Aboriginal Cultural Heritage Act 2021</i> and regulations made under that Act</b>		
3.	Repeals	3
<b>Part 3 — <i>Aboriginal Heritage Act 1972</i> amended</b>		
<b>Division 1 — Provisions coming into operation on day after assent day</b>		
4.	Act amended	4
5.	Section 4A amended	4
6.	Section 4B amended	4
7.	Section 4C inserted	4
	4C. Transitional provisions not affected by s. 4A or 4B	4
8.	Part 9 inserted	5
<b>Part 9 — Transitional provisions for <i>Aboriginal Heritage Legislation Amendment and Repeal Act 2023</i></b>		
69.	Terms used	5
70.	Application of <i>Interpretation Act 1984</i>	5
71.	Transitional regulations	5

<b>Division 2 — Provisions coming into operation on day fixed by proclamation</b>		
9.	Act amended	9
10.	Long title replaced	9
11.	Section 4 amended	10
12.	Sections 4A to 4C deleted	10
13.	Section 17 amended	10
14.	Section 18 amended	11
15.	Sections 18A and 18B inserted	18
	18A. Premier may call in application to State Administrative Tribunal for review	18
	18B. Change in ownership of land subject of s. 18 consent	22
16.	Part V heading replaced	23
<b>Part 5 — Aboriginal Cultural Heritage Committee</b>		
17.	Sections 28 to 36 replaced	23
	28. Aboriginal Cultural Heritage Committee established	23
	29. Composition of Committee	23
	30. Procedures	24
	31. Remuneration of members of Committee or subcommittee	24
	32. Regulations about Committee	25
18.	Section 55 amended	25
19.	Section 58 amended	26
20.	Section 67A inserted	26
	67A. Fees regulations	26
21.	Section 68 amended	27
22.	Section 69 amended	27
23.	Sections 72 to 87 inserted	28
	72. Abolition of bodies and appointment of members of Committee	28
	73. Protected area orders	29
	74. Previous consents under s. 18	31
	75. Previous other authorisations, approvals and consents	32
	76. ACH permits	33
	77. ACH management plans	34
	78. Marandoo Act area	37
	79. Completion of certain things commenced	39
	80. Orders etc. under 2021 Act cease to have effect	39
	81. Information and documents on ACH Directory	40

82.	Aboriginal ancestral remains	40
83.	Secret or sacred objects	41
84.	Offences	42
85.	Dealing with seized things	43
86.	Application of <i>Criminal and Found Property Disposal Act 2006</i>	44
87.	Closure of accounts	45

**Part 4 — Other written laws  
amended**

24.	<i>Conservation and Land Management Act 1984</i> amended	46
25.	<i>Constitution Acts Amendment Act 1899</i> amended	46
26.	<i>Control of Vehicles (Off-road Areas) Act 1978</i> amended	47
27.	<i>Coroners Act 1996</i> amended	47
28.	<i>Environmental Protection Act 1986</i> amended	47
29.	<i>Heritage Act 2018</i> amended	47
30.	<i>Land Administration Act 1997</i> amended	48
31.	<i>Planning and Development Act 2005</i> amended	48
32.	<i>Railway (Tilley to Karara) Act 2010</i> amended	49
	6. <i>Aboriginal Heritage Act 1972</i>	49
33.	<i>Sentencing Act 1995</i> amended	49
34.	<i>State Records Act 2000</i> amended	49





Western Australia

# Aboriginal Heritage Legislation Amendment and Repeal Act 2023

---

No. 23 of 2023

---

**An Act —**

- **to repeal the *Aboriginal Cultural Heritage Act 2021* and regulations made under that Act; and**
- **to amend the *Aboriginal Heritage Act 1972*; and**
- **to make consequential and related amendments to other written laws.**

[Assented to 24 October 2023]

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

### **1. Short title**

This is the *Aboriginal Heritage Legislation Amendment and Repeal Act 2023*.

### **2. Commencement**

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) Part 3 (other than Division 2) — on the day after assent day;
- (c) section 30 —
  - (i) if the *Land and Public Works Legislation Amendment Act 2023* section 82 comes into operation before the day on which section 3 comes into operation under paragraph (d) — on the day on which section 3 comes into operation; or
  - (ii) otherwise — immediately after the *Land and Public Works Legislation Amendment Act 2023* section 82 comes into operation;
- (d) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.



**Part 2 — Repeal of *Aboriginal Cultural Heritage Act 2021* and regulations made under that Act**

**3. Repeals**

- (1) The *Aboriginal Cultural Heritage Act 2021* is repealed.
- (2) The *Aboriginal Cultural Heritage Regulations 2022* are repealed.
- (3) The *Aboriginal Cultural Heritage (Cost Recovery) Regulations 2023* are repealed.

**Part 3 — *Aboriginal Heritage Act 1972* amended**

**Division 1 — Provisions coming into operation on day after assent day**

**4. Act amended**

This Division amends the *Aboriginal Heritage Act 1972*.

**5. Section 4A amended**

In section 4A delete “This” and insert:

Subject to section 4C, this

**6. Section 4B amended**

In section 4B delete “This” and insert:

Subject to section 4C, this

**7. Section 4C inserted**

After section 4B insert:

**4C. Transitional provisions not affected by s. 4A or 4B**

Neither section 4A nor section 4B applies to, or in relation to, the following —

- (a) the power to make regulations for the purposes of section 71(2);
- (b) any regulations made for the purposes of section 71(2);
- (c) any other provision of Part 9.

**8. Part 9 inserted**

After section 68 insert:

**Part 9 — Transitional provisions for *Aboriginal Heritage Legislation Amendment and Repeal Act 2023***

**69. Terms used**

In this Part —

*2021 Act* means the *Aboriginal Cultural Heritage Act 2021*;

*2023 amendment Act* means the *Aboriginal Heritage Legislation Amendment and Repeal Act 2023*;

*transitional regulations* has the meaning given in section 71(2).

**70. Application of *Interpretation Act 1984***

The *Interpretation Act 1984* applies in relation to a repeal or amendment under the 2023 amendment Act subject to this Part and transitional regulations.

**71. Transitional regulations**

(1) In this section —

*assent day* means the day on which the 2023 amendment Act receives the Royal Assent;

*publication day*, for transitional regulations, means the day on which the transitional regulations are published in accordance with the *Interpretation Act 1984* section 41(1)(a);

*specified* means specified or described in transitional regulations;

***transitional matter*** —

- (a) means a matter or issue of a transitional nature that arises as a result of either or both of the following —
    - (i) the enactment of the 2023 amendment Act;
    - (ii) a repeal or amendment under the 2023 amendment Act;and
  - (b) includes a saving or application matter or issue.
- (2) Regulations (***transitional regulations***) may do either or both of the following —
- (a) make any provision that is necessary or convenient for dealing with a transitional matter;
  - (b) make any provision that is necessary or convenient in consequence of, or for giving effect to, either or both of the following —
    - (i) the enactment of the 2023 amendment Act;
    - (ii) a repeal or amendment under the 2023 amendment Act.
- (3) Without limiting subsection (2), transitional regulations may do any of the following —
- (a) provide for any specified act or thing done or omitted to be done by, to or in respect of a specified person or body to be taken to have been done or omitted to be done by, to or in respect of another specified person or body;
  - (b) provide for any specified act or thing done or omitted to be done under the 2021 Act, or regulations made under the 2021 Act, to be

- taken to have been done or omitted to be done under this Act or another written law;
- (c) provide for the substitution of a specified person or body for another specified person or body as a party to any proceedings;
  - (d) provide for proceedings and remedies that might have been commenced by, or available to or against, a specified person or body to be commenced by, or to be available to or against, another specified person or body;
  - (e) provide for the transfer of, or the creation of interests in, specified property, rights or liabilities;
  - (f) provide for the modification of specified agreements or other instruments;
  - (g) provide for a specified person or body to take possession of books, documents or other records, however compiled or stored, that are or were in the possession of another specified person or body;
  - (h) provide for officers of the Department to be able to exercise powers under the *Criminal Investigation Act 2006*;
  - (i) provide for the 2021 Act, or a specified provision of the 2021 Act, to continue to apply (with or without specified modifications) to, or in relation to, a specified matter or thing as if the 2021 Act had not been repealed;
  - (j) provide for regulations made under the 2021 Act, or a specified provision of regulations made under the 2021 Act, to continue to apply (with or without specified modifications) to, or in relation to, a specified matter or thing as if the regulations had not been repealed;

**Aboriginal Heritage Legislation Amendment and Repeal Act 2023**

**Part 3** Aboriginal Heritage Act 1972 amended

**Division 1** Provisions coming into operation on day after assent day

**s. 8**

---

- (k) deal with any incidental or supplementary matters or issues relating to a provision of this Part or transitional regulations, including by making provisions that do any of the following —
  - (i) require, or provide for, a specified person or body to enter into an agreement with, or execute an instrument in favour of, another specified person or body;
  - (ii) require, or provide for, a specified person or body to register or record a document or transaction in a specified register;
  - (iii) require, or provide for, a specified person or body otherwise to maintain, modify or make an entry in a specified register;
  - (iv) provide for enforcement by way of civil proceedings for an injunction, or for any other appropriate remedy or relief, in the Supreme Court or any other court.
- (4) Transitional regulations may provide that specified provisions of this Act (including this Part but excluding this section) or another written law —
  - (a) do not apply to, or in relation to, a specified matter or thing; or
  - (b) apply with specified modifications to, or in relation to, a specified matter or thing.
- (5) If transitional regulations provide that a specified state of affairs is taken to have existed, or not to have existed, on and after a day that is earlier than publication day but not earlier than assent day, the

transitional regulations have effect according to their terms.

- (6) If transitional regulations contain a provision referred to in subsection (5), the provision does not operate so as to —
- (a) affect in a manner prejudicial to a person (other than the State or an authority of the State) the rights of that person existing before publication day; or
  - (b) impose liabilities on a person (other than the State or an authority of the State) in respect of an act done, or an omission made, before publication day.

## **Division 2 — Provisions coming into operation on day fixed by proclamation**

### **9. Act amended**

This Division amends the *Aboriginal Heritage Act 1972*.

### **10. Long title replaced**

Delete the long title and insert:

**An Act to make provision for the preservation of places and objects customarily used by or traditional to the original inhabitants of Australia or their descendants, or associated therewith, and for other purposes incidental thereto.**

**11. Section 4 amended**

- (1) In section 4 delete the definitions of:

*Committee*

*Director*

*transition day*

- (2) In section 4 insert in alphabetical order:

*Committee* means the Aboriginal Cultural Heritage  
Committee established under section 28(1);

- (3) In section 4 in the definition of *traditional custodian* delete “9;”  
and insert:

9.

**12. Sections 4A to 4C deleted**

Delete sections 4A to 4C.

**13. Section 17 amended**

In section 17 delete “the consent of the Minister under  
section 18.” and insert:

under a consent given under section 18(3)(a).



**14. Section 18 amended**

(1) Before section 18(1) insert:

(1AA) In this section and section 18A —

***approved determination of native title*** has the meaning given in the Native Title Act section 253;

***claim area***, in relation to a registered native title claim, means the area registered on the Register of Native Title Claims under the Native Title Act section 186(1)(e) as covered by the registered native title claim;

***determination area***, in relation to an approved determination of native title, means the area registered on the National Native Title Register under the Native Title Act section 193(2)(c) as covered by the approved determination of native title;

***ILUA*** means an indigenous land use agreement registered on the Register of Indigenous Land Use Agreements established and maintained under the Native Title Act Part 8A;

***National Native Title Register*** has the meaning given in the Native Title Act section 253;

***native title*** has the meaning given in the Native Title Act section 223;

***Native Title Act*** means the *Native Title Act 1993* (Commonwealth);

***native title party***, in relation to land, means the following —

- (a) if the land is the subject of a settlement ILUA — a regional corporation in relation to that land;

**Aboriginal Heritage Legislation Amendment and Repeal Act 2023**

**Part 3** Aboriginal Heritage Act 1972 amended

**Division 2** Provisions coming into operation on day fixed by proclamation

**s. 14**

---

- (b) if the land is not the subject of a settlement ILUA and is within the external boundary of the determination area of an approved determination of native title (the **relevant determination**), regardless of whether native title in relation to the land has been extinguished or surrendered — a registered native title body corporate in relation to the relevant determination;
- (c) if the land is not the subject of a settlement ILUA and is within the external boundary of the claim area of a registered native title claim (the **registered claim**), regardless of whether native title in relation to the land has been extinguished or surrendered — a registered native title claimant in relation to the registered claim;
- (d) a prescribed person or a person of a prescribed class;

**native title rights and interests** has the meaning given in the Native Title Act section 223;

**new information about an Aboriginal site**, in relation to land the subject of a consent given under subsection (3)(a), means information about an Aboriginal site on the land, other than information that a person who made a decision to give, amend or confirm the consent was made aware of for the purposes of making the decision;

**regional corporation** means —

- (a) in relation to land the subject of a settlement ILUA referred to in paragraph (a) of the definition of **settlement ILUA** — a Regional Corporation, as defined in the *Land Administration (South West Native Title*

*Settlement) Act 2016* section 3, appointed in respect of the land; or

- (b) in relation to the land the subject of the settlement ILUA referred to in paragraph (b) of the definition of **settlement ILUA** — the Regional Entity, as defined in that ILUA; or
- (c) in relation to land the subject of a settlement ILUA referred to in paragraph (c) of the definition of **settlement ILUA** — a prescribed corporation that has functions in respect of the land under, or for the purposes of, the settlement ILUA;

**registered native title body corporate** has the meaning given in the Native Title Act section 253;

**registered native title claim** means a claim (within the meaning of the Native Title Act section 184) details of which are contained in the Register of Native Title Claims;

**registered native title claimant** has the meaning given in the Native Title Act section 253;

**Register of Native Title Claims** has the meaning given in the Native Title Act section 253;

**settlement ILUA** means —

- (a) a settlement ILUA within the meaning of the *Land Administration (South West Native Title Settlement) Act 2016* section 3; or
- (b) the ILUA named the Yamatji Nation Indigenous Land Use Agreement registered on 30 July 2020; or
- (c) another prescribed ILUA under which native title rights and interests have been surrendered.

**Aboriginal Heritage Legislation Amendment and Repeal Act 2023**

**Part 3** Aboriginal Heritage Act 1972 amended

**Division 2** Provisions coming into operation on day fixed by proclamation

**s. 14**

---

- (2) In section 18(2) delete “shall, as soon as it is reasonably able,” and insert:

must

- (3) After section 18(3) insert:

- (3A) As soon as practicable after making a decision under subsection (3) or (6A), the Minister must publish notice of the decision on a website maintained by, or on behalf of, the Department.

- (4) In section 18(5):

- (a) delete “land” and insert:

land, or a native title party in relation to land,

- (b) delete “he may” and insert:

or (6A) in relation to the land, the owner or native title party may

- (5) After section 18(5) insert:

- (5A) A provision of a contract or other agreement (whether entered into before, on or after 23 December 2021) that would otherwise prohibit or have the effect of prohibiting a native title party in relation to land, or a person who is a member of such a native title party, from doing any of the following is of no effect —

- (a) making an application under subsection (5) in relation to the land;

- (b) commencing or being heard in proceedings before a court or tribunal in relation to a matter arising under or in relation to this section in relation to the land;
  - (c) being heard or making submissions in relation to the performance of a function under this section in relation to the land.
- (6) Delete section 18(6) and (6A) and insert:
- (6) A consent given under subsection (3)(a), whether given before, on or after 23 December 2021, is subject to whichever of the following conditions is applicable —
- (a) if the consent was given in relation to a notice under subsection (2) that was given to the Committee referred to in section 72(1) before 23 December 2021 — the condition is that an owner of the land the subject of the consent must, in accordance with the regulations (if any), notify the Minister if the owner becomes aware, on or after 1 July 2023, of any new information about an Aboriginal site on the land the subject of the consent;
  - (b) if the consent was given in relation to a notice under subsection (2) that was given to the Committee referred to in section 72(1) on or after 23 December 2021 but before 1 July 2023 — the condition is that an owner of the land the subject of the consent must, in accordance with the regulations (if any), notify the Minister if the owner becomes aware, on or after 23 December 2021, of any new information about an Aboriginal site on the land the subject of the consent;

**Aboriginal Heritage Legislation Amendment and Repeal Act 2023**

**Part 3** Aboriginal Heritage Act 1972 amended

**Division 2** Provisions coming into operation on day fixed by proclamation

**s. 14**

---

- (c) otherwise — the condition is that an owner of the land the subject of the consent must, in accordance with the regulations (if any), notify the Minister if the owner becomes aware, on or after the day on which the consent is given, of any new information about an Aboriginal site on the land the subject of the consent.
- (6A) If, in relation to a consent given under subsection (3)(a), the Minister becomes aware of new information about an Aboriginal site, the Minister may, having regard to the general interest of the community, do 1 of the following —
  - (a) amend the consent by amending the conditions to which it is subject, imposing new conditions or changing the specification of the land to which it relates;
  - (b) revoke the consent;
  - (c) revoke the consent and give a new consent;
  - (d) confirm the consent.
- (6B) However, if the Minister becomes aware of the new information about an Aboriginal site because of a notice given in accordance with a condition under subsection (6), the Minister must make a decision under subsection (6A).
- (6C) If the Minister proposes to exercise a power under subsection (6A) in relation to a consent, the Minister may suspend the consent in whole or in part. A suspension cannot extend beyond when the exercise of the power under subsection (6A) has taken effect.
- (6D) A consent given under subsection (6A)(c) —
  - (a) is taken to have been given under subsection (3)(a); and

- (b) is subject to the condition in subsection (6)(c).
  
- (7) In section 18(8):
  - (a) delete “this section to a person” and insert:  
  
subsection (3)(a)
  
  - (b) delete “by or on behalf of that person”.
  
- (8) After section 18(8) insert:
  
- (9) The regulations may provide for —
  - (a) procedural matters for the purposes of this section; and
  
  - (b) timeframes for doing things under or for the purposes of this section, or for performing functions under this section, including by —
    - (i) prescribing time limits within which a thing required or permitted to be done must be done; and
  
    - (ii) prescribing time limits within which a function must be performed; and
  
    - (iii) providing for the extension of such time limits.
  
- (10) Regulations under subsection (9) may be made in relation to the jurisdiction of the State Administrative Tribunal under subsection (5) and, to the extent necessary for such regulations, the *State Administrative Tribunal Act 2004* section 92 is excluded.

**15. Sections 18A and 18B inserted**

After section 18 insert:

**18A. Premier may call in application to State Administrative Tribunal for review**

- (1) In this section —  
*owner*, in relation to land, has a meaning affected by section 18(1) and (1a);  
*party*, to an application, means —
  - (a) the applicant; and
  - (b) any other party to proceedings in the State Administrative Tribunal arising from the application.
- (2) If an application is made to the State Administrative Tribunal under section 18(5) for review of a decision of the Minister made under section 18(3) or (6A), the Premier may determine the application if the Premier considers that the application raises issues of such State or regional importance that it would be appropriate for the application to be determined by the Premier.
- (3) The Premier may —
  - (a) direct the President of the State Administrative Tribunal to refer the application to the Premier for determination; or
  - (b) direct the State Administrative Tribunal to hear the application and then, without determining it, refer it, with recommendations, to the Premier for determination.



- 
- (4) The Premier cannot give a direction under subsection (3) —
- (a) more than 14 days, or any longer period prescribed by the regulations, after the application is made to the State Administrative Tribunal; or
  - (b) after a final determination has been made in relation to the application.
- (5) If the Premier gives a direction under subsection (3), the Premier —
- (a) must, within 14 days after the direction is given, give a copy of the direction to each party to the application and to the owner of the land the subject of the application if the owner is not a party; and
  - (b) may give a copy of the direction to any native title party in relation to the land that is not a party to the application; and
  - (c) must, as soon as is practicable, cause a copy of the direction to be laid before each House of Parliament.
- (6) The Premier may suspend the decision the subject of the application, in which case the decision is, while it is suspended, taken not to have been made. A suspension cannot extend beyond when the exercise of the power under subsection (9) has taken effect.
- (7) If the Premier gives a direction under subsection (3)(a), the owner of the land the subject of the application, and each native title party in relation to the land, may make written submissions to the Premier.

**Aboriginal Heritage Legislation Amendment and Repeal Act 2023**

**Part 3** Aboriginal Heritage Act 1972 amended

**Division 2** Provisions coming into operation on day fixed by proclamation

**s. 15**

---

- (8) In determining the application, the Premier —
- (a) must take into account submissions made under subsection (7); and
  - (b) must have regard to the general interest of the community; and
  - (c) may take into account any other matter that the Premier considers relevant.
- (9) In determining the application, the Premier must do 1 of the following —
- (a) if the decision the subject of the application was to give, amend or confirm a consent —
    - (i) confirm the decision the subject of the application;
    - (ii) amend the consent by amending the conditions to which it is subject, imposing new conditions or changing the specification of the land to which it relates;
    - (iii) revoke the consent;
    - (iv) revoke the consent and give a new consent;
  - (b) otherwise —
    - (i) confirm the decision the subject of the application;
    - (ii) give a consent;
    - (iii) reverse the decision.
- (10) On determining the application, the Premier —
- (a) must give written reasons for the determination to each party to the application and to the owner of the land the subject of the application if the owner is not a party; and

- (b) may give written reasons for the determination to any native title party in relation to the land that is not a party to the application; and
  - (c) must, as soon as is practicable, cause a copy of those reasons to be laid before each House of Parliament.
- (11) A consent given under subsection (9)(a)(iv) or (b)(ii) —
- (a) is taken to have been given under section 18(3)(a), except that section 18(5) does not apply in relation to the decision to give the consent; and
  - (b) is subject to the condition in section 18(6)(c).
- (12) The regulations may provide for —
- (a) procedural matters for the purposes of this section; and
  - (b) timeframes for doing things under or for the purposes of this section, or for performing functions under this section, including by —
    - (i) prescribing time limits within which a thing required or permitted to be done must be done; and
    - (ii) prescribing time limits within which a function must be performed; and
    - (iii) providing for the extension of such time limits.
- (13) Regulations under subsection (12) may be made in relation to hearings referred to in subsection (3)(b) and, to the extent necessary for such regulations, the *State Administrative Tribunal Act 2004* section 92 is excluded.

**18B. Change in ownership of land subject of s. 18 consent**

- (1) In this section —  
*owner*, in relation to land, has a meaning affected by section 18(1) and (1a).
- (2) If there is a change in ownership of land the subject of a consent under section 18(3)(a), an owner of the land must give notice in writing to the Minister within the period prescribed by the regulations.  
Penalty for this subsection: a fine of \$1 000.
- (3) If, on receipt of a notice under subsection (2), the Minister is satisfied that the consent, or a condition to which the consent is subject, does not, because of the change in ownership, have its intended effect, the Minister may amend the consent accordingly.
- (4) As soon as practicable after making a decision under subsection (3), the Minister must —
  - (a) give written notice of the decision to the person who gave notice under subsection (2); and
  - (b) publish notice of the decision on a website maintained by, or on behalf of, the Department.
- (5) If there is a change in ownership of land the subject of a consent under section 18(3)(a), the Minister may, on written application by an owner of the land, revoke the consent.
- (6) Regulations may provide for and in relation to notices for the purposes of this section, including the following —
  - (a) additional notice requirements to be imposed on an owner of land or other persons;

- (b) the information that must be included in a notice;
- (c) the period within which a notice must be given.

**16. Part V heading replaced**

Delete the heading to Part V and insert:

**Part 5 — Aboriginal Cultural Heritage  
Committee**

**17. Sections 28 to 36 replaced**

Delete sections 28 to 36 and insert:

**28. Aboriginal Cultural Heritage Committee  
established**

- (1) A body called the Aboriginal Cultural Heritage Committee is established.
- (2) The Committee is an agent of the State and has the status, immunities and privileges of the State.

**29. Composition of Committee**

- (1) The Committee is comprised of the following members —
  - (a) 2 persons appointed by the Minister to be chairpersons, each of whom is a person of Aboriginal descent —
    - (i) 1 of whom, in accordance with Aboriginal tradition, has rights, interests

and responsibilities in respect of women's business; and

- (ii) 1 of whom, in accordance with Aboriginal tradition, has rights, interests and responsibilities in respect of men's business;

and

- (b) between 4 and 9 other persons appointed by the Minister.

(2) The Minister must seek nominations, in accordance with regulations made for the purposes of section 32, of persons for appointment as members.

(3) The Minister must ensure that —

- (a) the members have, between them, such knowledge, skills and experience as the Minister considers appropriate to enable them to effectively perform the functions of the Committee under this Act; and

(b) as far as practicable —

- (i) the majority of the members are persons of Aboriginal descent; and
- (ii) the gender composition of the Committee is balanced.

### **30. Procedures**

Subject to regulations made for the purposes of section 32, the Committee may determine its own procedures.

### **31. Remuneration of members of Committee or subcommittee**

- (1) A member of the Committee, or of a subcommittee, is entitled to be paid the remuneration and allowances

determined by the Minister on the recommendation of the Public Sector Commissioner unless the member is a public service officer.

- (2) In subsection (1) —  
*subcommittee* means a subcommittee of the Committee established under regulations made for the purposes of section 32.

### **32. Regulations about Committee**

Regulations may be made about the Committee, including the following —

- (a) nomination, appointment, term of office, resignation and removal from office of members of the Committee or of a subcommittee of the Committee;
- (b) alternate members of the Committee to deputise for members temporarily unable or unavailable to act;
- (c) the establishment of, and other matters relating to, subcommittees of the Committee;
- (d) management of conflicts of interest of members of the Committee or of a subcommittee of the Committee;
- (e) meetings and proceedings of the Committee, including the following —
  - (i) chairing meetings;
  - (ii) holding remote meetings;
  - (iii) making resolutions without meetings.

### **18. Section 55 amended**

In section 55 delete “the giving of”.

**19. Section 58 amended**

In section 58 delete the Table and insert:

**Table**

s. 17	s. 18B(2)
s. 43(7)	s. 55

**20. Section 67A inserted**

After section 67 insert:

**67A. Fees regulations**

- (1) In this section —  
*fee* includes a charge.
- (2) Regulations may prescribe, or provide for the determination of, fees payable in relation to the performance of functions under this Act.
- (3) Without limiting subsection (2), regulations may provide for the following —
  - (a) fees determined on the basis of recovering the costs of the performance of functions in relation to a particular case;
  - (b) interest payable on unpaid fees;
  - (c) penalties for, and other consequences of, failure to pay fees, late payment of fees or underpayment of fees;
  - (d) recovery of fees.



- (4) Nothing in this section limits the operation of the *Interpretation Act 1984* sections 43, 45 and 45A.

**21. Section 68 amended**

- (1) In section 68 delete “The Governor” and insert:

(1) The Governor

- (2) At the end of section 68 insert:

(2) The regulations may provide —

- (a) that contravention of a regulation is an offence;  
and  
(b) for the offence to be punishable on conviction  
by a penalty not exceeding a fine of \$20 000.

(3) Section 57(1) does not apply to offences against the regulations.

**22. Section 69 amended**

In section 69 insert in alphabetical order:

*ACH Council* means the body referred to in section 72(2)(a);

*repeal day* means the day on which section 3 of the 2023 amendment Act comes into operation;

**23. Sections 72 to 87 inserted**

At the end of Part 9 insert:

**72. Abolition of bodies and appointment of members of Committee**

- (1) At the beginning of repeal day, the Aboriginal Cultural Material Committee established under section 28, as in force before repeal day, is abolished (and its members go out of office).
- (2) At the beginning of repeal day —
  - (a) the Aboriginal Cultural Heritage Council established under section 20(1) of the 2021 Act is abolished (and its members go out of office); and
  - (b) any committee established under section 30(1) of the 2021 Act is abolished (and its members go out of office).
- (3) The person who, immediately before repeal day, is the member of the ACH Council under section 21(1)(a)(i) of the 2021 Act is taken to be appointed as the member of the Committee under section 29(1)(a)(i) at the beginning of repeal day.
- (4) The person who, immediately before repeal day, is the member of the ACH Council under section 21(1)(a)(ii) of the 2021 Act is taken to be appointed as the member of the Committee under section 29(1)(a)(ii) at the beginning of repeal day.
- (5) A person who, immediately before repeal day, is a member of the ACH Council under section 21(1)(b) of the 2021 Act is taken to be appointed as a member of the Committee under section 29(1)(b) at the beginning of repeal day.

- (6) A person who is taken to be appointed as a member of the Committee under any of subsections (3) to (5) holds office —
- (a) for a term equal to the unfinished part of the person's term of office under the 2021 Act; and
  - (b) otherwise in accordance with the person's instrument of appointment under the 2021 Act.
- (7) A determination made under section 32 of the 2021 Act that is in effect immediately before repeal day continues in effect as if it had been made under section 31.

**73. Protected area orders**

- (1) In this section —
- historical protected area order* means an order made under section 315(1) of the 2021 Act that, under section 316(1) of the 2021 Act, is in effect immediately before repeal day as if it were an order made under section 82(1) of the 2021 Act;
- protected area order* means —
- (a) subject to subsection (8), an order made under section 82(1) of the 2021 Act that is in effect immediately before repeal day; or
  - (b) an historical protected area order;
- spent protected area order* —
- (a) means an order that, under section 316(1) of the 2021 Act, is in effect immediately before repeal day as if it were an order made under section 82(1) of the 2021 Act; but
  - (b) does not include an historical protected area order.

**Aboriginal Heritage Legislation Amendment and Repeal Act 2023**

**Part 3** Aboriginal Heritage Act 1972 amended

**Division 2** Provisions coming into operation on day fixed by proclamation

**s. 23**

---

- (2) On and after repeal day —
  - (a) a protected area order continues in effect as if it were an order made under section 19(4); and
  - (b) the area declared by the protected area order as a protected area is, accordingly, a protected area for the purposes of this Act; and
  - (c) the protected area order may be varied or revoked under section 25 accordingly.
- (3) Subsection (2) applies even if the area declared by the protected area order as a protected area, or any area included in that protected area —
  - (a) could not be declared to be a protected area under section 19(4); or
  - (b) could not be included in an area declared to be a protected area under section 19(4).
- (4) If any conditions were stated in the protected area order under section 82(3)(d) or 315(5)(d) of the 2021 Act, the conditions cease to have effect at the beginning of repeal day.
- (5) Section 21 does not apply in relation to an area that is a protected area by virtue of subsection (2).
- (6) For the purposes of section 22(1), the exclusive right to the occupation and use of a place that is a protected area by virtue of subsection (2) vests in the Minister on behalf of the Crown at the beginning of repeal day.
- (7) No person is entitled to be paid compensation under section 22(2) in relation to an area that is a protected area by virtue of subsection (2).

(8) Paragraph (a) of the definition of *protected area order* in subsection (1) does not include an order that, under section 316(1) of the 2021 Act, is in effect immediately before repeal day as if it were an order made under section 82(1) of the 2021 Act.

(9) All spent protected area orders are repealed.

**74. Previous consents under s. 18**

(1) A consent that was in force and effect under section 18 immediately before 1 July 2023 is, on and after repeal day, in force and effect under, and subject to, section 18.

(2) A consent that was given under section 18 on or after 1 July 2023 but before repeal day is, on and after repeal day, in force and effect under, and subject to, section 18.

(3) Neither subsection (1) nor subsection (2) applies to the following —

- (a) a consent that, before repeal day, expires in accordance with its terms;
- (b) an historical AH Act section 18 consent that a person was taken to hold under section 328(1) of the 2021 Act;
- (c) a purported section 18 consent (as was defined in section 330(2) of the 2021 Act).

(4) For the purposes of section 18(5), the effect of subsection (1) or (2) is not to be regarded as a decision of the Minister.

(5) A consent to which subsection (1) or (2) applies is subject to the condition in section 18(6)(a) or (b) depending on the day on which the notice under

section 18(2) to which the consent relates was given to the Committee referred to in section 72(1).

**75. Previous other authorisations, approvals and consents**

- (1) An authorisation that was in force and effect under section 16(2) immediately before 1 July 2023 is, on and after repeal day, in force and effect under, and subject to, section 16(2).
- (2) An authorisation that was given under section 16(2) on or after 1 July 2023 but before repeal day is, on and after repeal day, in force and effect under, and subject to, section 16(2).
- (3) An approval referred to in the *Aboriginal Heritage Regulations 1974* regulation 7 that was in force and effect under that regulation immediately before 1 July 2023 is, on and after repeal day, in force and effect under, and subject to, that regulation.
- (4) An approval referred to in the *Aboriginal Heritage Regulations 1974* regulation 7 that was given on or after 1 July 2023 but before repeal day is, on and after repeal day, in force and effect under, and subject to, that regulation.
- (5) A consent referred to in the *Aboriginal Heritage Regulations 1974* regulation 10 that was in force and effect under that regulation immediately before 1 July 2023 is, on and after repeal day, in force and effect under, and subject to, that regulation.
- (6) A consent referred to in the *Aboriginal Heritage Regulations 1974* regulation 10 that was given on or after 1 July 2023 but before repeal day is, on and after repeal day, in force and effect under, and subject to, that regulation.

- (7) None of subsections (1) to (6) applies to an authorisation, approval or consent that, before repeal day, expires in accordance with its terms.

**76. ACH permits**

- (1) In this section —  
*ACH permit* has the meaning that was given in section 100 of the 2021 Act.
- (2) An ACH permit that is granted before repeal day on an application made under section 115(1) of the 2021 Act (whether or not the ACH permit takes effect before repeal day) is, on and after repeal day —
- (a) a consent given under section 18(3)(a); and
  - (b) subject to section 18 accordingly.
- (3) The consent is subject to the condition in section 18(6)(c) and, for the purposes of that condition, the day on which the consent is given is the day on which the ACH permit is granted.
- (4) In relation to the consent, in the definition of *new information about an Aboriginal site* in section 18(1AA) —
- (a) the reference to a person who made a decision to give, amend or confirm the consent includes a reference to the ACH Council as the body that decided to grant the ACH permit; and
  - (b) accordingly, the reference to the purposes of making the decision includes a reference to the purposes of making the decision to grant the ACH permit.
- (5) For the purposes of section 18(5), the effect of subsection (2) is not to be regarded as a decision of the Minister.

- (6) Subsection (7) applies to an application made under section 115(1) of the 2021 Act before repeal day if none of the following occurs before repeal day —
  - (a) the ACH Council refuses to consider, or consider further, the application under section 117 of the 2021 Act;
  - (b) the ACH Council grants an ACH permit on the application (whether or not the ACH permit takes effect before repeal day);
  - (c) the ACH Council refuses to grant an ACH permit on the application.
- (7) On and after repeal day, the application is taken to be a notice given to the Committee under section 18(2) and is to be dealt with accordingly.
- (8) If a consent is given under section 18(3)(a) in relation to the notice, the consent is subject to the condition in section 18(6)(c).

**77. ACH management plans**

- (1) In this section —

*ACH management plan* has the meaning that was given in section 137(1) of the 2021 Act.
- (2) An approval or authorisation of an ACH management plan that is given before repeal day on an application made under section 147(1) or 157(1) of the 2021 Act (whether or not the approval or authorisation takes effect before repeal day) is, on and after repeal day —
  - (a) a consent given under section 18(3)(a); and
  - (b) subject to section 18 accordingly.
- (3) The consent includes the approved or authorised ACH management plan.



- (4) The consent is subject to the condition in section 18(6)(c) and, for the purposes of that condition, the day on which the consent is given is the day on which the approval or authorisation of the ACH management plan is given.
- (5) In relation to the consent, in the definition of *new information about an Aboriginal site* in section 18(1AA) —
- (a) the reference to a person who made a decision to give, amend or confirm the consent includes a reference to, as the case requires —
    - (i) the ACH Council as the body that decided to give the approval of the ACH management plan; or
    - (ii) the Minister in relation to the 2021 Act as the person who decided to give the authorisation of the ACH management plan;
- and
- (b) accordingly, the reference to the purposes of making the decision includes a reference to the purposes of making the decision to give the approval or authorisation of the ACH management plan.
- (6) For the purposes of section 18(5), the effect of subsection (2) is not to be regarded as a decision of the Minister.
- (7) Subsection (8) applies to an application made under section 147(1) of the 2021 Act before repeal day if none of the following occurs before repeal day —
- (a) the ACH Council refuses to consider, or consider further, the application under section 149 of the 2021 Act;

**Aboriginal Heritage Legislation Amendment and Repeal Act 2023**

**Part 3** Aboriginal Heritage Act 1972 amended

**Division 2** Provisions coming into operation on day fixed by proclamation

**s. 23**

---

- (b) the ACH Council approves the ACH management plan to which the application relates (whether or not the approval takes effect before repeal day);
  - (c) the ACH Council refuses to approve the ACH management plan to which the application relates.
- (8) On and after repeal day, the application is taken to be a notice given to the Committee under section 18(2) and is to be dealt with accordingly.
- (9) If a consent is given under section 18(3)(a) in relation to the notice, the consent is subject to the condition in section 18(6)(c).
- (10) Subsection (11) applies to an application made under section 157(1) of the 2021 Act before repeal day if none of the following occurs before repeal day —
  - (a) the ACH Council refuses to consider, or consider further, the application under section 159 of the 2021 Act;
  - (b) in respect of the application, the Minister in relation to the 2021 Act authorises a plan under section 165(1)(b)(i) of the 2021 Act (whether or not the authorisation takes effect before repeal day);
  - (c) in respect of the application, the Minister in relation to the 2021 Act refuses to authorise a plan under section 165(1)(b)(ii) of the 2021 Act.
- (11) On and after repeal day, the application is taken to be a notice given to the Committee under section 18(2) and is to be dealt with accordingly.

- (12) If a consent is given under section 18(3)(a) in relation to the notice, the consent is subject to the condition in section 18(6)(c).

**78. Marandoo Act area**

- (1) In this section —

**Marandoo Act area** means the land described in the *Aboriginal Heritage (Marandoo) Act 1992* Schedule 1 Part 1, Schedule 2 Part 1 and Schedule 3 Part 1 immediately before 1 July 2023;

Note for this definition:

The *Aboriginal Heritage (Marandoo) Act 1992* was repealed on 1 July 2023 by section 312 of the 2021 Act.

**Marandoo Reduced Area dataset** means the geographical information systems spatial dataset titled “WA\_MRA\_20230524.shp” that was held by the chief executive officer of the Department on 24 May 2023;

Note for this definition:

This is the geographical information systems spatial dataset referred to in the definition of **Marandoo Reduced Area dataset** in the *Marandoo Reduced Area Order 2023* dated 24 May 2023 and published in the *Gazette* on 30 May 2023 at p. 1365.

**owner**, in relation to the specified land, means a person who, immediately before 1 July 2023, was using the specified land for the specified purpose;

**specified land** means the area of land that is part of the Marandoo Act area described in the Marandoo Reduced Area dataset;

**specified purpose** means undertaking any activity for and incidental to the exploration, mining, processing and transporting of iron ore, including, but not limited to, the construction, operation and maintenance of railways, power lines, roads and other associated infrastructure.

**Aboriginal Heritage Legislation Amendment and Repeal Act 2023**

**Part 3** Aboriginal Heritage Act 1972 amended

**Division 2** Provisions coming into operation on day fixed by proclamation

**s. 23**

---

- (2) The owner of specified land is taken to have been given, at the beginning of repeal day, a consent under section 18(3)(a) to use the specified land for the specified purpose.
- (3) For the purposes of subsection (2) —
- (a) the specified land is taken —
    - (i) to be the land the subject of the consent; and
    - (ii) to be specified in the consent;
  - and
  - (b) the specified purpose is taken —
    - (i) to be the purpose for which the land the subject of the consent may be used; and
    - (ii) to be specified in the consent.
- (4) The consent is subject to the condition in section 18(6)(a) and is otherwise subject to section 18.
- (5) In relation to the consent, section 18(1AA) applies as if the following definition were substituted for the definition of *new information about an Aboriginal site* —
- new information about an Aboriginal site*, in relation to land the subject of a consent given under subsection (3)(a), means information about an Aboriginal site on the land;
- (6) For the purposes of section 18(5), the effect of subsection (2) is not to be regarded as a decision of the Minister.

- (7) The chief executive officer of the Department must ensure that the Marandoo Reduced Area dataset is publicly available on a website maintained by, or on behalf of, the Department.

**79. Completion of certain things commenced**

- (1) Anything commenced by the ACH Council before repeal day may be continued by the Committee on and after repeal day, to the extent to which the doing of that thing is within the functions of the Committee.
- (2) On and after repeal day, the Minister in relation to the 2021 Act continues in existence for the purpose of dealing with and finalising any proceedings commenced by or against the ACH Council or the Minister before that day.
- (3) While the Minister in relation to the 2021 Act continues in existence under subsection (2), the Minister has the powers to do any act that the Minister considers necessary or convenient to do for the purpose for which the Minister is continued in existence.
- (4) This section applies despite the repeal of the 2021 Act.

**80. Orders etc. under 2021 Act cease to have effect**

- (1) If a term used in subsection (2) (other than *repeal day*) was given a meaning in section 11 of the 2021 Act, it has the same meaning in subsection (2).
- (2) Any of the following that is in effect immediately before repeal day ceases to have effect at the beginning of repeal day —
- (a) a prohibition order;
  - (b) a remediation order;
  - (c) a stop activity order;

**Aboriginal Heritage Legislation Amendment and Repeal Act 2023**

**Part 3** Aboriginal Heritage Act 1972 amended

**Division 2** Provisions coming into operation on day fixed by proclamation

**s. 23**

---

- (d) a designation under section 37(1) of the 2021 Act;
  - (e) a designation under section 224(1) of the 2021 Act;
  - (f) an appointment under section 225(1) of the 2021 Act;
  - (g) an entry warrant under Part 10 Division 4 of the 2021 Act that is not executed before repeal day;
  - (h) any guidelines approved under Part 13 Division 3 Subdivision 2 of the 2021 Act.
- (3) A person whose designation or appointment ceases to have effect under subsection (2)(e) or (f) must, within 14 days after repeal day, return the identity card given to the person under section 226(1) of the 2021 Act to the chief executive officer of the Department.
- (4) Any proceedings on an application for an entry warrant under Part 10 Division 4 of the 2021 Act that are commenced, but not completed, before repeal day are terminated at the beginning of repeal day.

**81. Information and documents on ACH Directory**

On repeal day, all of the information and documents that were transferred under section 331 of the 2021 Act must be transferred to, and recorded in, a register under section 38.

**82. Aboriginal ancestral remains**

- (1) In this section —
- Aboriginal ancestral remains* has the meaning that was given in section 11 of the 2021 Act.

- (2) This section applies to Aboriginal ancestral remains if —
  - (a) the ancestral remains are transferred into the custody of the ACH Council under the 2021 Act before repeal day; and
  - (b) the ancestral remains are still in the custody of the ACH Council immediately before repeal day.
- (3) On repeal day, the ancestral remains must be transferred into the custody of the Committee.
- (4) Despite the repeal of the 2021 Act, the Committee may then deal with the ancestral remains in accordance with section 60(a) to (c) of the 2021 Act as in force before repeal day (and as if references in those paragraphs to the ACH Council were references to the Committee).

**83. Secret or sacred objects**

- (1) In this section —  
*secret or sacred object* has the meaning that was given in section 11 of the 2021 Act.
- (2) This section applies to a secret or sacred object if —
  - (a) the object is transferred into the custody of the ACH Council under the 2021 Act before repeal day; and
  - (b) the object is still in the custody of the ACH Council immediately before repeal day.
- (3) On repeal day, the object must be transferred into the custody of the Committee.
- (4) Despite the repeal of the 2021 Act, the Committee may then deal with the object in accordance with section 66(a) to (c) of the 2021 Act as in force before

repeal day (and as if references in those paragraphs to the ACH Council were references to the Committee).

**84. Offences**

- (1) Any proceedings for an offence committed under the 2021 Act (including regulations made under that Act) before repeal day may be continued, or commenced, on or after repeal day as if the 2021 Act (including regulations made under that Act) had not been repealed, and a person may be punished for the offence accordingly.
- (2) Without limiting subsection (1), the following provisions of the 2021 Act apply in relation to any proceedings that are continued or commenced as referred to in subsection (1) as if the 2021 Act (including regulations made under that Act) had not been repealed —
  - (a) Part 5 Division 3;
  - (b) section 258;
  - (c) section 261;
  - (d) section 262;
  - (e) Part 11 Divisions 3 and 4.
- (3) For the purposes of subsection (1), proceedings may be continued or commenced by the chief executive officer of the Department or a person authorised by that chief executive officer.
- (4) Subsection (3) does not limit the ability of a person to commence or continue proceedings if the person has authority at law to do so.
- (5) Despite subsection (2)(b), section 258(2) of the 2021 Act does not apply, but if the seized thing is an



Aboriginal object (as was defined in section 11 of the 2021 Act) —

- (a) the court's power under section 258(1) of the 2021 Act is limited to ordering the forfeiture of the object to the State and that the object be transferred into the custody of the Committee; and
  - (b) if the object is so transferred — despite the repeal of the 2021 Act, the Committee may then deal with the object in accordance with section 66(a) to (c) of the 2021 Act as in force before repeal day (and as if references in those paragraphs to the ACH Council were references to the Committee).
- (6) For the purposes of subsection (5), it does not matter if the seized thing is not a secret or sacred object (as was defined in section 11 of the 2021 Act).
- (7) This section applies despite *The Criminal Code* section 11.

**85. Dealing with seized things**

- (1) Section 241 of the 2021 Act continues to apply, subject to this section, on and after repeal day in relation to things seized before repeal day as if the 2021 Act had not been repealed.
- (2) The functions of the inspector under section 241(2) of the 2021 Act are functions of any officer of the Department authorised by the chief executive officer of the Department for the purposes of this section.
- (3) The functions of the CEO under section 241(2) of the 2021 Act are functions of the chief executive officer of the Department.

**Aboriginal Heritage Legislation Amendment and Repeal Act 2023**

**Part 3** Aboriginal Heritage Act 1972 amended

**Division 2** Provisions coming into operation on day fixed by proclamation

**s. 23**

---

- (4) Section 241(3) of the 2021 Act does not apply, but if the seized thing is an Aboriginal object (as was defined in section 11 of the 2021 Act) —
- (a) the chief executive officer’s power under section 241(2) of the 2021 Act to give directions is limited to directing that the object be transferred into the custody of the Committee; and
  - (b) if the object is so transferred — despite the repeal of the 2021 Act, the Committee may then deal with the object in accordance with section 66(a) to (c) of the 2021 Act as in force before repeal day (and as if references in those paragraphs to the ACH Council were references to the Committee).
- (5) For the purposes of subsection (4), it does not matter if the seized thing is not a secret or sacred object (as was defined in section 11 of the 2021 Act).
- (6) In section 241(4)(b) of the 2021 Act the reference to the Aboriginal Cultural Heritage Account established under section 279(1) of the 2021 Act is to be read as a reference to the Consolidated Account.

**86. Application of *Criminal and Found Property Disposal Act 2006***

- (1) Section 259(1) of the 2021 Act continues to apply in relation to the following as if the 2021 Act had not been repealed —
- (a) a seized thing (as was defined in section 221 of the 2021 Act) that is seized before repeal day;
  - (b) a thing forfeited under section 258 of the 2021 Act before repeal day;

- (c) a thing forfeited under section 258 of the 2021 Act as that section continues to apply on and after repeal day under section 84.
- (2) For the purposes of subsection (1), in section 259(1)(a) of the 2021 Act the reference to section 241 of the 2021 Act includes that section as it continues to apply under section 85.
- (3) For the purposes of subsection (1), the Department, when assisting the Minister in the administration of this Act, is a prescribed agency for the purposes of the *Criminal and Found Property Disposal Act 2006*.

**87. Closure of accounts**

- (1) In this section —  
*ACH Account* means the account that was established under section 279(1) of the 2021 Act;  
*ACH Compensation Fund* means the account that was established under section 280(1) of the 2021 Act.
- (2) On repeal day, any moneys standing to the credit of the ACH Account or the ACH Compensation Fund must be credited to the Consolidated Account, and the ACH Account and the ACH Compensation Fund must then be closed.
- (3) Any amount referred to in section 279(5) or 280(5) of the 2021 Act as in force before repeal day that becomes payable, but is not paid, before repeal day must be paid to the chief executive officer of the Department and credited to the Consolidated Account.

## **Part 4 — Other written laws amended**

### **24. Conservation and Land Management Act 1984 amended**

- (1) This section amends the *Conservation and Land Management Act 1984*.
- (2) In section 3 in the definition of **Minister for Indigenous Affairs** delete “*Aboriginal Cultural Heritage Act 2021*” and insert:

*Aboriginal Heritage Act 1972*

- (3) In section 4(5)(a) delete “*Aboriginal Cultural Heritage Act 2021* —” and insert:

*Aboriginal Heritage Act 1972* —

- (4) Delete section 59(3)(c) and insert:
  - (c) if the land includes an Aboriginal site, as defined in the *Aboriginal Heritage Act 1972* section 4, to the Minister for Indigenous Affairs.

- (5) Delete section 59(3A).

### **25. Constitution Acts Amendment Act 1899 amended**

- (1) This section amends the *Constitution Acts Amendment Act 1899*.
- (2) In Schedule V Part 3 delete the item relating to the Aboriginal Cultural Heritage Council and insert:

The Aboriginal Cultural Heritage Committee established under the *Aboriginal Heritage Act 1972*.

**26. *Control of Vehicles (Off-road Areas) Act 1978* amended**

- (1) This section amends the *Control of Vehicles (Off-road Areas) Act 1978*.
- (2) Delete section 38(2)(e) and insert:

(e) an honorary warden, under the *Aboriginal Heritage Act 1972*; or

**27. *Coroners Act 1996* amended**

- (1) This section amends the *Coroners Act 1996*.
- (2) Delete section 19B.

**28. *Environmental Protection Act 1986* amended**

- (1) This section amends the *Environmental Protection Act 1986*.
- (2) In section 41(5) delete “*Aboriginal Cultural Heritage Act 2021*.” and insert:

*Aboriginal Heritage Act 1972*.

**29. *Heritage Act 2018* amended**

- (1) This section amends the *Heritage Act 2018*.
- (2) In section 9(b) delete “Aboriginal cultural heritage, as defined in the *Aboriginal Cultural Heritage Act 2021* section 12.” and insert:

Aboriginal tradition or culture.

**s. 30**

---

(3) Delete section 10(a) and insert:

(a) the *Aboriginal Heritage Act 1972*; or

(4) In section 12(2)(b) delete “Aboriginal cultural heritage, as defined in the *Aboriginal Cultural Heritage Act 2021* section 12.” and insert:

Aboriginal tradition or culture.

**30. *Land Administration Act 1997* amended**

(1) This section amends the *Land Administration Act 1997*.

(2) In section 258A in the definition of *information sharing agency* in paragraph (b) delete “*Aboriginal Cultural Heritage Act 2021*,” and insert:

*Aboriginal Heritage Act 1972*;

**31. *Planning and Development Act 2005* amended**

(1) This section amends the *Planning and Development Act 2005*.

(2) In section 277(6) delete example 1 and insert:

1. A consent under the *Aboriginal Heritage Act 1972* section 18.

**32. *Railway (Tilley to Karara) Act 2010* amended**

- (1) This section amends the *Railway (Tilley to Karara) Act 2010*.
- (2) After section 5 insert:

**6. *Aboriginal Heritage Act 1972***

For the purposes of the construction of the railway, the *Aboriginal Heritage Act 1972* applies in relation to any land required to be used for the construction of the railway as if the contractor were the owner of that land.

**33. *Sentencing Act 1995* amended**

- (1) This section amends the *Sentencing Act 1995*.
- (2) In Schedule 1 delete the item relating to the *Aboriginal Cultural Heritage Act 2021*.

**34. *State Records Act 2000* amended**

- (1) This section amends the *State Records Act 2000*.
- (2) Delete section 76(1)(a) and (b) and insert:
  - (a) Aboriginal cultural material or an Aboriginal site (as those expressions are defined in the *Aboriginal Heritage Act 1972*); or
  - (b) any other matter relating to the heritage of Aboriginal Australians,