



Western Australia

Aboriginal Heritage Act 1972

## **Aboriginal Heritage Regulations 1974**



# Aboriginal Heritage Regulations 1974

## Contents

### Part 1 — Preliminary

1.	Citation	1
2.	Terms used	1

### Part 2 — General provisions relating to Aboriginal sites, protected areas and other land

3.	Application	2
4.	Minister's powers	2
5.	Minister may prohibit access to areas	3
6.	Offences	3
7.	Approval required before plant, etc. brought onto land	4
8.	Persons may be removed from land	4
10.	Activities requiring consent	5
11.	Powers of warden, and certificate (section 50)	6
12.	Authorised officer to have certificate	6

### Part 3 — Consent to certain uses, and call-in of reviews

13.	Definition of <i>native title party</i> for s. 18(1AA) of Act	8
14.	Notices under s. 18(2) of Act	10
15.	Review under s. 18(5) of Act	11
16.	New information under s. 18(6) of Act	11
17.	Time limit for giving call-in directions	12

18.	Time limit for making submissions under s. 18A(7) of Act	12
19.	Time limit for making determination under s. 18A(9) of Act	12
20.	Notice of change in ownership of land	13
	<b>Part 4 — Committee procedures</b>	
	<b>Division 1 — General</b>	
21.	Terms used	14
	<b>Division 2 — Constitution of Committee</b>	
22.	Nominations of persons for appointment as Committee members	14
23.	Term of office	15
24.	Casual vacancies	15
25.	Leave of absence	16
26.	Alternate members	17
27.	Acting chairperson or chairpersons	17
28.	Subcommittees	18
	<b>Division 3 — Conflicts of interest</b>	
29.	Term used: relevant member	19
30.	Disclosure of interest	19
31.	Voting by interested member	20
32.	Regulation 31 may be declared inapplicable	21
33.	Minister may deal with matter or reduce quorum if no quorum due to application of regulation 31	21
34.	Minister may declare regulation 31 inapplicable	22
	<b>Division 4 — Committee meetings and procedures</b>	
35.	Holding meetings	22
36.	CEO may attend meetings	23
37.	Quorum	23
38.	Presiding members	23
39.	Voting	24
40.	Holding meetings remotely	24
41.	Resolution without meeting	24
42.	Minutes	25
43.	Execution of documents	25

**Schedule**

**Notes**

Compilation table	29
Other notes	29

**Defined terms**



## Aboriginal Heritage Regulations 1974

### Part 1 — Preliminary

[Heading inserted: SL 2023/173 r. 4.]

#### 1. Citation

These regulations may be cited as the *Aboriginal Heritage Regulations 1974*.

[Regulation 1 amended: Gazette 30 Jun 1995 p. 2783.]

#### 2. Terms used

In these regulations —

**AH management system** means a system, provided via the Department's website, for the giving or publishing of notices and other information, and for facilitating other processes under the Act;

**CEO** means the chief executive officer of the Department;

**Committee member** —

(a) means a member of the Committee appointed under section 29(1) of the Act; and

(b) has a meaning affected by regulation 26(3) and (4);

**Department's website** means a website maintained by, or on behalf of, the Department;

**warden** means an honorary warden appointed by the Minister under section 50 of the Act.

[Regulation 2 inserted: Gazette 30 Jun 1995 p. 2783; amended: SL 2023/173 r. 5.]

## **Part 2 — General provisions relating to Aboriginal sites, protected areas and other land**

*[Heading inserted: SL 2023/173 r. 6.]*

### **3. Application**

The provisions of this Part —

- (a) apply in relation to any Aboriginal site or protected area or land held subject to a covenant in favour of the Minister in relation to which the Minister has a duty under the Act;
- (b) do not affect the rights of any person of Aboriginal descent who usually lives subject to Aboriginal customary law;
- (c) do not apply to any traditional custodian or Committee member, to the Minister, the Registrar, any officer of the Department, or to any person duly authorised under the Act, whilst lawfully acting in the performance of their duties in relation to any land or buildings to which the provisions of this Part apply.

*[Regulation 3 amended: Gazette 30 Jun 1995 p. 2783-4; SL 2023/173 r. 7.]*

### **4. Minister's powers**

The Minister —

- (a) may determine to what protected areas or portion of a protected area the public, or any person or class of persons specified by the Minister, shall be admitted and the conditions upon which admittance shall be allowed; and
- (b) may restrict access to any protected area, or any portion thereof, either generally or in relation to a specified person or class of persons, at any time, whether otherwise open to admission or not.



*[Regulation 4 amended: Gazette 30 Jun 1995 p. 2784.]*

**5. Minister may prohibit access to areas**

- (1) The Minister may, by notice —
- (a) served personally;
  - (b) erected or displayed in a prominent position on or near that land; or
  - (c) published in the *Gazette*,

prohibit access to any protected area, or any portion thereof, either generally or in relation to any specified person or class of persons, and any such prohibition may vary as to time, circumstance or otherwise as specified in the notice.

- (2) A person shall not, without the consent of the Minister or the Registrar, enter or remain on any protected area to which the public is not admitted or contrary to the conditions upon which the public is admitted, or contrary to the provisions of a notice given under subregulation (1).

Penalty for this subregulation: a fine of \$1 000.

*[Regulation 5 amended: Gazette 30 Jun 1995 p. 2784;  
SL 2023/173 r. 8.]*

**6. Offences**

Whilst on any land to which these regulations apply a person who —

- (a) fails to obey any reasonable direction of the Minister, the Registrar, or any officer of the Department or a warden;
- (b) wilfully obstructs the Minister, the Registrar, or any officer of the Department or a warden in the execution of their duty, or fails or refuses to state the person's name and address when lawfully required to do so, or states a false name or address, or fails or refuses to leave that land when required to do so;

**Aboriginal Heritage Regulations 1974**

**Part 2** General provisions relating to Aboriginal sites, protected areas and other land

**r. 7**

---

- (c) behaves in a disorderly manner, or uses violent or abusive or offensive language, or creates or takes part in any disturbance, or causes a nuisance, or wilfully disturbs or annoys any other person in the proper use of that land, or permits any animal belonging to the person or under the person's control to enter upon or cause damage to any land; or
- (d) without the consent of the Minister or the Registrar, handles, marks, defaces, moves, disturbs, uncovers, damages, destroys, or removes any specimen, relic, artifact, inscription, arrangement, or other object or exhibit in the possession or care of the Minister, or wilfully disturbs the general surrounding environment,

commits an offence.

Penalty: a fine of \$1 000.

*[Regulation 6 amended: Gazette 30 Jun 1995 p. 2784; SL 2023/173 r. 9.]*

**7. Approval required before plant, etc. brought onto land**

A person who, except under and in accordance with the prior approval of the Minister or the Registrar, brings on to any land to which these regulations apply any digging equipment, lifting equipment, or explosive, commits an offence.

Penalty: a fine of \$1 000.

*[Regulation 7 amended: Gazette 30 Jun 1995 p. 2785; SL 2023/173 r. 10.]*

**8. Persons may be removed from land**

The Minister, the Registrar, or any officer of the Department, or a warden, with such assistants as they think necessary, may remove from any land to which these regulations apply —

- (a) any person behaving in a disorderly manner;
- (b) any person who appears to be intoxicated;

- (c) any person who appears to be using the land for any unlawful purpose or for a purpose contrary to the objects of the Act;
- (d) any person who has committed a breach of these regulations if it appears that their continued presence may lead to a further breach of the regulations.

*[Regulation 8 amended: Gazette 30 Jun 1995 p. 2785;  
SL 2023/173 r. 11.]*

*[9. Deleted: SL 2023/173 r. 12.]*

**10. Activities requiring consent**

On any land to which these regulations apply, a person shall not, without the written consent of the Minister or the Registrar or a person authorised in writing by the Minister or the Registrar —

- (a) alter, damage, or destroy any notice, boundary, fence, shelter, grille, cutting, drain, protective work or other thing which the Registrar or any officer of the Department has, or has caused to be, erected, constructed, made or placed thereon or therein;
- (b) dig any hole or otherwise disturb the surface of the ground, or remove or disturb any stone, soil, sand, rock or gravel, or any other natural object;
- (c) cut, pick, pull, break, remove, take, injure, poison, strip or destroy any tree, shrub, herb, grass or other plant or part thereof whether living or dead;
- (d) post, stick, stamp, stencil, paint, draw or otherwise affix or make any mark, symbol, lettering, notice, advertisement poster, sign or document of any description;
- (e) except in a place approved or provided for the purpose —
  - (i) drive, tow, operate or park any vehicle;

**Aboriginal Heritage Regulations 1974**

**Part 2** General provisions relating to Aboriginal sites, protected areas and other land

**r. 11**

---

- (ii) camp, erect tents or shelters, light fires or make fireplaces;
- (iii) deposit or leave any refuse, rubbish or litter; or
- (iv) take, ride or drive, graze or agist any horse, cattle, sheep, goat, camel, donkey or pig, or allow any such animal to remain;
- (f) sell any food, beverage or other article;
- (g) unlock, unfasten or leave open any gate unless duly authorised to do so; or
- (h) except with the prior written approval of the Minister, or the Registrar, and in accordance with such requirements as they may impose, take any photograph or make any recording for the purpose of commercial reproduction or publication.

Penalty: a fine of \$2 000.

*[Regulation 10 amended: Gazette 30 Jun 1995 p. 2785; SL 2023/173 r. 13.]*

**11. Powers of warden, and certificate (section 50)**

- (1) For the purposes of section 50(1) of the Act, the powers of a warden are those set out in the Act and these regulations, limited according to the terms of their appointment.
- (2) For the purposes of section 50(2) of the Act, a warden shall be furnished with a certificate in the form of Form 1 set out in the Schedule.

*[Regulation 11 inserted: Gazette 30 Jun 1995 p. 2785; amended: SL 2023/173 r. 14.]*

**12. Authorised officer to have certificate**

An officer of the Department, authorised to administer the provisions of the Act in respect to Aboriginal sites, shall be furnished with a certificate in the form of Form 2, set out in the Schedule.

**Aboriginal Heritage Regulations 1974**

General provisions relating to Aboriginal sites, protected areas  
and other land

**Part 2**

**r. 12**

---

*[Regulation 12 inserted: Gazette 29 Oct 1976 p. 4178;  
amended: Gazette 30 Jun 1995 p. 2785.]*

### **Part 3 — Consent to certain uses, and call-in of reviews**

[Heading inserted: SL 2023/173 r. 15.]

#### **13. Definition of *native title party* for s. 18(1AA) of Act**

(1) In this regulation —

***Badimia land dataset*** means the geographical information systems spatial dataset titled “WA\_BLACA\_20231025.shp” that was held by the CEO on 25 October 2023;

***Murujuga land dataset*** means the geographical information systems spatial dataset titled “WA\_MACA\_20231025.shp” that was held by the CEO on 25 October 2023;

***representative body*** has the meaning given in the *Native Title Act 1993* (Commonwealth) section 253;

***representative body area***, in relation to a representative body, means the area in relation to which the body is recognised under the *Native Title Act 1993* (Commonwealth) section 203AD;

***service provider*** means a body to which funding is made available under the *Native Title Act 1993* (Commonwealth) section 203FE;

***specified area***, in relation to a service provider, means the specified area referred to in the *Native Title Act 1993* (Commonwealth) section 203FE in respect of which the service provider is enabled to perform functions as described in that section.

- (2) This regulation has effect for the purposes of paragraph (d) of the definition of ***native title party*** in section 18(1AA) of the Act.
- (3) Murujuga Aboriginal Corporation (ABN 51 627 395 274) is prescribed in relation to land in the area described in the Murujuga land dataset.

- (4) Badimia Land Aboriginal Corporation (ABN 31 775 861 208) is prescribed in relation to land (the *relevant land*) if —
- (a) the relevant land is in the area described in the Badimia land dataset; and
  - (b) there is no other native title party in relation to the relevant land under paragraph (a), (b) or (c) of the definition of *native title party* in section 18(1AA) of the Act.
- (5) A body listed in the Table to this subregulation is prescribed in relation to land (the *relevant land*) if —
- (a) the relevant land is in the specified area or representative body area for the body (as is relevant); and
  - (b) there is no other native title party in relation to the relevant land.

**Table**

<b>Service providers</b>	
Central Desert Native Title Services Limited (ABN 53 124 921 811)	NTS Goldfields Ltd (ABN 54 635 417 042)
<b>Representative bodies</b>	
Kimberley Land Council Aboriginal Corporation (ICN 21)	Yamatji Marlpa Aboriginal Corporation (ICN 2001)

- (6) The CEO must ensure that the Badimia land dataset and the Murujuga land dataset are publicly available on the Department’s website.

*[Regulation 13 inserted: SL 2023/173 r. 15.]*

**14. Notices under s. 18(2) of Act**

- (1) If the owner of any land proposes to give the Committee notice under section 18(2) of the Act, they must do so by using the AH management system or in another manner approved by the Minister.
- (2) If the owner of any land gives notice to the Committee under section 18(2) of the Act, the Committee may, for the purposes of that subsection, request further information from the owner and the owner must comply with the request within 14 days after the day on which notice of the request is given to the owner.
- (3) The Committee may extend the time limit under subregulation (2), but only once in any particular case.
- (4) If the owner of any land gives notice to the Committee under section 18(2) of the Act, the Committee must submit the notice, with recommendations, to the Minister within 70 days after the day on which the notice is given to the Committee.
- (5) The Minister may extend the time limit under subregulation (4) by up to 30 days, but only once in any particular case.
- (6) If the Committee requests further information under subregulation (2), the number of days allowed for it to comply with subregulation (4) does not include, for each occasion on which it requests further information under subregulation (2) —
  - (a) the day on which it requests the information; and
  - (b) each subsequent day on which the request is not complied with, up to the maximum number of days allowed for compliance with the request.
- (7) If a notice is submitted to the Minister under section 18(2) of the Act, the Minister must make a decision under section 18(3) of the Act within 28 days after the day on which the notice is submitted, or as soon as practicable after that.

*[Regulation 14 inserted: SL 2023/173 r. 15.]*



**15. Review under s. 18(5) of Act**

- (1) If a person proposes to apply, under section 18(5) of the Act, for review of a decision, they must do so within 28 days after the day on which the Minister publishes notice of the decision under section 18(3A) of the Act.
- (2) A judicial member of the State Administrative Tribunal may, in a particular case, extend the time limit under subregulation (1) if satisfied that the circumstances of the application so require, whether or not the time limit has expired.
- (3) In subregulation (2) —  
*judicial member* has the meaning given in the *State Administrative Tribunal Act 2004* section 3(1).  
*[Regulation 15 inserted: SL 2023/173 r. 15.]*

**16. New information under s. 18(6) of Act**

- (1) If, under a condition imposed by section 18(6) of the Act, an owner is required to notify the Minister of new information, the owner must —
  - (a) notify the Minister of the new information within 21 days after the day on which the owner becomes aware of the new information; and
  - (b) do so by using the AH management system or in another manner approved by the Minister.
- (2) If the Minister must make a decision under section 18(6A) of the Act because of section 18(6B) of the Act, the Minister must do so within 28 days after the day on which the Minister becomes aware of the new information, or as soon as practicable after that.
- (3) If the owner referred to in subregulation (1) became aware of the new information before commencement day, the owner is taken to comply with subregulation (1)(a) if they notify the

Minister of the new information within 21 days after commencement day.

- (4) In subregulation (3) —

**commencement day** means the day on which the *Aboriginal Heritage Amendment Regulations 2023* regulation 15 comes into operation.

*[Regulation 16 inserted: SL 2023/173 r. 15.]*

**17. Time limit for giving call-in directions**

For the purposes of section 18A(4)(a) of the Act, the longer period is 28 days.

*[Regulation 17 inserted: SL 2023/173 r. 15.]*

**18. Time limit for making submissions under s. 18A(7) of Act**

- (1) If a person proposes to make a submission under section 18A(7) of the Act in relation to an application, they must do so within 28 days after the day on which section 18A(5)(a) of the Act is complied with.
- (2) The Premier may extend the time limit under subregulation (1), but only once in any particular case.

*[Regulation 18 inserted: SL 2023/173 r. 15.]*

**19. Time limit for making determination under s. 18A(9) of Act**

- (1) If the Premier gives a direction under section 18A(3)(a) of the Act, the Premier must determine the application within 28 days after the last day on which a submission may be made under section 18A(7) of the Act, or as soon as practicable after that.
- (2) If the Premier gives a direction under section 18A(3)(b) of the Act, the Premier must determine the application within 28 days after the day on which the application, with recommendations, is referred to the Premier, or as soon as practicable after that.

*[Regulation 19 inserted: SL 2023/173 r. 15.]*

**20. Notice of change in ownership of land**

- (1) For the purposes of section 18B(2) of the Act, the period is 14 days after the day on which the change in ownership occurred.
- (2) A notice under section 18B(2) of the Act must include —
  - (a) a copy of the consent; and
  - (b) the name and contact details of each owner of the land; and
  - (c) the date on which the change in ownership occurred.
- (3) An owner of land who is required to give a notice under section 18B(2) of the Act must, within 28 days after the day on which the change in ownership occurred, give a copy of the notice to —
  - (a) the Committee; and
  - (b) any native title party in relation to the land.

Penalty for this subregulation: a fine of \$1 000.

- (4) In subregulation (3) —  
***native title party***, in relation to land, has the meaning given in section 18(1AA) of the Act.

*[Regulation 20 inserted: SL 2023/173 r. 15.]*

## **Part 4 — Committee procedures**

*[Heading inserted: SL 2023/173 r. 15.]*

### **Division 1 — General**

*[Heading inserted: SL 2023/173 r. 15.]*

#### **21. Terms used**

In this Part —

**chairperson** —

- (a) means a person appointed to be a member of the Committee under section 29(1)(a) of the Act; and
  - (b) has a meaning affected by regulation 27(3) and (4);
- subcommittee** has the meaning given in section 31(2) of the Act.

*[Regulation 21 inserted: SL 2023/173 r. 15.]*

### **Division 2 — Constitution of Committee**

*[Heading inserted: SL 2023/173 r. 15.]*

#### **22. Nominations of persons for appointment as Committee members**

- (1) Before appointing a person as a Committee member under section 29(1) of the Act, the Minister must publish an advertisement seeking nominations of persons for appointment as members.
- (2) The advertisement —
  - (a) must be published for at least 14 days on a website maintained by, or on behalf of, the Committee; and
  - (b) may be published in any other manner that the Minister considers appropriate.

*[Regulation 22 inserted: SL 2023/173 r. 15.]*

**23. Term of office**

- (1) A Committee member holds office for the term specified in the member's instrument of appointment.
- (2) The term of office specified in an instrument of appointment must not exceed 5 years.
- (3) A person's eligibility for appointment as a Committee member or the term for which a person may be reappointed is not affected by an earlier appointment.
- (4) A Committee member whose term of office expires without a person having been appointed to fill the vacancy continues in office (unless the office of the member becomes vacant under regulation 24(2)) until whichever of the following happens first —
  - (a) a person is appointed to fill the vacancy;
  - (b) a period of 6 months elapses after the expiry of the term of office.

*[Regulation 23 inserted: SL 2023/173 r. 15.]*

**24. Casual vacancies**

- (1) In this regulation —

***misconduct***, in relation to a Committee member, includes conduct that renders the member unfit to hold office as a member even though the conduct does not relate to a duty of the office.
- (2) The office of a Committee member becomes vacant if the member —
  - (a) dies; or
  - (b) resigns under subregulation (3); or
  - (c) is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or

**Aboriginal Heritage Regulations 1974**

**Part 4** Committee procedures

**Division 2** Constitution of Committee

**r. 25**

---

- (d) is convicted of an offence punishable by imprisonment for more than 12 months; or
  - (e) is convicted of an offence under regulation 30(1) or (2); or
  - (f) is removed from office by the Minister under subregulation (5).
- (3) A Committee member may resign from office by written notice given to the Minister.
- (4) The resignation takes effect on the later of the following —
- (a) receipt of the notice by the Minister;
  - (b) the day specified in the notice.
- (5) The Minister may remove a Committee member from office on the grounds of —
- (a) neglect of duty; or
  - (b) misconduct or incompetence; or
  - (c) mental or physical incapacity, other than temporary illness, impairing the performance of the member's duties; or
  - (d) absence, without leave, from 3 consecutive meetings of the Committee of which the member has had notice.

*[Regulation 24 inserted: SL 2023/173 r. 15.]*

**25. Leave of absence**

- (1) The Committee may, on the terms and conditions determined by the Committee, grant a Committee member leave to be absent from office for a period not exceeding 2 months.
- (2) The Minister may, on the terms and conditions determined by the Minister, grant a Committee member leave to be absent from office for a period exceeding 2 months.

*[Regulation 25 inserted: SL 2023/173 r. 15.]*

**26. Alternate members**

- (1) If a Committee member other than a chairperson is unable or unavailable to act because of illness, absence or other cause, the Minister may appoint another person as an alternate member to act temporarily in the member's place.
- (2) If a Committee member is acting as a chairperson under regulation 27(2), the Minister may appoint another person as an alternate member to act in the member's place while the member is acting as a chairperson.
- (3) In regulations 33(1)(b), 35(3), 37(2), 38(3) and (4), 39(1) and (3) and 42(2)(a) a reference to a Committee member includes a reference to an alternate member acting in accordance with an appointment under this regulation.
- (4) While acting in accordance with an appointment under this regulation, the alternate member is taken to be, and to have any entitlement of, a Committee member.
- (5) An act or omission of an alternate member cannot be questioned on the ground that the occasion for the appointment or acting had not arisen or had ceased.

*[Regulation 26 inserted: SL 2023/173 r. 15.]*

**27. Acting chairperson or chairpersons**

- (1) If 1 or both chairpersons of the Committee are unable or unavailable to act because of illness, absence or other cause, or if there are no chairpersons or there is only 1 chairperson, the Committee may recommend to the Minister that a member or members of the Committee act as chairperson or chairpersons.
- (2) If a recommendation is made under subregulation (1), the Minister may —
  - (a) appoint the recommended member or members of the Committee to act temporarily as chairperson or chairpersons; or

- (b) appoint another member or other members of the Committee to act temporarily as chairperson or chairpersons.
- (3) In regulations 35 and 38 a reference to a chairperson includes a reference to a person acting as a chairperson in accordance with an appointment under subregulation (2).
- (4) While acting in accordance with an appointment under subregulation (2), the member acting as a chairperson is taken to be, and to have any entitlement of, a chairperson.
- (5) An act or omission of a Committee member acting as a chairperson cannot be questioned on the ground that the occasion to act had not arisen or had ceased.

*[Regulation 27 inserted: SL 2023/173 r. 15.]*

**28. Subcommittees**

- (1) The Committee may establish subcommittees to assist it in performing its functions.
- (2) The Committee may discharge, alter or reconstitute a subcommittee.
- (3) The Committee may —
  - (a) determine the functions, membership and constitution of a subcommittee; and
  - (b) appoint members of the Committee or other persons as it thinks fit to be members of a subcommittee.
- (4) The Committee may give directions to a subcommittee on the following matters —
  - (a) the functions to be performed by the subcommittee;
  - (b) the subcommittee's procedures;
  - (c) reporting by the subcommittee on the performance of its functions.



- (5) A subcommittee must comply with a direction of the Committee.
- (6) A subcommittee may determine its own procedures but the procedures must be consistent with any direction of the Committee.
- (7) A subcommittee must —
  - (a) keep minutes of its meetings to a standard approved by the Committee; and
  - (b) provide the Committee with a copy of the minutes of each meeting.

*[Regulation 28 inserted: SL 2023/173 r. 15.]*

### **Division 3 — Conflicts of interest**

*[Heading inserted: SL 2023/173 r. 15.]*

#### **29. Term used: relevant member**

In this Division —

***relevant member*** means —

- (a) a Committee member; and
- (b) an alternate member acting under regulation 26; and
- (c) the CEO, or a nominee of the CEO, attending a meeting of the Committee under regulation 36.

*[Regulation 29 inserted: SL 2023/173 r. 15.]*

#### **30. Disclosure of interest**

- (1) A relevant member who has a material personal interest in a matter being considered or about to be considered by the Committee must, as soon as possible after the relevant facts have come to the relevant member's knowledge, disclose the nature and extent of the interest to the Committee.

Penalty for this subregulation: a fine of \$1 000.

- (2) A member of a subcommittee who has a material personal interest in a matter being considered or about to be considered by the subcommittee must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature and extent of the interest to the subcommittee.  
Penalty for this subregulation: a fine of \$1 000.
- (3) Subregulation (2) applies to a person who is a member of a subcommittee and also a relevant member even if the person has already disclosed the nature of the interest to the Committee.
- (4) If a relevant member, or a member of a subcommittee, has a material personal interest in a matter being considered or about to be considered by the Committee or a subcommittee, as is relevant, a chairperson, or, if relevant, a person presiding at a meeting where the matter is being considered or about to be considered, may call on the member to disclose the nature and extent of the interest and, in default of any such disclosure, may determine that the member has the interest.
- (5) A disclosure under subregulation (1) or (2) or a determination under subregulation (4) must be made at, and recorded in the minutes of —
- (a) the meeting in which the matter is being considered or about to be considered; or
  - (b) if there is no such meeting, the next meeting of the Committee or the subcommittee, as is relevant.

*[Regulation 30 inserted: SL 2023/173 r. 15.]*

**31. Voting by interested member**

- (1) A relevant member, or a member of a subcommittee, who has a material personal interest in a matter being considered or about to be considered by the Committee or a subcommittee, as is relevant —
- (a) must not vote (whether at a meeting or otherwise) on the matter; and

- (b) must not be in attendance (whether in person or remotely) while the matter is being considered at a meeting.
- (2) A reference in subregulation (1)(a) or (b) to a matter includes a reference to a proposed resolution under regulation 32 in respect of the matter, whether relating to that member or a different member.

*[Regulation 31 inserted: SL 2023/173 r. 15.]*

**32. Regulation 31 may be declared inapplicable**

Regulation 31 does not apply if —

- (a) a relevant member, or a member of a subcommittee, has disclosed under regulation 30 an interest in a matter; and
- (b) the Committee or subcommittee, as is relevant, has at any time passed a resolution that —
  - (i) specifies the member, the interest and the matter; and
  - (ii) states that the members voting for the resolution are satisfied that the interest is so trivial or insignificant as to be unlikely to influence the disclosing member's conduct and should not disqualify the member from considering or voting on the matter.

*[Regulation 32 inserted: SL 2023/173 r. 15.]*

**33. Minister may deal with matter or reduce quorum if no quorum due to application of regulation 31**

- (1) If a quorum of the Committee, as provided under regulation 37(2), is not present during the consideration of a matter because a relevant member is disqualified under regulation 31 in relation to the matter, the Minister may —
- (a) deal with the matter insofar as the Committee cannot; or

- (b) reduce the number of Committee members required for a quorum in relation to the matter.
- (2) However, the Minister cannot deal, under subregulation (1)(a), with a matter that relates to the performance of a function of the Committee in relation to either of the following —
  - (a) a particular person or matter;
  - (b) the giving of advice, or making of a recommendation, to the Minister under the Act.

*[Regulation 33 inserted: SL 2023/173 r. 15.]*

**34. Minister may declare regulation 31 inapplicable**

- (1) The Minister may by an instrument in writing declare that regulation 31 does not apply in relation to a specified matter either generally or in voting on particular resolutions.
- (2) The Minister must cause a copy of the declaration to be laid before each House of Parliament within 14 sitting days after the declaration is made.

*[Regulation 34 inserted: SL 2023/173 r. 15.]*

**Division 4 — Committee meetings and procedures**

*[Heading inserted: SL 2023/173 r. 15.]*

**35. Holding meetings**

- (1) The first meeting of the Committee must be convened by both chairpersons, and subsequent meetings are to be held at times and places determined by the Committee, unless the meeting is convened under subregulation (2) or (3).
- (2) A special meeting of the Committee may at any time be convened by the Minister, a chairperson, or both chairpersons.
- (3) If at least half the number of Committee members in office give notice in writing to a chairperson requesting the chairperson to convene a meeting in relation to any matter, the chairperson

must convene a meeting to be held within 14 days after the request is made.

*[Regulation 35 inserted: SL 2023/173 r. 15.]*

**36. CEO may attend meetings**

The CEO, or a nominee of the CEO, is entitled to attend any meeting of the Committee and participate in its deliberations, but cannot vote at a meeting of the Committee.

*[Regulation 36 inserted: SL 2023/173 r. 15.]*

**37. Quorum**

- (1) A meeting of the Committee cannot proceed unless a quorum is present.
- (2) A quorum of the Committee is formed by 5 Committee members.

*[Regulation 37 inserted: SL 2023/173 r. 15.]*

**38. Presiding members**

- (1) Both chairpersons, if present at a meeting of the Committee, must preside jointly at the meeting.
- (2) If 1 chairperson only is present at a meeting of the Committee, that chairperson must preside at the meeting.
- (3) If there is no chairperson able or available to preside at a meeting, or at a part of a meeting, of the Committee, the Committee members present may elect 1 or 2 of their number to preside at the meeting, or the part of the meeting, as is relevant.
- (4) In any case of dispute, doubt or difficulty in relation to matters of procedure or order, the decision of the Committee member, or members, presiding is final.

*[Regulation 38 inserted: SL 2023/173 r. 15.]*

**39. Voting**

- (1) At a meeting of the Committee, each Committee member present has a deliberative vote unless regulation 31 prevents the member from voting.
- (2) Questions arising at a meeting must be determined, in open voting, according to how a majority of votes are cast.
- (3) In the case of an equality of votes being cast on any question, each Committee member presiding has a casting vote in addition to a deliberative vote.
- (4) If, after votes are cast on a question under subregulation (3), there is still an equality of votes, the question is determined in the negative.

*[Regulation 39 inserted: SL 2023/173 r. 15.]*

**40. Holding meetings remotely**

The presence of a person at a meeting of the Committee need not be by attendance in person but may be by that person and each other person at the meeting being simultaneously in contact by telephone, audiovisual communication or other means of instantaneous communication.

*[Regulation 40 inserted: SL 2023/173 r. 15.]*

**41. Resolution without meeting**

A resolution in writing signed or otherwise assented to in writing by a quorum of the Committee, as provided under regulation 37(2), has the same effect as if it had been passed at a meeting of the Committee, and must be recorded in the minutes of the Committee's next meeting.

*[Regulation 41 inserted: SL 2023/173 r. 15.]*

**42. Minutes**

- (1) The Committee must cause accurate minutes to be kept of the proceedings at each of its meetings and each meeting of a subcommittee.
- (2) Without limiting subregulation (1), the minutes must —
  - (a) record that a Committee member or a member of a subcommittee, as is relevant, abstained from voting on or voted for or against a resolution if the member so requests; and
  - (b) include a record of attendance.

*[Regulation 42 inserted: SL 2023/173 r. 15.]*

**43. Execution of documents**

- (1) A document is duly executed by the Committee if it is signed on behalf of the Committee by —
  - (a) 2 Committee members authorised to do so under subregulation (2)(a); or
  - (b) an officer or employee authorised to do so under subregulation (2)(b).
- (2) The Committee may authorise any of the following persons to sign documents on behalf of the Committee, either generally or subject to the conditions that are specified in the authorisation —
  - (a) a Committee member;
  - (b) an officer of, or employee employed in, the Department.
- (3) A document purporting to be executed in accordance with this regulation is presumed to be duly executed unless the contrary is shown.

*[Regulation 43 inserted: SL 2023/173 r. 15.]*





Schedule

Form 1

ABORIGINAL HERITAGE ACT 1972

[s. 50 and r. 11(2)]

HONORARY WARDEN

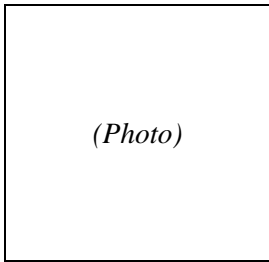
Name .....

of (Address) .....

is hereby certified to have been appointed as an honorary warden by the Minister in relation to —

Area in which the warden is authorised to act. } .....

The validity of this certificate expires on ..... (Date)



[Seal of Minister]

..... Signature of warden

[Form 1 inserted: Gazette 30 Jun 1995 p. 2786; amended: SL 2023/173 r. 16(1).]

**Schedule**

---

**Form 2**

*ABORIGINAL HERITAGE ACT 1972*

[r. 12]

**TO WHOM IT MAY CONCERN**

This is to certify that .....

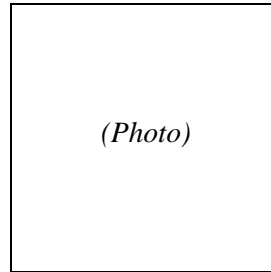
.....

is an officer of the *[name of Department]* and that they are empowered to administer the *Aboriginal Heritage Act 1972*, and the regulations made under that Act.

.....  
Chief Executive Officer

.....  
Registrar of Aboriginal Sites

.....  
Date



Officer's signature .....

*[Form 2 inserted: Gazette 30 Jun 1995 p. 2786; amended:  
SL 2023/173 r. 16(2).]*



## Notes

This is a compilation of the *Aboriginal Heritage Regulations 1974* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table.

### Compilation table

Citation	Published	Commencement
<i>Aboriginal Heritage Act Regulations 1974</i> <sup>1,2</sup>	26 Apr 1974 p. 1407-8	26 Apr 1974
Untitled regulations	29 Oct 1976 p. 4178	29 Oct 1976
<i>Aboriginal Heritage Amendment Regulations 1995</i>	30 Jun 1995 p. 2783-6	1 Jul 1995 (see r. 2 and <i>Gazette</i> 30 Jun 1995 p. 2781)
<b>Reprint of the <i>Aboriginal Heritage Regulations 1974</i> as at 2 Oct 1996</b> (includes amendments listed above)		
<b>Reprint 2: The <i>Aboriginal Heritage Regulations 1974</i> as at 9 Jan 2004</b> (includes amendments listed above)		
<i>Aboriginal Heritage Amendment Regulations 2023</i>	SL 2023/173 1 Nov 2023	15 Nov 2023 (see r. 2 and SL 2023/161 cl. 2)

### Other notes

- <sup>1</sup> Now known as the *Aboriginal Heritage Regulations 1974*; citation changed (see note under r. 1).
- <sup>2</sup> The *Aboriginal Cultural Heritage Act 2021* s. 311 (repealing these Regulations) was repealed by the *Aboriginal Heritage Legislation Amendment and Repeal Act 2023* s. 3(1) before it came into operation.

## Defined terms

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
AH management system .....	2
Badimia land dataset .....	13(1)
CEO .....	2
chairperson .....	21
commencement day .....	16(4)
Committee member .....	2
Department's website .....	2
judicial member .....	15(3)
misconduct .....	24(1)
Murujuga land dataset .....	13(1)
native title party .....	20(4)
relevant land .....	13(4) and (5)
relevant member .....	29
representative body .....	13(1)
representative body area .....	13(1)
service provider .....	13(1)
specified area .....	13(1)
subcommittee .....	21
warden .....	2