

Aboriginal Heritage Legislation Amendment and Repeal Bill 2023

Contents

Part 1 — Preliminary		
1.	Short title	2
2.	Commencement	2
Part 2 — Repeal of <i>Aboriginal Cultural Heritage Act 2021</i> and regulations made under that Act		
3.	Repeals	3
Part 3 — <i>Aboriginal Heritage Act 1972</i> amended		
Division 1 — Provisions coming into operation on day after assent day		
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
Part 9 — Transitional provisions for <i>Aboriginal Heritage Legislation Amendment and Repeal Act 2023</i>		
69.	Terms used	5
70.	Application of <i>Interpretation Act 1984</i>	5
71.	Transitional regulations	5

Division 2 — Provisions coming into operation on day fixed by proclamation		
9.	Act amended	9
10.	Long title replaced	9
11.	Section 4 amended	10
12.	Sections 4A to 4C deleted	10
13.	Section 18 amended	10
14.	Section 18A inserted	16
	18A. Premier may call in application to State Administrative Tribunal for review	16
15.	Part V heading replaced	20
Part 5 — Aboriginal Cultural Heritage Committee		
16.	Sections 28 to 36 replaced	20
	28. Aboriginal Cultural Heritage Committee established	20
	29. Composition of Committee	21
	30. Procedures	22
	31. Remuneration of members of Committee or subcommittee	22
	32. Regulations about Committee	22
17.	Section 67A inserted	23
	67A. Fees regulations	23
18.	Section 69 amended	24
19.	Sections 72 to 87 inserted	24
	72. Abolition of bodies and appointment of members of Committee	24
	73. Protected area orders	25
	74. Previous consents under s. 18	27
	75. Previous other authorisations, approvals and consents	28
	76. ACH permits	29
	77. ACH management plans	31
	78. Marandoo Act area	33
	79. Completion of certain things commenced	35
	80. Orders etc. under 2021 Act cease to have effect	36
	81. Information and documents on ACH Directory	37
	82. Aboriginal ancestral remains	37
	83. Secret or sacred objects	37
	84. Offences	38
	85. Dealing with seized things	39
	86. Application of <i>Criminal and Found Property Disposal Act 2006</i>	41
	87. Closure of accounts	41

**Part 4 — Other written laws
amended**

20.	<i>Conservation and Land Management Act 1984</i> amended	43
21.	<i>Constitution Acts Amendment Act 1899</i> amended	43
22.	<i>Control of Vehicles (Off-road Areas) Act 1978</i> amended	44
23.	<i>Coroners Act 1996</i> amended	44
24.	<i>Environmental Protection Act 1986</i> amended	44
25.	<i>Heritage Act 2018</i> amended	44
26.	<i>Land Administration Act 1997</i> amended	45
27.	<i>Planning and Development Act 2005</i> amended	45
28.	<i>Railway (Tilley to Karara) Act 2010</i> amended	45
	6. <i>Aboriginal Heritage Act 1972</i>	46
29.	<i>Sentencing Act 1995</i> amended	46
30.	<i>State Records Act 2000</i> amended	46

Western Australia

LEGISLATIVE ASSEMBLY

Aboriginal Heritage Legislation Amendment and Repeal Bill 2023

A Bill for

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.**

The Parliament of Western Australia enacts as follows:

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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 26 —
 - (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.

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

3 **3. Repeals**

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

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

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

4 **4. Act amended**

5 This Division amends the *Aboriginal Heritage Act 1972*.

6 **5. Section 4A amended**

7 In section 4A delete “This” and insert:

8

9 Subject to section 4C, this

10

11 **6. Section 4B amended**

12 In section 4B delete “This” and insert:

13

14 Subject to section 4C, this

15

16 **7. Section 4C inserted**

17 After section 4B insert:

18

19 **4C. Transitional provisions not affected by s. 4A or 4B**

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

22 (a) the power to make regulations for the purposes
23 of section 71(2);

24 (b) any regulations made for the purposes of
25 section 71(2);

26 (c) any other provision of Part 9.
27

1 **8. Part 9 inserted**

2 After section 68 insert:
3

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

7 **69. Terms used**

8 In this Part —

9 *2021 Act* means the *Aboriginal Cultural Heritage*
10 *Act 2021*;

11 *2023 amendment Act* means the *Aboriginal Heritage*
12 *Legislation Amendment and Repeal Act 2023*;

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

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

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

19 **71. Transitional regulations**

20 (1) In this section —

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

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

27 *specified* means specified or described in transitional
28 regulations;

- 1 ***transitional matter*** —
- 2 (a) means a matter or issue of a transitional nature
- 3 that arises as a result of either or both of the
- 4 following —
- 5 (i) the enactment of the 2023 amendment
- 6 Act;
- 7 (ii) a repeal or amendment under the 2023
- 8 amendment Act;
- 9 and
- 10 (b) includes a saving or application matter or issue.
- 11 (2) Regulations (***transitional regulations***) may do either or
- 12 both of the following —
- 13 (a) make any provision that is necessary or
- 14 convenient for dealing with a transitional
- 15 matter;
- 16 (b) make any provision that is necessary or
- 17 convenient in consequence of, or for giving
- 18 effect to, either or both of the following —
- 19 (i) the enactment of the 2023 amendment
- 20 Act;
- 21 (ii) a repeal or amendment under the 2023
- 22 amendment Act.
- 23 (3) Without limiting subsection (2), transitional regulations
- 24 may do any of the following —
- 25 (a) provide for any specified act or thing done or
- 26 omitted to be done by, to or in respect of a
- 27 specified person or body to be taken to have
- 28 been done or omitted to be done by, to or in
- 29 respect of another specified person or body;
- 30 (b) provide for any specified act or thing done or
- 31 omitted to be done under the 2021 Act, or
- 32 regulations made under the 2021 Act, to be

- 1 taken to have been done or omitted to be done
2 under this Act or another written law;
- 3 (c) provide for the substitution of a specified
4 person or body for another specified person or
5 body as a party to any proceedings;
- 6 (d) provide for proceedings and remedies that
7 might have been commenced by, or available to
8 or against, a specified person or body to be
9 commenced by, or to be available to or against,
10 another specified person or body;
- 11 (e) provide for the transfer of, or the creation of
12 interests in, specified property, rights or
13 liabilities;
- 14 (f) provide for the modification of specified
15 agreements or other instruments;
- 16 (g) provide for a specified person or body to take
17 possession of books, documents or other
18 records, however compiled or stored, that are or
19 were in the possession of another specified
20 person or body;
- 21 (h) provide for officers of the Department to be
22 able to exercise powers under the *Criminal*
23 *Investigation Act 2006*;
- 24 (i) provide for the 2021 Act, or a specified
25 provision of the 2021 Act, to continue to apply
26 (with or without specified modifications) to, or
27 in relation to, a specified matter or thing as if
28 the 2021 Act had not been repealed;
- 29 (j) provide for regulations made under the 2021
30 Act, or a specified provision of regulations
31 made under the 2021 Act, to continue to apply
32 (with or without specified modifications) to, or
33 in relation to, a specified matter or thing as if
34 the regulations had not been repealed;

Aboriginal Heritage Legislation Amendment and Repeal Bill 2023

Part 3 Aboriginal Heritage Act 1972 amended

Division 1 Provisions coming into operation on day after assent day

s. 8

- 1 (k) deal with any incidental or supplementary
2 matters or issues relating to a provision of this
3 Part or transitional regulations, including by
4 making provisions that do any of the
5 following —
- 6 (i) require, or provide for, a specified
7 person or body to enter into an
8 agreement with, or execute an
9 instrument in favour of, another
10 specified person or body;
- 11 (ii) require, or provide for, a specified
12 person or body to register or record a
13 document or transaction in a specified
14 register;
- 15 (iii) require, or provide for, a specified
16 person or body otherwise to maintain,
17 modify or make an entry in a specified
18 register;
- 19 (iv) provide for enforcement by way of civil
20 proceedings for an injunction, or for any
21 other appropriate remedy or relief, in
22 the Supreme Court or any other court.
- 23 (4) Transitional regulations may provide that specified
24 provisions of this Act (including this Part but excluding
25 this section) or another written law —
- 26 (a) do not apply to, or in relation to, a specified
27 matter or thing; or
- 28 (b) apply with specified modifications to, or in
29 relation to, a specified matter or thing.
- 30 (5) If transitional regulations provide that a specified state
31 of affairs is taken to have existed, or not to have
32 existed, on and after a day that is earlier than
33 publication day but not earlier than assent day, the

- 1 transitional regulations have effect according to their
2 terms.
- 3 (6) If transitional regulations contain a provision referred
4 to in subsection (5), the provision does not operate so
5 as to —
- 6 (a) affect in a manner prejudicial to a person (other
7 than the State or an authority of the State) the
8 rights of that person existing before publication
9 day; or
- 10 (b) impose liabilities on a person (other than the
11 State or an authority of the State) in respect of
12 an act done, or an omission made, before
13 publication day.
14

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

17 **9. Act amended**

18 This Division amends the *Aboriginal Heritage Act 1972*.

19 **10. Long title replaced**

20 Delete the long title and insert:
21

22 **An Act to make provision for the preservation of places and**
23 **objects customarily used by or traditional to the original**
24 **inhabitants of Australia or their descendants, or associated**
25 **therewith, and for other purposes incidental thereto.**
26

1 **11. Section 4 amended**

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

3 *Committee*

4 *Director*

5 *transition day*

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

7

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

10

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

13

14 9.

15

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

17 Delete sections 4A to 4C.

18 **13. Section 18 amended**

19 (1) Before section 18(1) insert:

20

21 (1AA) In this section and section 18A —

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

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

- 1 ***native title party***, in relation to land, means —
- 2 (a) a registered native title body corporate for the
- 3 land; or
- 4 (b) a registered native title claimant for the land; or
- 5 (c) a person who was a registered native title body
- 6 corporate for the land or a registered native title
- 7 claimant for the land but —
- 8 (i) under an ILUA, has surrendered their
- 9 native title rights and interests in respect
- 10 of the land; or
- 11 (ii) whose native title rights and interests in
- 12 respect of the land have been
- 13 compulsorily acquired or otherwise
- 14 been extinguished;
- 15 or
- 16 (d) if the land is the subject of a settlement
- 17 ILUA — a regional corporation in relation to
- 18 that land; or
- 19 (e) a prescribed person or a person of a prescribed
- 20 class;
- 21 ***native title rights and interests*** has the meaning given
- 22 in the Native Title Act section 223;
- 23 ***new information about an Aboriginal site***, in relation
- 24 to land the subject of a consent given under
- 25 subsection (3)(a), means information about an
- 26 Aboriginal site on the land, other than information that
- 27 a person who made a decision to give, amend or
- 28 confirm the consent was made aware of for the
- 29 purposes of making the decision;
- 30 ***regional corporation*** means —
- 31 (a) in relation to land the subject of a settlement
- 32 ILUA referred to in paragraph (a) of the
- 33 definition of ***settlement ILUA*** — a Regional

Aboriginal Heritage Legislation Amendment and Repeal Bill 2023

Part 3 Aboriginal Heritage Act 1972 amended

Division 2 Provisions coming into operation on day fixed by proclamation

s. 13

- 1 Corporation, as defined in the *Land*
2 *Administration (South West Native Title*
3 *Settlement) Act 2016* section 3, appointed in
4 respect of the land; or
- 5 (b) in relation to the land the subject of the
6 settlement ILUA referred to in paragraph (b) of
7 the definition of *settlement ILUA* — the
8 Regional Entity, as defined in that ILUA; or
- 9 (c) in relation to land the subject of a settlement
10 ILUA referred to in paragraph (c) of the
11 definition of *settlement ILUA* — a prescribed
12 corporation that has functions in respect of the
13 land under, or for the purposes of, the
14 settlement ILUA;
- 15 ***registered native title body corporate*** has the meaning
16 given in the Native Title Act section 253;
- 17 ***registered native title claimant*** has the meaning given
18 in the Native Title Act section 253;
- 19 ***settlement ILUA*** means —
- 20 (a) a settlement ILUA within the meaning of the
21 *Land Administration (South West Native Title*
22 *Settlement) Act 2016* section 3; or
- 23 (b) the ILUA named the Yamatji Nation
24 Indigenous Land Use Agreement registered on
25 30 July 2020; or
- 26 (c) another prescribed ILUA under which native
27 title rights and interests have been surrendered.
28
- 29 (2) After section 18(3) insert:
30
- 31 (3A) As soon as practicable after making a decision under
32 subsection (3) or (6A), the Minister must publish notice

- 1 of the decision on a website maintained by, or on
2 behalf of, the Department.
3
- 4 (3) In section 18(5):
5 (a) delete “land” and insert:
6
7 land, or a native title party in relation to land,
8
9 (b) delete “he may” and insert:
10
11 or (6A) in relation to the land, the owner or native title
12 party may
13
- 14 (4) After section 18(5) insert:
15
- 16 (5A) A provision of a contract or other agreement (whether
17 entered into before, on or after 23 December 2021) that
18 would otherwise prohibit or have the effect of
19 prohibiting a native title party in relation to land, or a
20 person who is a member of such a native title party,
21 from doing any of the following, is of no effect —
22 (a) making an application under subsection (5) in
23 relation to the land;
24 (b) commencing or being heard in proceedings
25 before a court or tribunal in relation to a matter
26 arising under or in relation to this section in
27 relation to the land;
28 (c) being heard or making submissions in relation
29 to the performance of a function under this
30 section in relation to the land.
31

Aboriginal Heritage Legislation Amendment and Repeal Bill 2023

Part 3 Aboriginal Heritage Act 1972 amended

Division 2 Provisions coming into operation on day fixed by proclamation

s. 13

- 1 (5) Delete section 18(6) and (6A) and insert:
2
- 3 (6) A consent given under subsection (3)(a), whether given
4 before, on or after 23 December 2021, is subject to
5 whichever of the following conditions is applicable —
- 6 (a) if the consent was given in relation to a notice
7 under subsection (2) that was given to the
8 Committee referred to in section 72(1)
9 before 23 December 2021 — the condition is
10 that the owner must, in accordance with the
11 regulations (if any), notify the Minister if the
12 owner becomes aware, on or after 1 July 2023,
13 of any new information about an Aboriginal
14 site on the land the subject of the consent;
- 15 (b) if the consent was given in relation to a notice
16 under subsection (2) that was given to the
17 Committee referred to in section 72(1) on or
18 after 23 December 2021 but before
19 1 July 2023 — the condition is that the owner
20 must, in accordance with the regulations (if
21 any), notify the Minister if the owner becomes
22 aware, on or after 23 December 2021, of any
23 new information about an Aboriginal site on the
24 land the subject of the consent;
- 25 (c) otherwise — the condition is that the owner
26 must, in accordance with the regulations (if
27 any), notify the Minister if the owner becomes
28 aware, on or after the day on which the consent
29 is given, of any new information about an
30 Aboriginal site on the land the subject of the
31 consent.
- 32 (6A) If, in relation to a consent given under
33 subsection (3)(a), the Minister becomes aware of new
34 information about an Aboriginal site, the Minister may,

- 1 having regard to the general interest of the community,
2 do 1 of the following —
- 3 (a) amend the consent by amending the conditions
4 to which it is subject, imposing new conditions
5 or changing the specification of the land to
6 which it relates;
- 7 (b) revoke the consent;
- 8 (c) revoke the consent and give a new consent;
- 9 (d) confirm the consent.
- 10 (6B) However, if the Minister becomes aware of the new
11 information about an Aboriginal site because of a
12 notice given in accordance with a condition under
13 subsection (6), the Minister must make a decision
14 under subsection (6A).
- 15 (6C) If the Minister proposes to exercise a power under
16 subsection (6A) in relation to a consent, the Minister
17 may suspend the consent. A suspension cannot extend
18 beyond when the exercise of the power under
19 subsection (6A) has taken effect.
- 20 (6D) A consent given under subsection (6A)(c) —
- 21 (a) is taken to have been given under
22 subsection (3)(a); and
- 23 (b) is subject to the condition in subsection (6)(c).
- 24
- 25 (6) After section 18(8) insert:
- 26
- 27 (9) The regulations may provide for —
- 28 (a) procedural matters for the purposes of this
29 section; and

Aboriginal Heritage Legislation Amendment and Repeal Bill 2023

Part 3 Aboriginal Heritage Act 1972 amended

Division 2 Provisions coming into operation on day fixed by proclamation

s. 14

- 1 (b) timeframes for doing things under or for the
2 purposes of this section, or for performing
3 functions under this section, including by —
4 (i) prescribing time limits within which a
5 thing required or permitted to be done
6 must be done; and
7 (ii) prescribing time limits within which a
8 function must be performed; and
9 (iii) providing for the extension of such time
10 limits.
11 (10) Regulations under subsection (9) may be made in
12 relation to the jurisdiction of the State Administrative
13 Tribunal under subsection (5) and, to the extent
14 necessary for such regulations, the *State Administrative*
15 *Tribunal Act 2004* section 92 is excluded.
16

17 **14. Section 18A inserted**

18 After section 18 insert:
19

20 **18A. Premier may call in application to State**
21 **Administrative Tribunal for review**

- 22 (1) In this section —
23 *owner*, in relation to land, has a meaning affected by
24 section 18(1) and (1a);
25 *party*, to an application, means —
26 (a) the applicant; and
27 (b) any other party to proceedings in the State
28 Administrative Tribunal arising from the
29 application.
30 (2) If an application is made to the State Administrative
31 Tribunal under section 18(5) for review of a decision of

- 1 the Minister made under section 18(3) or (6A), the
2 Premier may determine the application if the Premier
3 considers that the application raises issues of such State
4 or regional importance that it would be appropriate for
5 the application to be determined by the Premier.
- 6 (3) The Premier may —
- 7 (a) direct the President of the State Administrative
8 Tribunal to refer the application to the Premier
9 for determination; or
- 10 (b) direct the State Administrative Tribunal to hear
11 the application and then, without determining
12 it, refer it, with recommendations, to the
13 Premier for determination.
- 14 (4) The Premier cannot give a direction under
15 subsection (3) —
- 16 (a) more than 14 days, or any longer period
17 prescribed by the regulations, after the
18 application is made to the State Administrative
19 Tribunal; or
- 20 (b) after a final determination has been made in
21 relation to the application.
- 22 (5) If the Premier gives a direction under subsection (3),
23 the Premier —
- 24 (a) must, within 14 days after the direction is
25 given, give a copy of the direction to each party
26 to the application and to the owner of the land
27 the subject of the application if the owner is not
28 a party; and
- 29 (b) may give a copy of the direction to any native
30 title party in relation to the land that is not a
31 party to the application; and

Aboriginal Heritage Legislation Amendment and Repeal Bill 2023

Part 3 Aboriginal Heritage Act 1972 amended

Division 2 Provisions coming into operation on day fixed by proclamation

s. 14

- 1 (c) must, as soon as is practicable, cause a copy of
2 the direction to be laid before each House of
3 Parliament.
- 4 (6) The Premier may suspend the decision the subject of
5 the application, in which case the decision is, while it is
6 suspended, taken not to have been made. A suspension
7 cannot extend beyond when the exercise of the power
8 under subsection (9) has taken effect.
- 9 (7) If the Premier gives a direction under subsection (3)(a),
10 the owner of the land the subject of the application, and
11 each native title party in relation to the land, may make
12 written submissions to the Premier.
- 13 (8) In determining the application, the Premier —
14 (a) must take into account submissions made under
15 subsection (7); and
16 (b) must have regard to the general interest of the
17 community; and
18 (c) may take into account any other matter that the
19 Premier considers relevant.
- 20 (9) In determining the application, the Premier must do 1
21 of the following —
22 (a) if the decision the subject of the application
23 was to give, amend or confirm a consent —
24 (i) confirm the decision the subject of the
25 application;
26 (ii) amend the consent by amending the
27 conditions to which it is subject,
28 imposing new conditions or changing
29 the specification of the land to which it
30 relates;
31 (iii) revoke the consent;

- 1 (iv) revoke the consent and give a new
2 consent;
- 3 (b) otherwise —
- 4 (i) confirm the decision the subject of the
5 application;
- 6 (ii) give a consent;
- 7 (iii) reverse the decision.
- 8 (10) On determining the application, the Premier —
- 9 (a) must give written reasons for the determination
10 to each party to the application and to the
11 owner of the land the subject of the application
12 if the owner is not a party; and
- 13 (b) may give written reasons for the determination
14 to any native title party in relation to the land
15 that is not a party to the application; and
- 16 (c) must, as soon as is practicable, cause a copy of
17 those reasons to be laid before each House of
18 Parliament.
- 19 (11) A consent given under subsection (9)(a)(iv) or
20 (b)(ii) —
- 21 (a) is taken to have been given under
22 section 18(3)(a), except that section 18(5) does
23 not apply in relation to the decision to give the
24 consent; and
- 25 (b) is subject to the condition in section 18(6)(c).
- 26 (12) The regulations may provide for —
- 27 (a) procedural matters for the purposes of this
28 section; and
- 29 (b) timeframes for doing things under or for the
30 purposes of this section, or for performing
31 functions under this section, including by —

Aboriginal Heritage Legislation Amendment and Repeal Bill 2023

Part 3 Aboriginal Heritage Act 1972 amended

Division 2 Provisions coming into operation on day fixed by proclamation

s. 15

- 1 (i) prescribing time limits within which a
2 thing required or permitted to be done
3 must be done; and
4 (ii) prescribing time limits within which a
5 function must be performed; and
6 (iii) providing for the extension of such time
7 limits.
- 8 (13) Regulations under subsection (12) may be made in
9 relation to hearings referred to in subsection (3)(b) and,
10 to the extent necessary for such regulations, the *State*
11 *Administrative Tribunal Act 2004* section 92 is
12 excluded.
13

14 **15. Part V heading replaced**

15 Delete the heading to Part V and insert:
16

17 **Part 5 — Aboriginal Cultural Heritage**
18 **Committee**
19

20 **16. Sections 28 to 36 replaced**

21 Delete sections 28 to 36 and insert:
22

23 **28. Aboriginal Cultural Heritage Committee**
24 **established**

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

- 1 **29. Composition of Committee**
- 2 (1) The Committee is comprised of the following
- 3 members —
- 4 (a) 2 persons appointed by the Minister to be
- 5 chairpersons, each of whom is a person of
- 6 Aboriginal descent —
- 7 (i) 1 of whom, in accordance with
- 8 Aboriginal tradition, has rights, interests
- 9 and responsibilities in respect of
- 10 women’s business; and
- 11 (ii) 1 of whom, in accordance with
- 12 Aboriginal tradition, has rights, interests
- 13 and responsibilities in respect of men’s
- 14 business;
- 15 and
- 16 (b) between 4 and 9 other persons appointed by the
- 17 Minister.
- 18 (2) The Minister must seek nominations, in accordance
- 19 with regulations made for the purposes of section 32,
- 20 of persons for appointment as members.
- 21 (3) The Minister must ensure that —
- 22 (a) the members have, between them, such
- 23 knowledge, skills and experience as the
- 24 Minister considers appropriate to enable them
- 25 to effectively perform the functions of the
- 26 Committee under this Act; and
- 27 (b) as far as practicable —
- 28 (i) the majority of the members are persons
- 29 of Aboriginal descent; and
- 30 (ii) the gender composition of the
- 31 Committee is balanced.

1 **30. Procedures**

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

5 **31. Remuneration of members of Committee or**
6 **subcommittee**

7 (1) A member of the Committee, or of a subcommittee, is
8 entitled to be paid the remuneration and allowances
9 determined by the Minister on the recommendation of
10 the Public Sector Commissioner unless the member is a
11 public service officer.

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

16 **32. Regulations about Committee**

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

- 19 (a) nomination, appointment, term of office,
20 resignation and removal from office of
21 members of the Committee or of a
22 subcommittee of the Committee;
- 23 (b) alternate members of the Committee to deputise
24 for members temporarily unable or unavailable
25 to act;
- 26 (c) the establishment of, and other matters relating
27 to, subcommittees of the Committee;
- 28 (d) management of conflicts of interest of members
29 of the Committee or of a subcommittee of the
30 Committee;

- 1 (e) meetings and proceedings of the Committee,
2 including the following —
3 (i) chairing meetings;
4 (ii) holding remote meetings;
5 (iii) making resolutions without meetings.
6

7 **17. Section 67A inserted**

8 After section 67 insert:
9

10 **67A. Fees regulations**

- 11 (1) In this section —
12 *fee* includes a charge.
13 (2) Regulations may prescribe, or provide for the
14 determination of, fees payable in relation to the
15 performance of functions under this Act.
16 (3) Without limiting subsection (2), regulations may
17 provide for the following —
18 (a) fees determined on the basis of recovering the
19 costs of the performance of functions in relation
20 to a particular case;
21 (b) interest payable on unpaid fees;
22 (c) penalties for, and other consequences of, failure
23 to pay fees, late payment of fees or
24 underpayment of fees;
25 (d) recovery of fees.
26 (4) Nothing in this section limits the operation of the
27 *Interpretation Act 1984* sections 43, 45 and 45A.
28

1 **18. Section 69 amended**

2 In section 69 insert in alphabetical order:

3

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

6 *repeal day* means the day on which section 3 of the
7 2023 amendment Act comes into operation;

8

9 **19. Sections 72 to 87 inserted**

10 At the end of Part 9 insert:

11

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

14 (1) At the beginning of repeal day, the Aboriginal Cultural
15 Material Committee established under section 28, as in
16 force before repeal day, is abolished (and its members
17 go out of office).

18 (2) At the beginning of repeal day —

19 (a) the Aboriginal Cultural Heritage Council
20 established under section 20(1) of the 2021 Act
21 is abolished (and its members go out of office);
22 and

23 (b) any committee established under section 30(1)
24 of the 2021 Act is abolished (and its members
25 go out of office).

26 (3) The person who, immediately before repeal day, is the
27 member of the ACH Council under section 21(1)(a)(i)
28 of the 2021 Act is taken to be appointed as the member
29 of the Committee under section 29(1)(a)(i) at the
30 beginning of repeal day.

- 1 (4) The person who, immediately before repeal day, is the
2 member of the ACH Council under section 21(1)(a)(ii)
3 of the 2021 Act is taken to be appointed as the member
4 of the Committee under section 29(1)(a)(ii) at the
5 beginning of repeal day.
- 6 (5) A person who, immediately before repeal day, is a
7 member of the ACH Council under section 21(1)(b) of
8 the 2021 Act is taken to be appointed as a member of
9 the Committee under section 29(1)(b) at the beginning
10 of repeal day.
- 11 (6) A person who is taken to be appointed as a member of
12 the Committee under any of subsections (3) to (5)
13 holds office —
- 14 (a) for a term equal to the unfinished part of the
15 person's term of appointment under the
16 2021 Act; and
- 17 (b) otherwise in accordance with the person's
18 instrument of appointment under the 2021 Act.
- 19 (7) A determination made under section 32 of the 2021 Act
20 that is in effect immediately before repeal day
21 continues in effect as if had been made under
22 section 31.

23 **73. Protected area orders**

- 24 (1) In this section —
- 25 *historical protected area order* means an order made
26 under section 315(1) of the 2021 Act that, under
27 section 316(1) of the 2021 Act, is in effect immediately
28 before repeal day as if it were an order made under
29 section 82(1) of the 2021 Act;

Aboriginal Heritage Legislation Amendment and Repeal Bill 2023

Part 3 Aboriginal Heritage Act 1972 amended

Division 2 Provisions coming into operation on day fixed by proclamation

s. 19

- 1 *protected area order* means —
- 2 (a) subject to subsection (8), an order made under
- 3 section 82(1) of the 2021 Act that is in effect
- 4 immediately before repeal day; or
- 5 (b) an historical protected area order;
- 6 *spent protected area order* —
- 7 (a) means an order that, under section 316(1) of the
- 8 2021 Act, is in effect immediately before repeal
- 9 day as if it were an order made under
- 10 section 82(1) of the 2021 Act; but
- 11 (b) does not include an historical protected area
- 12 order.
- 13 (2) On and after repeal day —
- 14 (a) a protected area order continues in effect as if it
- 15 were an order made under section 19(4); and
- 16 (b) the area declared by the protected area order as
- 17 a protected area is, accordingly, a protected
- 18 area for the purposes of this Act; and
- 19 (c) the protected area order may be varied or
- 20 revoked under section 25 accordingly.
- 21 (3) Subsection (2) applies even if the area declared by the
- 22 protected area order as a protected area, or any area
- 23 included in that protected area —
- 24 (a) could not be declared to be a protected area
- 25 under section 19(4); or
- 26 (b) could not be included in an area declared to be
- 27 a protected area under section 19(4).
- 28 (4) If any conditions were stated in the protected area order
- 29 under section 82(3)(d) or 315(5)(d) of the 2021 Act,
- 30 the conditions cease to have effect at the beginning of
- 31 repeal day.

- 1 (5) Section 21 does not apply in relation to an area that is a
2 protected area by virtue of subsection (2).
- 3 (6) For the purposes of section 22(1), the exclusive right to
4 the occupation and use of a place that is a protected
5 area by virtue of subsection (2) vests in the Minister on
6 behalf of the Crown at the beginning of repeal day.
- 7 (7) No person is entitled to be paid compensation under
8 section 22(2) in relation to an area that is a protected
9 area by virtue of subsection (2).
- 10 (8) Paragraph (a) of the definition of *protected area order*
11 in subsection (1) does not include an order that, under
12 section 316(1) of the 2021 Act, is in effect immediately
13 before repeal day as if it were an order made under
14 section 82(1) of the 2021 Act.
- 15 (9) All spent protected area orders are repealed.

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

- 17 (1) A consent that was in force and effect under section 18
18 immediately before 1 July 2023 is, on and after repeal
19 day, in force and effect under, and subject to,
20 section 18.
- 21 (2) A consent that was given under section 18 on or after
22 1 July 2023 but before repeal day is, on and after repeal
23 day, in force and effect under, and subject to,
24 section 18.
- 25 (3) Neither subsection (1) nor subsection (2) applies to the
26 following —
- 27 (a) a consent that, before repeal day, expires in
28 accordance with its terms;
- 29 (b) an historical AH Act section 18 consent that a
30 person was taken to hold under section 328(1)
31 of the 2021 Act;

Aboriginal Heritage Legislation Amendment and Repeal Bill 2023

Part 3 Aboriginal Heritage Act 1972 amended

Division 2 Provisions coming into operation on day fixed by proclamation

s. 19

- 1 (c) a purported section 18 consent (as was defined
2 in section 330(2) of the 2021 Act).
- 3 (4) For the purposes of section 18(5), the effect of
4 subsection (1) or (2) is not to be regarded as a decision
5 of the Minister.
- 6 (5) A consent to which subsection (1) or (2) applies is
7 subject to the condition in section 18(6)(a) or (b)
8 depending on the day on which the notice under
9 section 18(2) to which the consent relates was given to
10 the Committee referred to in section 72(1).

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

- 13 (1) An authorisation that was in force and effect under
14 section 16(2) immediately before 1 July 2023 is, on
15 and after repeal day, in force and effect under, and
16 subject to, section 16(2).
- 17 (2) An authorisation that was given under section 16(2) on
18 or after 1 July 2023 but before repeal day is, on and
19 after repeal day, in force and effect under, and subject
20 to, section 16(2).
- 21 (3) An approval referred to in the *Aboriginal Heritage*
22 *Regulations 1974* regulation 7 that was in force and
23 effect under that regulation immediately before
24 1 July 2023 is, on and after repeal day, in force and
25 effect under, and subject to, that regulation.
- 26 (4) An approval referred to in the *Aboriginal Heritage*
27 *Regulations 1974* regulation 7 that was given on or
28 after 1 July 2023 but before repeal day is, on and after
29 repeal day, in force and effect under, and subject to,
30 that regulation.

- 1 (5) A consent referred to in the *Aboriginal Heritage*
2 *Regulations 1974* regulation 10 that was in force and
3 effect under that regulation immediately before
4 1 July 2023 is, on and after repeal day, in force and
5 effect under, and subject to, that regulation.
- 6 (6) A consent referred to in the *Aboriginal Heritage*
7 *Regulations 1974* regulation 10 that was given on or
8 after 1 July 2023 but before repeal day is, on and after
9 repeal day, in force and effect under, and subject to,
10 that regulation.
- 11 (7) None of subsections (1) to (6) applies to an
12 authorisation, approval or consent that, before repeal
13 day, expires in accordance with its terms.

14 **76. ACH permits**

- 15 (1) In this section —
16 *ACH permit* has the meaning that was given in
17 section 100 of the 2021 Act.
- 18 (2) An ACH permit that is granted before repeal day on an
19 application made under section 115(1) of the 2021 Act
20 (whether or not the ACH permit takes effect before
21 repeal day) is, on and after repeal day —
22 (a) a consent given under section 18(3)(a); and
23 (b) subject to section 18 accordingly.
- 24 (3) The consent is subject to the condition in
25 section 18(6)(c) and, for the purposes of that condition,
26 the day on which the consent is given is the day on
27 which the ACH permit is granted.

Aboriginal Heritage Legislation Amendment and Repeal Bill 2023

Part 3 Aboriginal Heritage Act 1972 amended

Division 2 Provisions coming into operation on day fixed by proclamation

s. 19

- 1 (4) In relation to the consent, in the definition of *new*
2 *information about an Aboriginal site* in
3 section 18(1AA) —
- 4 (a) the reference to a person who made a decision
5 to give, amend or confirm the consent includes
6 a reference to the ACH Council as the body that
7 decided to grant the ACH permit; and
- 8 (b) accordingly, the reference to the purposes of
9 making the decision includes a reference to the
10 purposes of making the decision to grant the
11 ACH permit.
- 12 (5) For the purposes of section 18(5), the effect of
13 subsection (2) is not to be regarded as a decision of the
14 Minister.
- 15 (6) Subsection (7) applies to an application made under
16 section 115(1) of the 2021 Act before repeal day if
17 none of the following occurs before repeal day —
- 18 (a) the ACH Council refuses to consider, or
19 consider further, the application under
20 section 117 of the 2021 Act;
- 21 (b) the ACH Council grants an ACH permit on the
22 application (whether or not the ACH permit
23 takes effect before repeal day);
- 24 (c) the ACH Council refuses to grant an ACH
25 permit on the application.
- 26 (7) On and after repeal day, the application is taken to be a
27 notice given to the Committee under section 18(2) and
28 is to be dealt with accordingly.
- 29 (8) If a consent is given under section 18(3)(a) in relation
30 to the notice, the consent is subject to the condition in
31 section 18(6)(c).

- 1 **77. ACH management plans**
- 2 (1) In this section —
- 3 **ACH management plan** has the meaning that was
- 4 given in section 137(1) of the 2021 Act.
- 5 (2) An approval or authorisation of an ACH management
- 6 plan that is given before repeal day on an application
- 7 made under section 147(1) or 157(1) of the 2021 Act
- 8 (whether or not the approval or authorisation takes
- 9 effect before repeal day) is, on and after repeal day —
- 10 (a) a consent given under section 18(3)(a); and
- 11 (b) subject to section 18 accordingly.
- 12 (3) The consent includes the approved or authorised ACH
- 13 management plan.
- 14 (4) The consent is subject to the condition in
- 15 section 18(6)(c) and, for the purposes of that condition,
- 16 the day on which the consent is given is the day on
- 17 which the approval or authorisation of the ACH
- 18 management plan is given.
- 19 (5) In relation to the consent, in the definition of *new*
- 20 **information about an Aboriginal site** in
- 21 section 18(1AA) —
- 22 (a) the reference to a person who made a decision
- 23 to give, amend or confirm the consent includes
- 24 a reference to, as the case requires —
- 25 (i) the ACH Council as the body that
- 26 decided to give the approval of the ACH
- 27 management plan; or
- 28 (ii) the Minister in relation to the 2021 Act
- 29 as the person who decided to give the
- 30 authorisation of the ACH management
- 31 plan;
- 32 and

Aboriginal Heritage Legislation Amendment and Repeal Bill 2023

Part 3 Aboriginal Heritage Act 1972 amended

Division 2 Provisions coming into operation on day fixed by proclamation

s. 19

- 1 (b) accordingly, the reference to the purposes of
2 making the decision includes a reference to the
3 purposes of making the decision to give the
4 approval or authorisation of the ACH
5 management plan.
- 6 (6) For the purposes of section 18(5), the effect of
7 subsection (2) is not to be regarded as a decision of the
8 Minister.
- 9 (7) Subsection (8) applies to an application made under
10 section 147(1) of the 2021 Act before repeal day if
11 none of the following occurs before repeal day —
- 12 (a) the ACH Council refuses to consider, or
13 consider further, the application under
14 section 149 of the 2021 Act;
- 15 (b) the ACH Council approves the ACH
16 management plan to which the application
17 relates (whether or not the approval takes effect
18 before repeal day);
- 19 (c) the ACH Council refuses to approve the ACH
20 management plan to which the application
21 relates.
- 22 (8) On and after repeal day, the application is taken to be a
23 notice given to the Committee under section 18(2) and
24 is to be dealt with accordingly.
- 25 (9) If a consent is given under section 18(3)(a) in relation
26 to the notice, the consent is subject to the condition in
27 section 18(6)(c).
- 28 (10) Subsection (11) applies to an application made under
29 section 157(1) of the 2021 Act before repeal day if
30 none of the following occurs before repeal day —
- 31 (a) the ACH Council refuses to consider, or
32 consider further, the application under
33 section 159 of the 2021 Act;

- 1 (b) in respect of the application, the Minister in
2 relation to the 2021 Act authorises a plan under
3 section 165(1)(b)(i) of the 2021 Act (whether or
4 not the authorisation takes effect before repeal
5 day);
- 6 (c) in respect of the application, the Minister in
7 relation to the 2021 Act refuses to authorise a
8 plan under section 165(1)(b)(ii) of the 2021
9 Act.
- 10 (11) On and after repeal day, the application is taken to be a
11 notice given to the Committee under section 18(2) and
12 is to be dealt with accordingly.
- 13 (12) If a consent is given under section 18(3)(a) in relation
14 to the notice, the consent is subject to the condition in
15 section 18(6)(c).

16 **78. Marandoo Act area**

- 17 (1) In this section —
18 ***Marandoo Act area*** means the land described in the
19 *Aboriginal Heritage (Marandoo) Act 1992* Schedule 1
20 Part 1, Schedule 2 Part 1 and Schedule 3 Part 1
21 immediately before 1 July 2023;

22 Note for this definition:

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

25 ***Marandoo Reduced Area dataset*** means the
26 geographical information systems spatial dataset titled
27 “WA_MRA_20230524.shp” that was held by the chief
28 executive officer of the Department on 24 May 2023;

29 Note for this definition:

30 This is the geographical information systems spatial dataset
31 referred to in the definition of ***Marandoo Reduced Area***
32 ***dataset*** in the *Marandoo Reduced Area Order 2023* dated
33 24 May 2023 and published in the *Gazette* on 30 May 2023
34 at p. 1365.

- 1 *owner*, in relation to the specified land, means a person
2 who, immediately before 1 July 2023, was using the
3 specified land for the specified purpose;
- 4 *specified land* means an area of land that is part of the
5 Marandoo Act area described in the Marandoo
6 Reduced Area dataset;
- 7 *specified purpose* means undertaking any activity for
8 and incidental to the exploration, mining, processing
9 and transporting of iron ore, including, but not limited
10 to, the construction, operation and maintenance of
11 railways, power lines, roads and other associated
12 infrastructure.
- 13 (2) The owner of specified land is taken to have been
14 given, at the beginning of repeal day, a consent under
15 section 18(3)(a) to use the specified land for the
16 specified purpose.
- 17 (3) For the purposes of subsection (2) —
18 (a) the specified land is taken —
19 (i) to be the land the subject of the consent;
20 and
21 (ii) to be specified in the consent;
22 and
23 (b) the specified purpose is taken —
24 (i) to be the purpose for which the land the
25 subject of the consent may be used; and
26 (ii) to be specified in the consent.
- 27 (4) The consent is subject to the condition in
28 section 18(6)(a) and is otherwise subject to section 18.

1 (5) In relation to the consent, section 18(1AA) applies as if
2 the following definition were substituted for the
3 definition of *new information about an Aboriginal*
4 *site* —

5
6 *new information about an Aboriginal site*, in relation
7 to land the subject of a consent given under
8 subsection (3)(a), means information about an
9 Aboriginal site on the land;

10
11 (6) For the purposes of section 18(5), the effect of
12 subsection (2) is not to be regarded as a decision of the
13 Minister.

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

18 **79. Completion of certain things commenced**

19 (1) Anything commenced by the ACH Council before
20 repeal day may be continued by the Committee on and
21 after repeal day, to the extent to which the doing of that
22 thing is within the functions of the Committee.

23 (2) On and after repeal day, the Minister in relation to the
24 2021 Act continues in existence for the purpose of
25 dealing with and finalising any proceedings
26 commenced by or against the ACH Council or the
27 Minister before that day.

28 (3) While the Minister in relation to the 2021 Act
29 continues in existence under subsection (2), the
30 Minister has the powers to do any act that the Minister
31 considers necessary or convenient to do for the purpose
32 for which the Minister is continued in existence.

1 (4) This section applies despite the repeal of the 2021 Act.

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

3 (1) If a term used in subsection (2) (other than *repeal day*)
4 was given a meaning in section 11 of the 2021 Act, it
5 has the same meaning in subsection (2).

6 (2) Any of the following that is in effect immediately
7 before repeal day ceases to have effect at the beginning
8 of repeal day —

9 (a) a prohibition order;

10 (b) a remediation order;

11 (c) a stop activity order;

12 (d) a designation under section 37(1) of
13 the 2021 Act;

14 (e) a designation under section 224(1) of the
15 2021 Act;

16 (f) an appointment under section 225(1) of the
17 2021 Act;

18 (g) an entry warrant under Part 10 Division 4 of
19 the 2021 Act that is not executed before repeal
20 day;

21 (h) any guidelines approved under Part 13
22 Division 3 Subdivision 2 of the 2021 Act.

23 (3) A person whose designation or appointment ceases to
24 have effect under subsection (2)(e) or (f) must,
25 within 14 days after repeal day, return the identity card
26 given to the person under section 226(1) of the 2021
27 Act to the chief executive officer of the Department.

28 (4) Any proceedings on an application for an entry warrant
29 under Part 10 Division 4 of the 2021 Act that are
30 commenced, but not completed, before repeal day are
31 terminated at the beginning of repeal day.

1 **81. Information and documents on ACH Directory**
2 On repeal day, all of the information and documents
3 that were transferred under section 331 of the 2021 Act
4 must be transferred to, and recorded in, a register under
5 section 38.

6 **82. Aboriginal ancestral remains**

- 7 (1) In this section —
8 *Aboriginal ancestral remains* has the meaning that
9 was given in section 11 of the 2021 Act.
- 10 (2) This section applies to Aboriginal ancestral remains
11 if —
12 (a) the ancestral remains are transferred into the
13 custody of the ACH Council under the
14 2021 Act before repeal day; and
15 (b) the ancestral remains are still in the custody of
16 the ACH Council immediately before repeal
17 day.
- 18 (3) On repeal day, the ancestral remains must be
19 transferred into the custody of the Committee.
- 20 (4) Despite the repeal of the 2021 Act, the Committee may
21 then deal with the ancestral remains in accordance with
22 section 60(a) to (c) of the 2021 Act as in force before
23 repeal day (and as if references in those paragraphs to
24 the ACH Council were references to the Committee).

25 **83. Secret or sacred objects**

- 26 (1) In this section —
27 *secret or sacred object* has the meaning that was given
28 in section 11 of the 2021 Act.

Aboriginal Heritage Legislation Amendment and Repeal Bill 2023

Part 3 Aboriginal Heritage Act 1972 amended

Division 2 Provisions coming into operation on day fixed by proclamation

s. 19

- 1 (2) This section applies to a secret or sacred object if —
2 (a) the object is transferred into the custody of the
3 ACH Council under the 2021 Act before repeal
4 day; and
5 (b) the object is still in the custody of the ACH
6 Council immediately before repeal day.
- 7 (3) On repeal day, the object must be transferred into the
8 custody of the Committee.
- 9 (4) Despite the repeal of the 2021 Act, the Committee may
10 then deal with the object in accordance with
11 section 66(a) to (c) of the 2021 Act as in force before
12 repeal day (and as if references in those paragraphs to
13 the ACH Council were references to the Committee).

14 **84. Offences**

- 15 (1) Any proceedings for an offence committed under the
16 2021 Act before repeal day may be continued, or
17 commenced, on or after repeal day as if the 2021 Act
18 had not been repealed, and a person may be punished
19 for the offence accordingly.
- 20 (2) Without limiting subsection (1), the following
21 provisions of the 2021 Act apply in relation to any
22 proceedings that are continued or commenced as
23 referred to in subsection (1) as if the 2021 Act had not
24 been repealed —
25 (a) Part 5 Division 3;
26 (b) section 258;
27 (c) section 261;
28 (d) section 262;
29 (e) Part 11 Divisions 3 and 4.
- 30 (3) For the purposes of subsection (1), proceedings may be
31 continued or commenced by the chief executive officer

- 1 of the Department or a person authorised by that chief
2 executive officer.
- 3 (4) Subsection (3) does not limit the ability of a person to
4 commence or continue proceedings if the person has
5 authority at law to do so.
- 6 (5) Despite subsection (2)(b), section 258(2) of the
7 2021 Act does not apply, but if the seized thing is an
8 Aboriginal object (as was defined in section 11 of the
9 2021 Act) —
- 10 (a) the court’s power under section 258(1) of the
11 2021 Act is limited to ordering the forfeiture of
12 the object to the State and that the object be
13 transferred into the custody of the Committee;
14 and
- 15 (b) if the object is so transferred — despite the
16 repeal of the 2021 Act, the Committee may
17 then deal with the object in accordance with
18 section 66(a) to (c) of the 2021 Act as in force
19 before repeal day (and as if references in those
20 paragraphs to the ACH Council were references
21 to the Committee).
- 22 (6) For the purposes of subsection (5), it does not matter if
23 the seized thing is not a secret or sacred object (as was
24 defined in section 11 of the 2021 Act).
- 25 (7) This section applies despite *The Criminal Code*
26 section 11.

27 **85. Dealing with seized things**

- 28 (1) Section 241 of the 2021 Act continues to apply, subject
29 to this section, on and after repeal day in relation to
30 things seized before repeal day as if the 2021 Act had
31 not been repealed.

Aboriginal Heritage Legislation Amendment and Repeal Bill 2023

Part 3 Aboriginal Heritage Act 1972 amended

Division 2 Provisions coming into operation on day fixed by proclamation

s. 19

- 1 (2) The functions of the inspector under section 241(2) of
2 the 2021 Act are functions of any officer of the
3 Department authorised by the chief executive officer of
4 the Department for the purposes of this section.
- 5 (3) The functions of the CEO under section 241(2) of the
6 2021 Act are functions of the chief executive officer of
7 the Department.
- 8 (4) Section 241(3) of the 2021 Act does not apply, but if
9 the seized thing is an Aboriginal object (as was defined
10 in section 11 of the 2021 Act) —
- 11 (a) the chief executive officer’s power under
12 section 241(2) of the 2021 Act to give
13 directions is limited to directing that the object
14 be transferred into the custody of the
15 Committee; and
- 16 (b) if the object is so transferred — despite the
17 repeal of the 2021 Act, the Committee may
18 then deal with the object in accordance with
19 section 66(a) to (c) of the 2021 Act as in force
20 before repeal day (and as if references in those
21 paragraphs to the ACH Council were references
22 to the Committee).
- 23 (5) For the purposes of subsection (4), it does not matter if
24 the seized thing is not a secret or sacred object (as was
25 defined in section 11 of the 2021 Act).
- 26 (6) In section 241(4)(b) of the 2021 Act the reference to
27 the Aboriginal Cultural Heritage Account established
28 under section 279(1) of the 2021 Act is to be read as a
29 reference to the Consolidated Account.

- 1 **86. Application of *Criminal and Found Property***
2 ***Disposal Act 2006***
- 3 (1) Section 259(1) of the 2021 Act continues to apply in
4 relation to the following as if the 2021 Act had not
5 been repealed —
- 6 (a) a seized thing (as was defined in section 221 of
7 the 2021 Act) that is seized before repeal day;
- 8 (b) a thing forfeited under section 258 of the
9 2021 Act before repeal day;
- 10 (c) a thing forfeited under section 258 of the
11 2021 Act as that section continues to apply on
12 and after repeal day under section 84.
- 13 (2) For the purposes of subsection (1), in section 259(1)(a)
14 of the 2021 Act the reference to section 241 of the
15 2021 Act includes that section as it continues to apply
16 under section 85.
- 17 (3) For the purposes of subsection (1), the Department,
18 when assisting the Minister in the administration of this
19 Act, is a prescribed agency for the purposes of the
20 *Criminal and Found Property Disposal Act 2006*.
- 21 **87. Closure of accounts**
- 22 (1) In this section —
- 23 ***ACH Account*** means the account that was established
24 under section 279(1) of the 2021 Act;
- 25 ***ACH Compensation Fund*** means the account that was
26 established under section 280(1) of the 2021 Act.
- 27 (2) On repeal day, any moneys standing to the credit of the
28 ACH Account or the ACH Compensation Fund must
29 be credited to the Consolidated Account, and the
30 ACH Account and the ACH Compensation Fund must
31 then be closed.

Aboriginal Heritage Legislation Amendment and Repeal Bill 2023

Part 3 Aboriginal Heritage Act 1972 amended

Division 2 Provisions coming into operation on day fixed by proclamation

s. 19

- 1 (3) Any amount referred to in section 279(5) or 280(5) of
2 the 2021 Act as in force before repeal day that becomes
3 payable, but is not paid, before repeal day must be paid
4 to the chief executive officer of the Department and
5 credited to the Consolidated Account.
6

Part 4 — Other written laws amended

20. 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).

21. 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*.

s. 22

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

2 (1) This section amends the *Control of Vehicles (Off-road Areas)*
3 *Act 1978*.

4 (2) Delete section 38(2)(e) and insert:

5

6 (e) an honorary warden, under the *Aboriginal*
7 *Heritage Act 1972*; or
8

9 **23. *Coroners Act 1996 amended***

10 (1) This section amends the *Coroners Act 1996*.

11 (2) Delete section 19B.

12 **24. *Environmental Protection Act 1986 amended***

13 (1) This section amends the *Environmental Protection Act 1986*.

14 (2) In section 41(5) delete “*Aboriginal Cultural Heritage*
15 *Act 2021*.” and insert:

16

17 *Aboriginal Heritage Act 1972*.
18

19 **25. *Heritage Act 2018 amended***

20 (1) This section amends the *Heritage Act 2018*.

21 (2) In section 9(b) delete “Aboriginal cultural heritage, as defined
22 in the *Aboriginal Cultural Heritage Act 2021* section 12.” and
23 insert:

24

25 Aboriginal tradition or culture.
26

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

2

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

4

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

8

9 Aboriginal tradition or culture.

10

11 **26. *Land Administration Act 1997* amended**

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

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

16

17 *Aboriginal Heritage Act 1972*;

18

19 **27. *Planning and Development Act 2005* amended**

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

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

22

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

25

26 **28. *Railway (Tilley to Karara) Act 2010* amended**

27 (1) This section amends the *Railway (Tilley to Karara) Act 2010*.

s. 29

1 (2) After section 5 insert:
2

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

4 For the purposes of the construction of the railway, the
5 *Aboriginal Heritage Act 1972* applies in relation to any
6 land required to be used for the construction of the
7 railway as if the contractor were the owner of that land.
8

9 **29. *Sentencing Act 1995* amended**

10 (1) This section amends the *Sentencing Act 1995*.

11 (2) In Schedule 1 delete the item relating to the *Aboriginal Cultural*
12 *Heritage Act 2021*.

13 **30. *State Records Act 2000* amended**

14 (1) This section amends the *State Records Act 2000*.

15 (2) Delete section 76(1)(a) and (b) and insert:
16

17 (a) Aboriginal cultural material or an Aboriginal
18 site (as those expressions are defined in the
19 *Aboriginal Heritage Act 1972*); or

20 (b) any other matter relating to the heritage of
21 Aboriginal Australians,
22

=====