



Process for cancelling or changing boundaries of Part 3 reserves

What is the current process to divest Part 3 reserves by cancellation or boundary change?

Subsection 25(1) of the *Aboriginal Affairs Planning Authority Act 1972* provides for the Governor's power to make proclamations that:

- declare any new Crown lands to be reserved for persons of Aboriginal descent (Part 3 reserves)
- alter the boundaries of those Part 3 reserves
- declare that lands shall ceased to be so reserved.

Before exercising the power in subsection 25(1), the Governor must:

- seek the recommendation of the Minister for Aboriginal Affairs
- refer the matter to the Authority
- seek a report of the Authority

- lay the report of the Authority before each House of Parliament for 14 sitting days.

Either House may then pass a resolution rejecting the proposed recommendation.

What will change?

It is proposed that this parliamentary process will not be required where there is approval from the Minister for Aboriginal Affairs and the ALT and where:

- Part 3 reserves are divested to an Aboriginal corporation, through cancellation or boundary change, to allow divestment in another tenure under the *Land Administration Act 1997*.
- The boundaries of Part 3 reserves are changed to exclude public roads or public utilities to allow the grant of another tenure under the *Land Administration Act 1997*.

What will remain the same?

The parliamentary process will continue to apply to all other proposals to cancel Part 3 reserves or change the boundaries of Part 3 reserves.



Divestment of a Part 3 reserve

1

Aboriginal corporation requests the State to consider divestment of the Part 3 reserve and the State meets with the Aboriginal corporation to discuss the divestment process

2

Aboriginal corporation provides information to assist the State's consideration of what it wants to do with the land, its governance structure and financial capacity to control and manage the land

3

The Aboriginal Lands Trust (ALT) consults with all Aboriginal stakeholders who have an interest in the land and acts in accordance, as far as practicable, with their wishes

4

The ALT members and the Minister for Aboriginal Affairs approve the divestment of the Part 3 reserve, subject to further government and native title approval processes

5

The State undertakes referrals across government, including with the Department of Mines, Petroleum and Energy (DMPE), to seek approval for divestment

6

DMPE consults with all existing tenement holders who have rights in the Part 3 reserve

7

The Department of Planning, Lands and Heritage considers responses to referrals, including any DMPE conditions to the Part 3 Order

8

The Aboriginal Affairs Planning Authority approves the grant of the Order conferring control and management of the Part 3 reserve to the Aboriginal corporation

9

Where native title rights and interests exist, the native title parties must provide consent to divestment and an Indigenous Land Use Agreement is signed, authorised and registered

10

The Order conferring control and management is prepared, signed and lodged with Landgate, divesting control and management rights to the Aboriginal corporation



Granting permits over divested Part 3 reserves

Issue	Aboriginal Affairs Planning Authority Act	Pathway 1: Minister for Aboriginal Affairs retains permit power	Pathway 2: Part 3 corporation given permit power
Permit requirement	Permit required to enter Part 3 reserves unless exempt	No change	
Existing permits	Minister for Aboriginal Affairs has granted a permit (including for mining)	No change – all existing permits and approvals continue after divestment	
How to apply	Applications via online Aboriginal Lands Permit System (ALPS)	No change (Expenditure Review Committee funding approved to investigate system upgrades being considered for use by Aboriginal corporations)	
Decision-maker	Minister for Aboriginal Affairs (via Department of Planning, Lands and Heritage) decides permit	Minister for Aboriginal Affairs retains power	Part 3 corporation is given power to grant permit
Consultation	Before granting a permit, the Minister for Aboriginal Affairs must consult the Aboriginal Lands Trust (ALT)	Minister for Aboriginal Affairs must consult Part 3 corporation	Part 3 corporation can grant permit
Granting permits	Minister for Aboriginal Affairs grants or refuses permit	No change	Part 3 corporation grants/ refuses permit
Mining consents	Minister for Mines consults Minister for Aboriginal Affairs, who must consult ALT	No change	Minister for Aboriginal Affairs consults with Part 3 corporation
Conditions on permits	Minister for Aboriginal Affairs may set conditions and revoke permit	No change	Part 3 corporation sets and manages conditions

Granting permits over divested Part 3 reserves

Issue	Aboriginal Affairs Planning Authority Act	Pathway 1: Minister for Aboriginal Affairs retains permit power	Pathway 2: Part 3 corporation given permit power
Ministerial oversight	Minister for Aboriginal Affairs holds full authority	No change	Minister for Aboriginal Affairs retains administrative oversight via ALPS
Parliamentary process	Applies if Minister for Aboriginal Affairs decides to grant permit, against recommendation of ALT	Applies if Minister for Aboriginal Affairs decides to grant permit, against recommendation of Part 3 corporation	Does not apply to Part 3 corporation decisions
Review of decisions	Minister for Aboriginal Affairs decision is subject to judicial review (to date this has not occurred)	No change	Part 3 corporation decisions subject to judicial review