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Lands and Heritage



Aboriginal Affairs Planning Authority Amendment Bill 2026 Exposure Draft

SOLUTIONS FOCUSED FOR A VIBRANT WESTERN AUSTRALIA



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Outline

Part 1 - Project Background

Part 2 – Guided review of Exposure Draft

Part 3 – Feedback, Q and A and close



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Part 1: Project Background





What has been released

Exposure Draft

Explanation Guide

Fact Sheets

FAQs

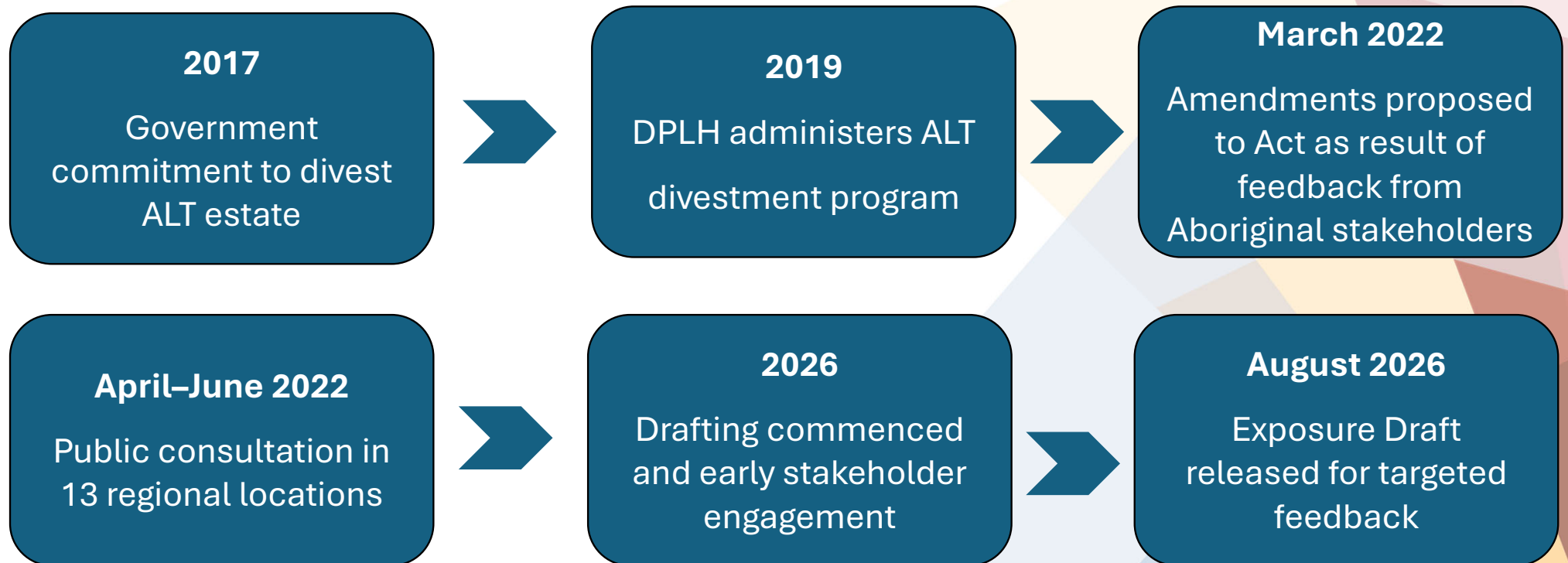
Survey

**Presentation
recording**

Feedback on the Exposure Draft can be provided at Have Your Say
WA until 4 September 2026



How proposal has been developed





Changes from Aboriginal stakeholder feedback

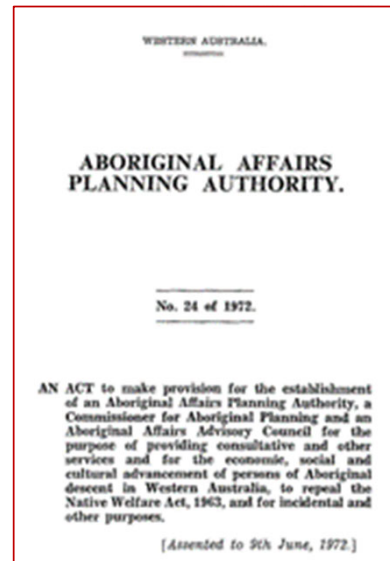
Original proposal	New intent
Removal of power to proclaim new Part 3 reserves	The proposal to remove the power to proclaim new Part 3 reserves has been withdrawn
No changes to enforcement provisions	The Bill now proposes targeted updates to enforcement provisions by increasing penalties and extending the prosecution period for trespass offences

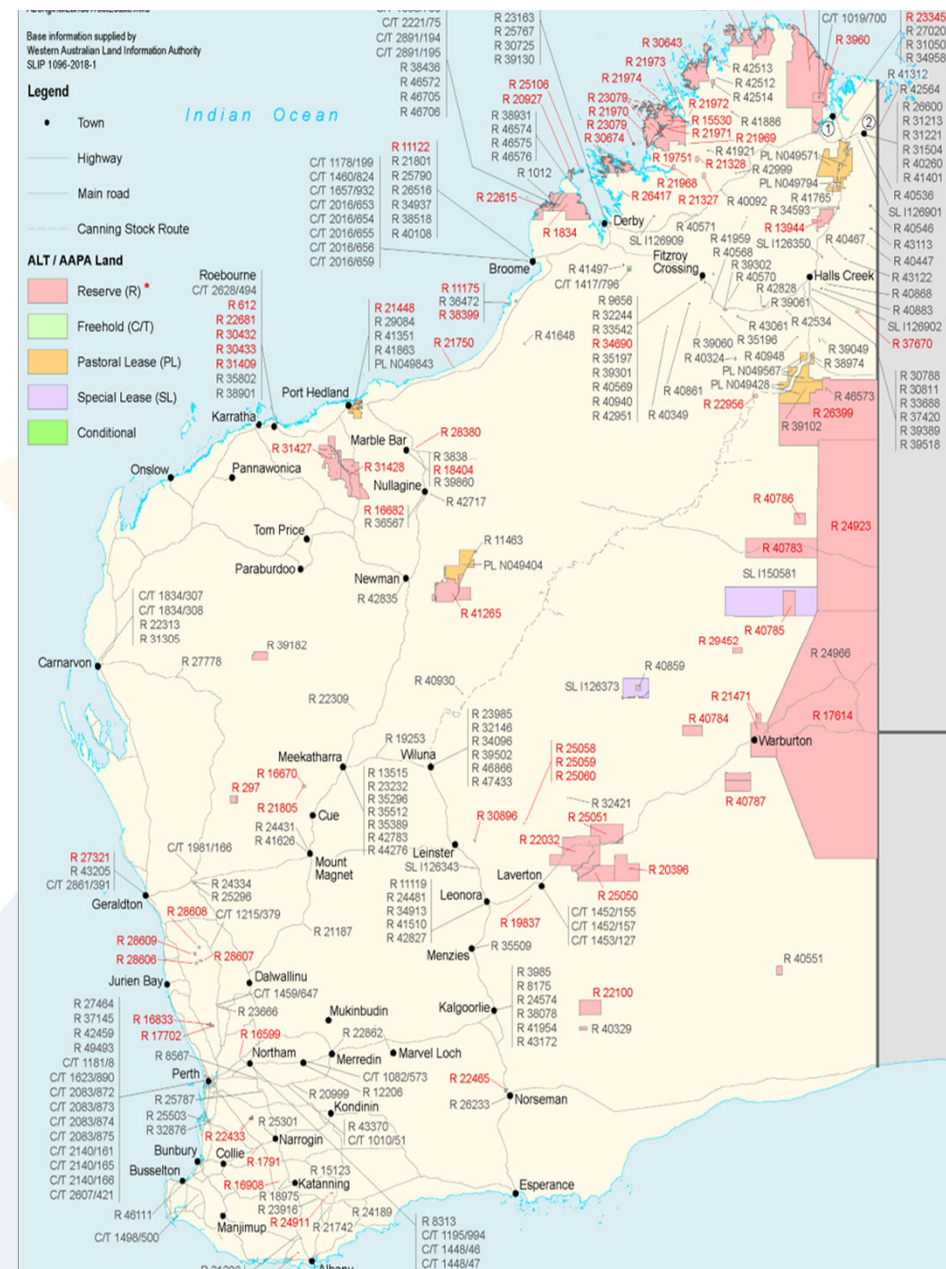
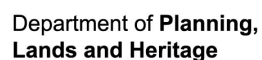


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What is the AAPA Act?







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ALT divestment

DECISION MAKING

Any divestment has to balance the interests of traditional owners, Aboriginal communities, Aboriginal leaseholders and other interest holders



WHAT IS DIVESTMENT

Returning land owned or managed by the Aboriginal Lands Trust to the direct control of Aboriginal people



WHAT YOU NEED TO DO

Tell the State your ideas for using the land



Show the State you have strong governance, money and are ready to own and manage the land



GOVERNMENT APPROVALS

- ✓ Aboriginal Lands Trust
- ✓ Minister for Aboriginal Affairs
- ✓ Minister for Lands
- ✓ Minister for Mines and Petroleum
- ✓ Local government



WHO DOES THE ALT NEED TO TALK TO?

The ALT needs to know what traditional owners, Aboriginal communities and Aboriginal leaseholders think about divestment before it happens



NATIVE TITLE APPROVALS

If the land has a native title claim or determination, the consent of the native title claimants or holders is required through an indigenous land use agreement (ILUA)



OPTIONS FOR DIVESTMENT

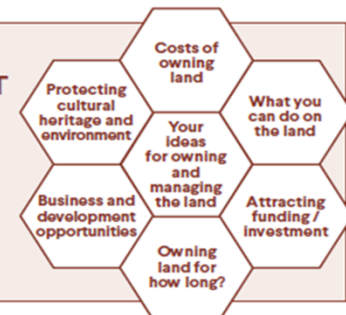
Freehold	• To own the land
Conditional Freehold	• To own the land with conditions
Leasehold	• To rent the land
Managed reserve	• To protect the land for the community

LAND MUST BE IN A GOOD CONDITION

Before divestment, the State inspects the land and cleans it up if the land has rubbish, risks or contamination



WHAT TO THINK ABOUT BEFORE DIVESTMENT





Funding available to support divestment outcomes

Activity	Description
Participation at divestment meetings	• Director fees • Travel allowance for Directors • Venue hire • Catering
Independent legal advice	• Considerations of accepting land • Inform the preferred tenure option • Reviewing legal documents
ILUA authorisation meetings	• Costs of ILUA authorisation meetings
Independent professional advice	• Land use planning • Environmental consultants • Development advice
Capability and capacity building activities	• Governance reviews to support land management • Strategic planning • Economic opportunity assessments
Post divestment support	• Transitional support to Aboriginal stakeholders' post divestment



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Part 2: Reviewing the Exposure Draft





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Reform Objectives

**1. Part 3 reserve
framework**

2. Permits

**3. Streamlining
Divestment**

**4. Strengthening
Enforcement**

**5. Consultation
on divestment**

**6. Definitions
and Native Title**



Reform 1

Part 3 reserve framework



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Part 3 reserve divestment framework

PART 3 RESERVES

Supports flexible land use and includes economic activity in s25, s25A and s26

VESTING IN THE AUTHORITY

Continues the vesting in the Authority to deliver special protections in s27

PART 3 ORDERS

The Authority can make an order giving control and management to an Aboriginal corporation in s37

POWERS OF AUTHORITY RESTRICTED

Authority's powers are restricted over a divested Part 3 reserve in s38C

POWER TO LEASE

Authority can make an order giving the power to lease and sublease to an Aboriginal corporation in s37(2)

VARIATION AND REVOCATION

Authority can vary or revoke Part 3 orders in s38A and s38B



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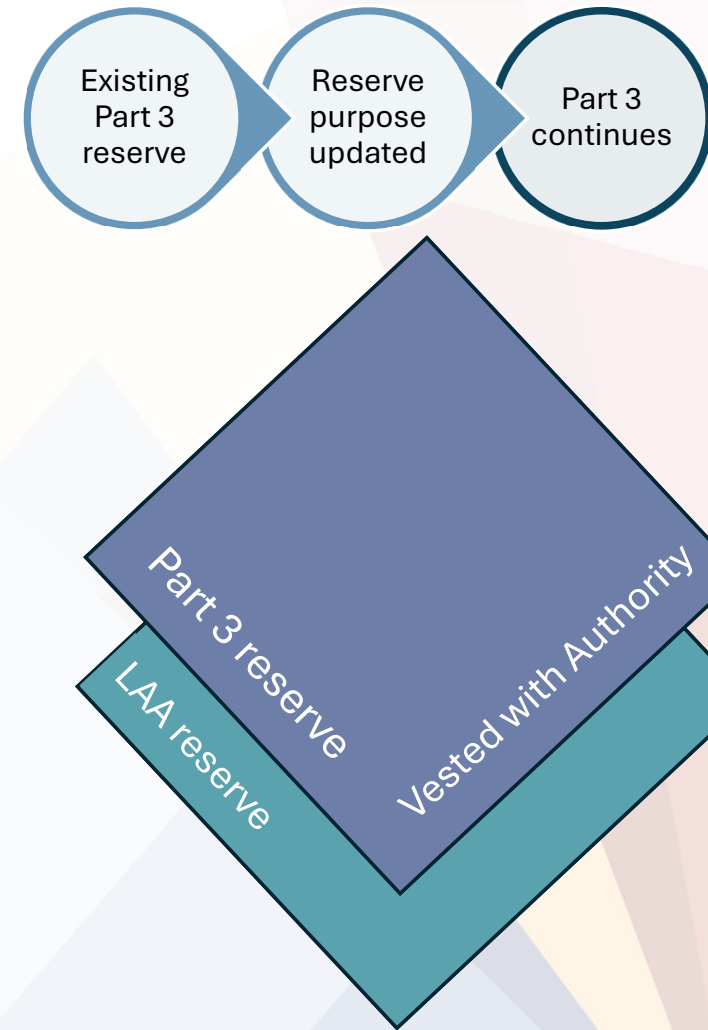
Part 3 reserves

Section 25 – Reservation of land for Part 3 purposes

- New Part 3 reserves to be proclaimed for the social, cultural and economic benefit of Aboriginal people
- Recognises that Aboriginal land may be used for a broad range of self-determined community and economic outcomes'

New Section 25A – Change of LAA reserve purpose

- Allows the underlying reserve purpose under the *Land Administration Act 1997* to be updated to reflect broad use
- Supports divestment outcomes by allowing the reserve purpose to better reflect how land can be used by Aboriginal People

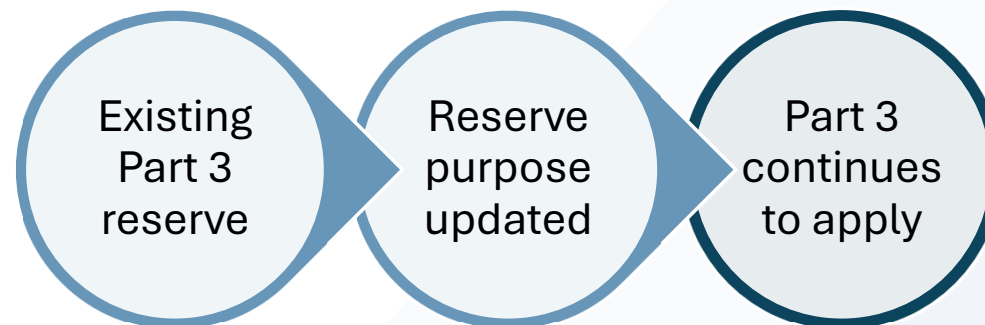




Part 3 reserves

Section 26 and section 25A– Application of Part 3

- Confirms that updating the underlying reserve purpose does not affect the application of Part 3
- Ensures the land remains a Part 3 reserve and continues to benefit from the special protections, consultation requirements and management arrangements
- Overall effect is to provides greater flexibility for social, cultural and economic land use while retaining the Part 3 special protections to existing and new Part 3 reserves



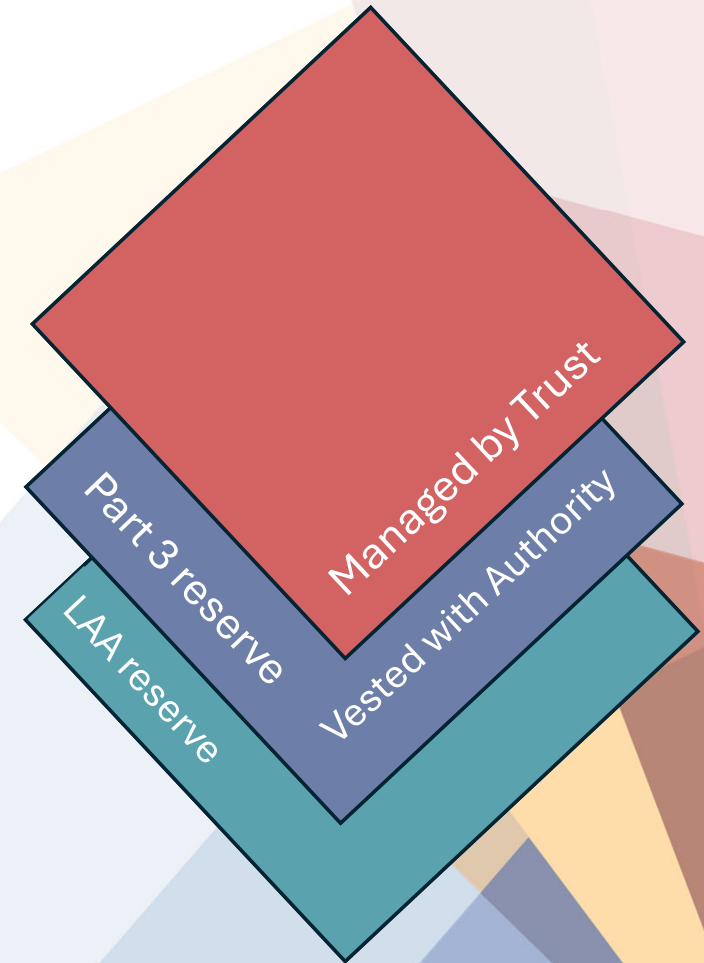


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Special protections

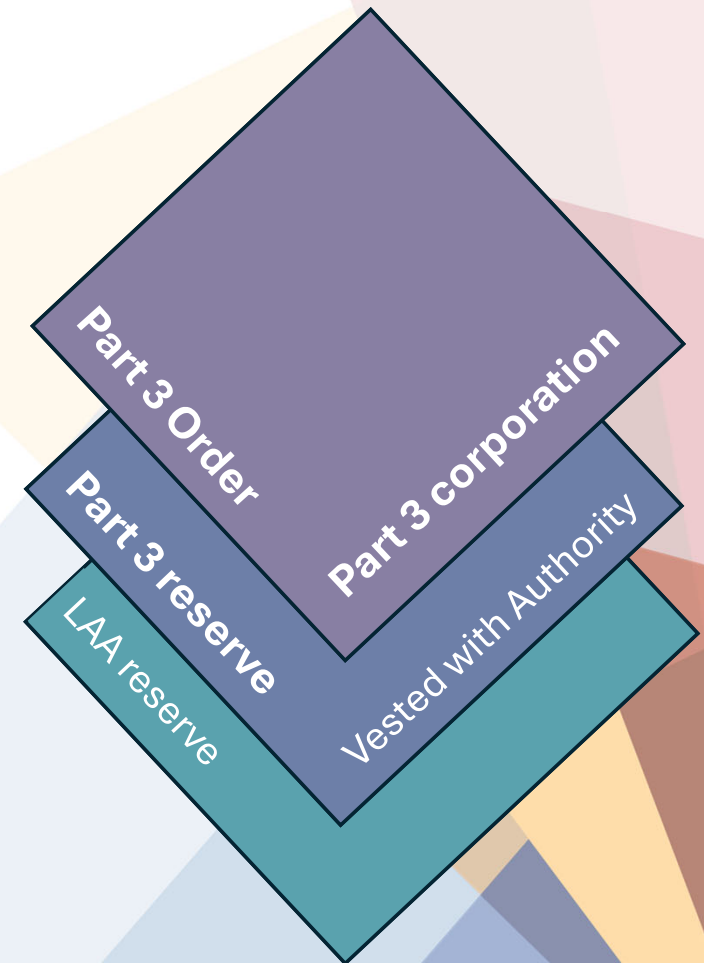
- The **special protections** of Part 3 reserves necessitate a degree of government action and include:
 - that they are for the benefit and well-being of Aboriginal people of Western Australia
 - consultation with the relevant Aboriginal stakeholders (including a Part 3 corporation where the Part 3 reserve is divested) on the use and management of Part 3 reserves
 - parliamentary oversight over the creation of and any changes to, Part 3 reserves
 - special treatment under the Mining Act 1978
 - the permit system restricting access of non-Aboriginal people and
 - the offence of trespass





Part 3 Orders

- Section 37 allows the Authority to **place a Part 3 reserve under the control and management** of an Aboriginal corporation
- Section 38 provides that a Part 3 order **cannot be made unless recommended by the Trust**, and the Trust's recommendation must accord with the wish of Aboriginal stakeholders in accordance with s23(c)
- The intention is that the making of a Part 3 **order occurs only after extensive consultation** with Aboriginal stakeholders and where there is support for the proposed divestment outcome
- Subsection 37(3) allows the **order to be on conditions**, which will be negotiated with the Part 3 corporation as part of divestment
- Once divested the **Trust has no function, power or duty** with respect to a divested part 3 reserve



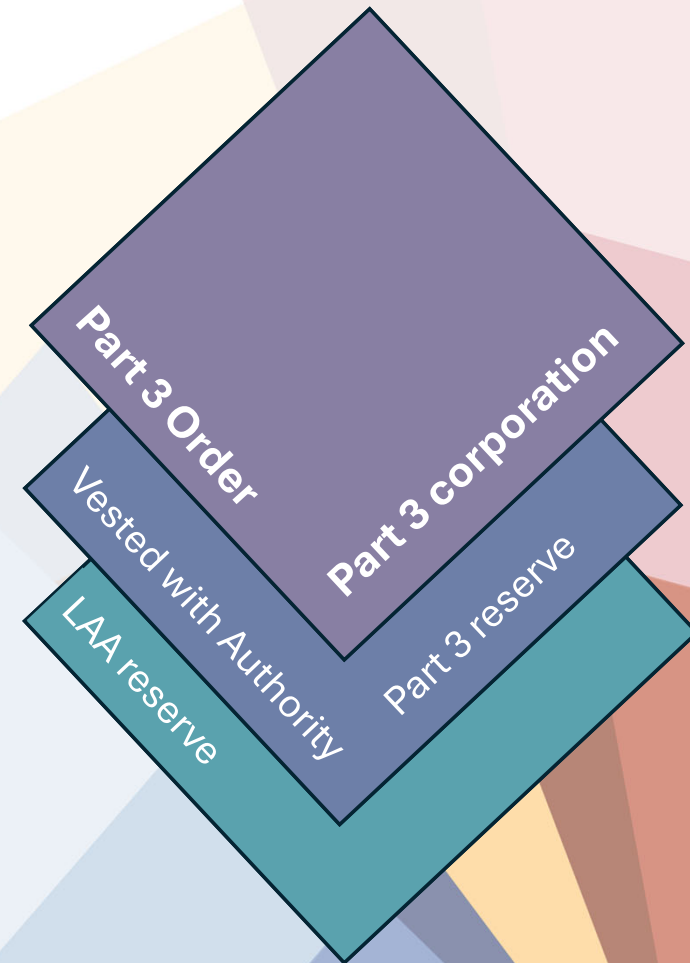


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Powers of Authority restricted

- Once a Part 3 reserve is placed under the control and management of a Part 3 corporation, responsibility for the **day-to-day management of the reserve sits with the Part 3 corporation**
- Section 38C provides that **the Authority cannot exercise powers** relating to the control and management of a managed Part 3 reserve unless:
 - the Part 3 corporation consents;
 - the Part 3 corporation is not complying with a Part 3 order or leasing order; or
 - the conditions of the order permit the Authority to act.
- Where a Part 3 corporation has been granted leasing powers, the **Authority cannot separately grant leases** over the same reserve.
- The Authority **retains only those powers necessary to administer the Part 3 framework** and maintain the special protections that apply to Part 3 reserves



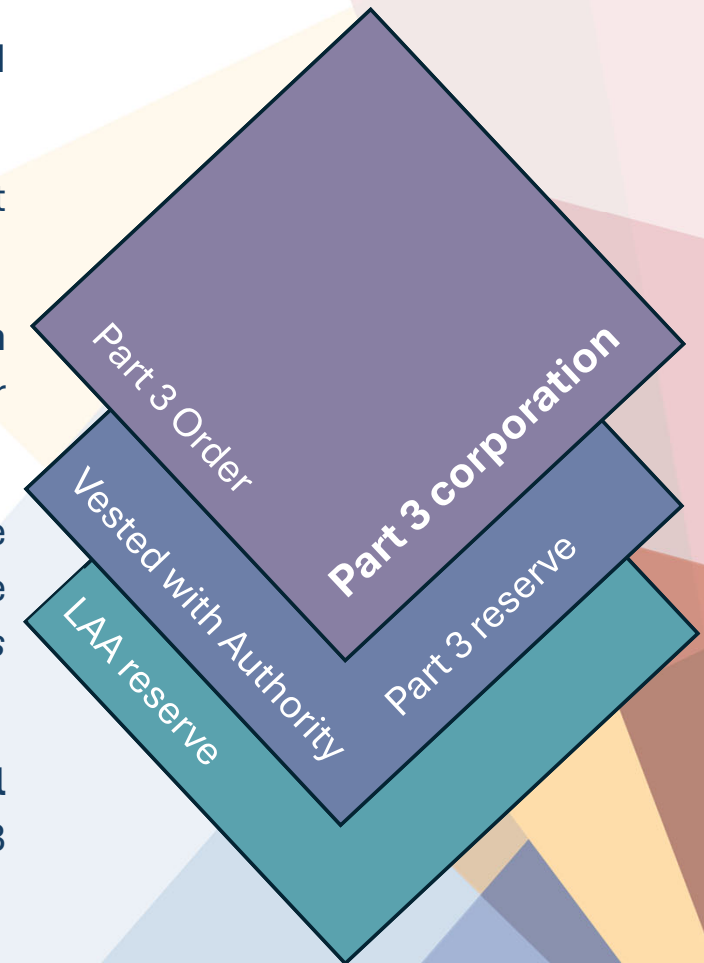


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Consultation with Part 3 corporation

- Under section 30 of the Act, no right, title interest or estate may be granted over a Part 3 reserve **without the approval of the Authority**
- In practice the Authority seeks the views of the Trust, and the Trust consults with Aboriginal stakeholders of the area
- Section 38D ensures that the same **level of consultation applies with a Part 3 corporation**, as that which applies to Aboriginal stakeholders under section 23(c).
- Section 38F provides for the **Part 3 corporation to be consulted** when the recommendation of the Minister for Aboriginal Affairs is sought under the *Mining Act 1978*, the *Petroleum, Geothermal Energy and Greenhouse Gas Storage Act 1967* or any Act relating to minerals and petroleum
- This **consultation is equal to the consultation with Aboriginal stakeholders** of the area that is undertaken by the Trust in relation to Part 3 reserves under its control and management.



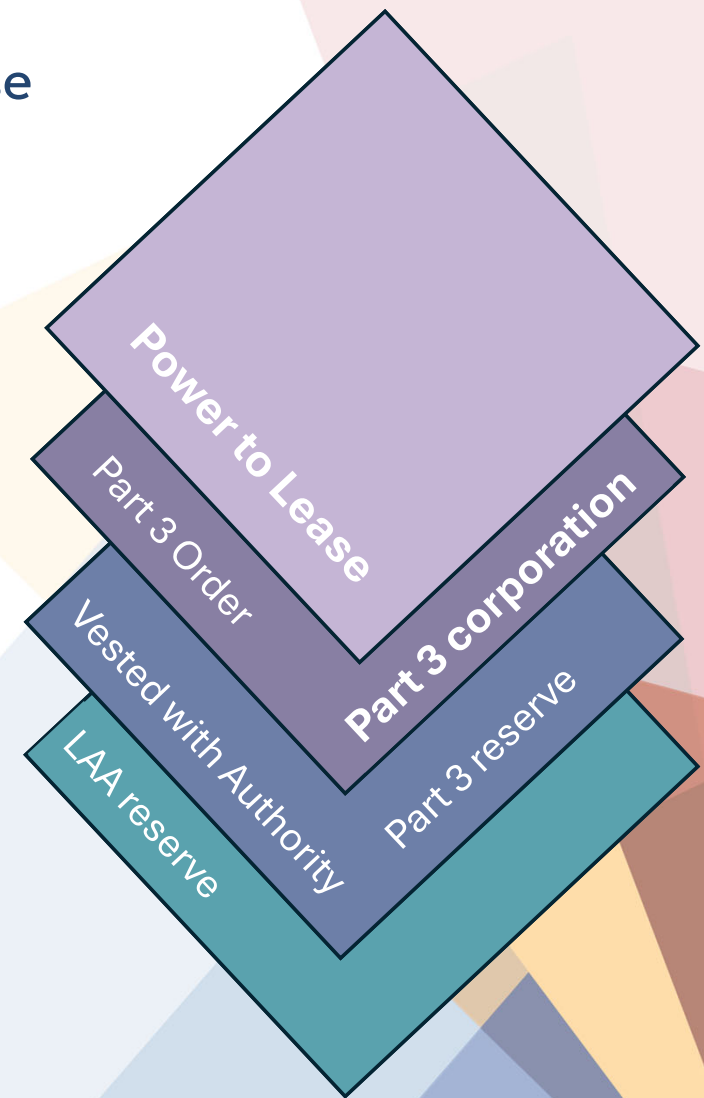


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Power to lease and sublease

- Under section 37(2) a Part 3 order can be made where a Part 3 corporation has **the power to grant leases** and subleases over a managed Part 3 reserve
- The power to lease remains **subject to section 30**, reflecting that the underlying land remains vested in the Authority
- The Authority's role is intended to provide visibility of interests granted over a Part 3 reserve and **is not intended to reduce the decision-making** role of the Part 3 corporation
- Section 38E provides a **pathway** for a Part 3 corporation **to grant a lease** or sublease **without the approval** of the Authority under section 30
- This is intended to **remove government, streamline routine leasing decisions** and reduce administrative delays for Part 3 corporations

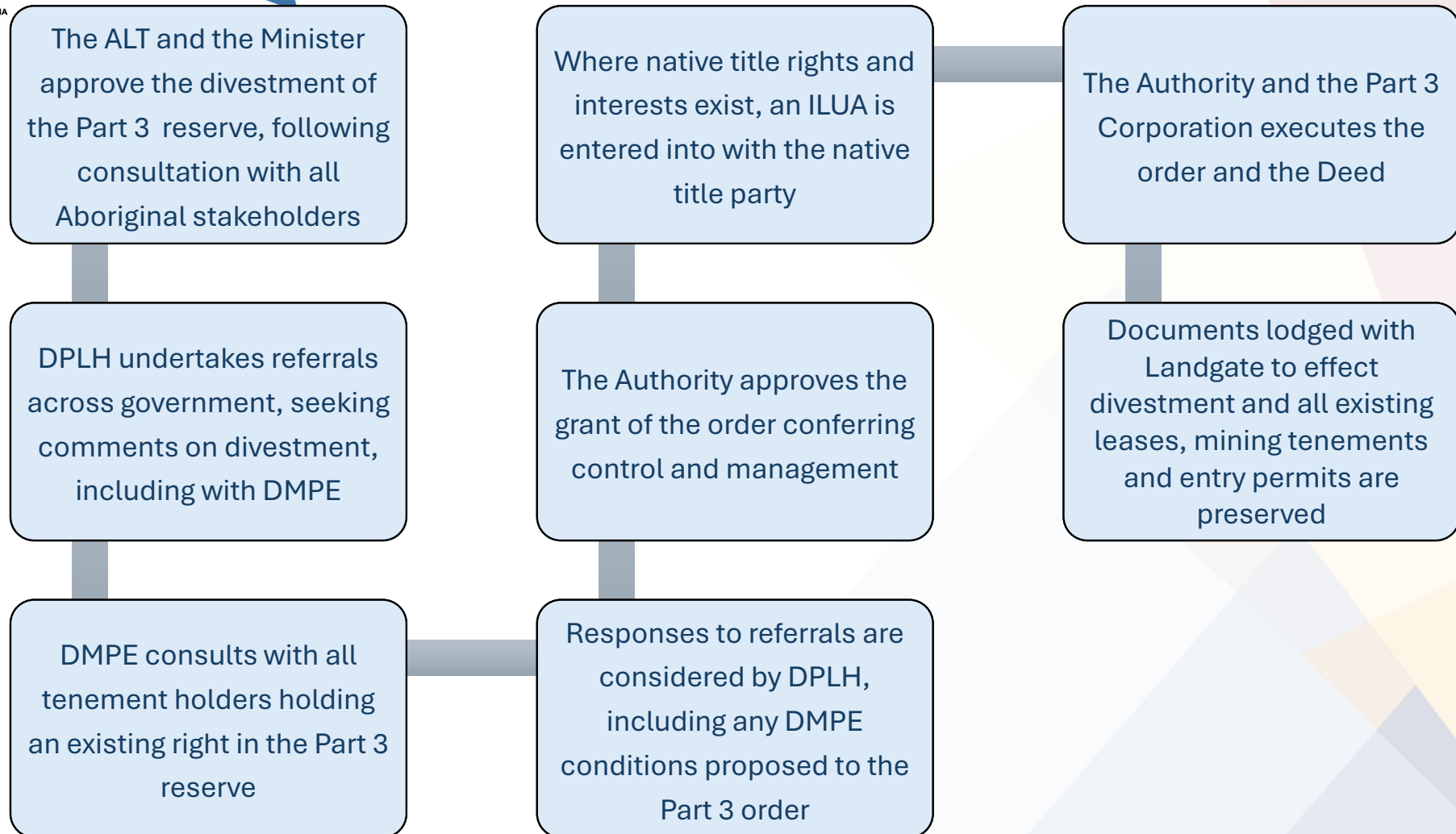




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Process for a Part 3 order





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Variation and revocation

s38A - Variation of a Part 3 Order

- A Part 3 order may be varied to:
 - add, change or remove conditions; or
 - correct a minor error or omission
- **A Part 3 order cannot be varied without the consent of the Part 3 corporation**

s38B Revocation of a Part 3 Order

- A Part 3 order may only be revoked where:
 - the Part 3 corporation consents; or
 - the Part 3 corporation does not comply with the Part 3 order or leasing order
- Existing leases, easements and other interests may continue following revocation
- Revocation does not remove the land from Part 3
- A future Part 3 order may be made if consultation identifies support for a new divestment outcome

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Reform 2

Permits



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Permits over divested Part 3 reserves

PERMIT POWER

s34 modernises the permit process by incorporating it directly into the Act and providing clarity regarding how the permits are granted

CONSULTATION WITH PART 3 CORPORATION

s35 requires the Minister to consult with the Part 3 corporation before granting a permit in relation to a managed Part 3 reserve

DELEGATION

s7A allows the Minister to delegate the power to grant permits to a Part 3 corporation on conditions

EXISTING PERMITS

S37(6) confirms that the making of a Part 3 order does not affect any existing permits



Permit Power (s34)

Currently, permission to enter a Part 3 reserve is granted and may be revoked by the Minister under regulation 8 of the Aboriginal Affairs Planning Authority Act Regulations 1972

Section 34

- Relocates the permit framework from the Regulations into the Act without substantive change to:
 - The Minister may grant a permit authorising entry onto a Part 3 reserve
 - Permits may be issued subject to conditions
 - Permits can be revoked by the Minister

Intended outcome:

- Modernises and clarifies the permit framework
- Retains the existing permit system and supports consistent administration through AAPA Land Permit System



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Consultation with Part 3 Corporation (s35)

AAPA Act 1972

Regulation 8(3) requires the Minister to consult the Trust before granting permission to enter a Part 3 reserve

The Trust consults with Aboriginal stakeholders through its consultation function in section 23(c)

If the Minister decides to grant permission contrary to the views expressed by the Trust, the Minister must provide reasons to the Trust and table those reasons before Parliament

Amendment Bill

s35 requires the Minister to consult with the Trust or the Part 3 corporation as the case may be

If the Part 3 corporation – then consultation occurs directly with the Part 3 corporation
If the Trust – then the Trust consults with Aboriginal stakeholders through 23(c)

Where the Minister grants a permit contrary to the recommendation of the Trust or the Part 3 corporation, the Minister must provide reasons for the decision and table those reasons before Parliament



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Delegation (s7A)

Section 7A

- Minister **may delegate permit-granting powers** to a Part 3 corporation
- Delegations must be publicly available and may be subject to conditions

Important

- A Part 3 corporation is not required to accept permit responsibilities
- Minister may continue granting permits where delegation is **not requested by a Part 3 corporation or not approved** by the Minister

Intended outcome

- Supports **Aboriginal control and management of divested Part 3 reserves**
- Provides flexibility to match local circumstances

Amendment Bill

Minister can
delegate the
power to grant a
permit



Aboriginal
corporation can
grant a permit



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Existing permits (s37(6))

Section 37(6)

- Making a **Part 3 order does not affect**: existing permits, or the operation of the permit system

Transitional arrangements

- Existing permit applications continue to be processed
- **Existing permits remain valid** after commencement of amendments and divestment
- Permit holders are not required to reapply because a Part 3 order has been made

Intended outcome

- Ensures continuity and avoids disruption when a Part 3 reserve is divested



Divested Part 3 reserves comparison table

Issue	AAPA Act	Pathway 1: Minister retains permit power	Pathway 2: Part 3 corporation delegated permit power
Permit requirement	Permit required to enter Part 3 reserves unless exempt	No change	
Existing permits	Minister 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	No change (ERC funding approved to investigate system upgrades being considered for use by Aboriginal corporations)	
Decision-maker	Minister (via Department) decides permits	Minister retains power	Part 3 corporation is delegated power to grant permits
Consultation	Before granting a permit, the Minister must consult the ALT	Minister must consult Part 3 corporation	Part 3 corporation can grant permit



Divested Part 3 reserves comparison table

Issue	AAPA Act	Pathway 1: Minister retains permit power	Pathway 2: Part 3 corporation delegated permit power
Granting permits	Minister grants or refuses permits	No change	Part 3 corporation grants/refuses permits
Mining consents	Minister for Mines consults Minister for Aboriginal Affairs, who must consult ALT	No change	Minister consults with Part 3 corporation
Conditions on permits	Minister may set conditions and revoke permits	No change	Part 3 corporation sets and manages conditions
Parliamentary process	Applies if Minister decides to grant permit, against recommendation of ALT	Applies if Minister decides to grant permit, against recommendation of Part 3 corporation	Does not apply to Part 3 corporation decisions
Review of decisions	Minister decision is subject to judicial review (to date this has not occurred)	No change	Part 3 corporation decisions subject to judicial review



Reform 3 Streamlining divestment



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Streamlining divestment

- **S25(6)-(7) removes parliamentary requirements for divestment**, utility service and road tenure outcomes
- Applies where land is being removed from Part 3, or boundaries are being amended, to facilitate:
 - **tenure to an Aboriginal person or Aboriginal entity;**
 - **roads;** or
 - **public utility services.**
- No change to consultation with Aboriginal stakeholders
- Managed Part 3 reserves require **consent of the Part 3 corporation** before the streamlined process can apply

~~Minister for Aboriginal Affairs makes a recommendation to the Governor~~



Aboriginal Affairs Planning Authority is referred to and prepares a report

~~Report presented to both Houses of Parliament for 14 days~~

~~Either House may pass a resolution rejecting the recommendation~~



Reform 4 Strengthening Enforcement



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Strengthening Enforcement (s31)

s31 – Increased penalties

For a first offence –

imprisonment for 9 months and
a fine of \$2 000; and
a daily penalty of \$400;

for a second or subsequent offence –
imprisonment for 12 months and
a fine of \$10 000; and
a daily penalty of \$400

In practice section 40(5) of the
Sentencing Act 1995 applies a
Corporate penalty

s49 – Time limit for prosecution

This section now provides
for 6 years to commence a
prosecution, recognising
that offences under the Act
may occur in remote
locations and that
investigation of those
matters may take a
considerable period of time

s50 – Applications of fines

Fines recovered for
offences against
section 31 relating to a
managed Part 3 reserve
are paid to the relevant
Part 3 corporation.

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Reform 5 Consultation on divestment



S23(c) consultation – Page 16

- Section 23 outlines the functions of the ALT
- The Bill **does not change** the underlying requirement for the **ALT to consult Aboriginal people** and have regard to their wishes
- **The new definition of Aboriginal stakeholders** provides greater clarity by identifying the groups and organisations that may have an interest in the land

23. Functions of ~~Aboriginal Lands~~ Trust

Subject to this Act, the functions of the ~~Aboriginal Lands~~ Trust are —

- (c) to ensure that the use and management of ~~the~~ any area of land held by the Trust, or for which the Trust is ~~in any manner~~ responsible, ~~shall~~ accords with the wish of ~~the~~ the Aboriginal stakeholders of the area, so far as that can be ascertained and is practicable;



Definition of Aboriginal Stakeholder – Page 4



Registered
**native title
body
corporate**



**Community
Governing
Body**



Aboriginal
leaseholders



Registered
**native title
claimants**



Aboriginal
residents



Aboriginal
stakeholder
**determined by
Trust**

Aboriginal stakeholders, of an area of land, means any of the following persons —

- (a) a registered native title claimant for the area;
- (b) if the area is within the external boundary of the area of land or waters covered by an approved determination of native title — a registered native title body corporate in relation to the determination;
- (c) the council of management or other governing body of an Aboriginal community (as defined in the *Aboriginal Communities Act 1979* section 3) in the area;
- (d) any of the following persons that are lessees under a lease granted by the Authority or the Trust in the area —
 - (i) an Aboriginal entity;
 - (ii) an Aboriginal person;
- (e) an Aboriginal person who resides in the area, other than an Aboriginal person represented by a person referred to in paragraphs (a) to (d);
- (f) any other Aboriginal entity or Aboriginal person, or a class of Aboriginal entities or Aboriginal people, determined for the purposes of this definition by resolution of the Trust in relation to the area;

approved determination of native title has the meaning given in the *Native Title Act 1993* (Cth) section 253;



Reform 6

Definitions and Native Title



Definitions – Page 2

Aboriginal Corporation:

A Part 3 reserve may only be divested to an Aboriginal corporation, or 2 or more Aboriginal corporations registered under the CATSI Act.

Aboriginal entity:

This term is used throughout the Bill alongside the term “Aboriginal person” to ensure that opportunities under the Act can apply either to individual Aboriginal people or to Aboriginal-controlled organisations acting on their behalf

Aboriginal person:

The new definition “Aboriginal person” brings the Act in line with other laws in how it defines Aboriginal people.

4. Terms used

In this Act, unless the context requires otherwise —

~~Aboriginal means pertaining to the original inhabitants of Australia and to their descendants;~~

Aboriginal corporation means a corporation registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth);

Aboriginal entity means any of the following persons —

- (a) an Aboriginal corporation;
- (b) an incorporated association under the *Associations Incorporation Act 2015* of which the majority of the management committee (as defined in section 3 of that Act) are Aboriginal people;
- (c) a corporation under the *Corporations Act 2001* (Cth) of which the majority of the directors (as defined in section 9AC of that Act) are Aboriginal people;

Aboriginal person means a person who —

- (a) is wholly or partly descended from the original inhabitants of Australia; and
- (b) identifies as an Aboriginal person; and
- (c) is accepted as an Aboriginal person by an Aboriginal community in which the person lives, or with which the person identifies;



Native Title – Page 4

4. Terms used

In this Act, unless the context requires otherwise —

registered native title body corporate has the meaning given in the *Native Title Act 1993* (Cth) section 253;

registered native title claimant has the meaning given in the *Native Title Act 1993* (Cth) section 253;

6A. *Native Title Act 1993* (Cth) not affected

The intention of this Act is not to affect the operation or effect of the *Native Title Act 1993* (Cth).

- Alignment with native title is achieved in two ways:
- The Bill now includes some definitions under the *Native Title Act 1993* (Cth) definitions
- s 6A confirms the law that the Act does not intend to affect the operation of the *Native Title Act 1993* (Cth).
- The native title framework will continue to apply in full to ALT land and divestment, and the Department will continue to comply with the *Native Title Act 1993* (Cth).



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Part 3: Feedback





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Feedback

Website:

www.haveyoursay.dplh.wa.gov.au/aapa-act-amendments



Email: aapa-act@dplh.wa.gov.au

*The Exposure Draft and supporting consultation materials will be available online until **Friday 4 September 2026**. Any submissions on the Amendment Bill must be made during this period.