

Aboriginal Heritage Regulations

Fact Sheet (March 2026)



Louisa Bay, Southwest National Park, Tasmanian Wilderness World Heritage Area

The Government has released the Aboriginal Heritage Exposure Bill for public consultation. Like most laws, much of the operational detail and administrative details won't be written into the legislation. Instead, those details will be set out in Regulations.

Regulations are subordinate legislation that operate under an Act. They put an Act's main ideas into practice and explain how things will work day to day. Regulations can only be made if an Act allows for them.

The Act will include reference to things like types of activity, or numbers. Over time, these details might need to change. It is easier to update Regulations than it is to change an Act.

If new Regulations are likely to have a big impact on businesses or the community, the government must prepare a Regulatory Impact Statement. This looks at how the Regulations will affect people, including costs and benefits, and includes public consultation.

The Aboriginal Heritage Regulations will go through this process. The Regulatory Impact Statement will be shared for consultation before the Bill is introduced to Parliament. This means members of Parliament will already have access to the important details.

Key elements in the Regulations

The power to make Regulations is broad and enables the government to set fees and decide when certain parts of the Act do not apply. However, the most important specific matters are:

- Identifying activities that require an Aboriginal heritage management plan. This will be an important element of the Regulatory Impact Statement's analysis. Possible examples of activities may include:
 - Certain Level 2 activities under the *Environmental Management and Pollution Control Act 1994*
 - Subdivisions above a certain number of lots or size of area;
 - New dams above a certain capacity or surface area; and
 - Projects being progressed under the *Major Infrastructure Development Approvals Act 1999*.

In each individual case, there will be rules that allow this requirement to be waived if the activity does not pose a real or significant risk of harm. This helps make sure the response matches the level of risk and is not unnecessary or unfair.

- Fees: there will be a broad power to set fees, which, for example, are expected to apply to the lodgement of certain applications, and notifications of reports.
- Registration processes: the Regulations will set out the ways that different types of Aboriginal heritage are registered, and details on how reporting, nominating, assessing etc are provided.
- Adoption of Codes: as in the current Act, the new law will allow certain approved codes or standards to be formally adopted through the Regulations. These would set out processes that are accepted as safe and appropriate. Acting in accordance with such adopted codes will be a defence against the key harm offences.
- Exemptions: the design of the new Act means it generally does not need complex exemptions. However, it does include the option to allow exemptions where needed.
- Enforcement: for less serious issues, the Regulations will list offences that can be dealt with using infringement notices. This is a much simpler and more effective way to deal with minor breaches than taking the matter to court.

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