

Authorised Version No. 034
Aboriginal Lands Act 1970

No. 8044 of 1970

Authorised Version incorporating amendments as at
15 December 2017

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Section

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An Act to provide for the Lands reserved for the Use of the
Aborigines at Framlingham and Lake Tyers to be vested in a
Framlingham Aboriginal Trust and a Lake Tyers Aboriginal
Trust respectively, to regulate the Affairs of the said Trusts, to
amend the **Aboriginal Affairs Act 1967** and the **Land Tax Act**
1958, and for other purposes.

WHEREAS—

- (a) the lands shown on the plan in the First Schedule (hereinafter called *the Framlingham reserve*), having previously been temporarily reserved as a site for the use of the aborigines, are now permanently reserved as a site for that purpose by virtue of an Order of the Governor in Council of the 24th day of January, 1967¹; and
- (b) the lands shown on the plan in the Second Schedule (hereinafter called *the Lake Tyers reserve*), having previously been temporarily reserved as a site for the use of the aborigines, are now permanently reserved as a site for that purpose by virtue of an Order of the Governor in Council of the 18th day of May, 1965².

AND WHEREAS it is expedient to provide for the lands constituting the Framlingham reserve and the Lake Tyers reserve to be vested in bodies corporate consisting of the persons residing on the said lands, to regulate the affairs of the said bodies corporate, and to make other provision as hereinafter enacted.

BE IT THEREFORE ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

1 Short title

This Act may be cited as the **Aboriginal Lands Act 1970**.

2 Definitions

In this Act, unless inconsistent with the context or subject-matter—

aborigine means a person who is descended from an aboriginal native of Australia;

Administrator means a person or board of persons appointed under section 23B;

S. 2 def. of *Administrator* inserted by No. 58/2004 s. 4, amended by No. 33/2013 s. 4(1).

board means a board of persons appointed to act as Administrator under section 23B;

S. 2 def. of *board* inserted by No. 33/2013 s. 4(2).

Department means the Department responsible for the administration of this Act;

S. 2 def. of *Department* inserted by No. 33/2013 s. 4(2).

financial year means a period of twelve months ending on the 30th day of June;

Framlingham reserve means the lands shown on the plan in the First Schedule;

Lake Tyers reserve means the lands shown on the plan in the Second Schedule;

Lake Tyers reserve roads means the land referred to in the plan of survey referred to in section 24B(1) and approved under section 24B;

S. 2 def. of *Lake Tyers reserve roads* inserted by No. 58/2004 s. 4.

personal information has the same meaning as in section 3 of the **Privacy and Data Protection Act 2014**;

S. 2 def. of *personal information* inserted by No. 33/2013 s. 4(2), amended by No. 60/2014 s. 140(Sch. 3 item 1).

reserve means the Framlingham reserve or the Lake Tyers reserve;

special notice of a resolution to be proposed at a general meeting of a Trust means notice in writing of the resolution which has been given to the same persons at the same time and in the same manner as is required in the case of notices of the general meeting;

Trust means a Trust incorporated under this Act;

unanimous resolution of a Trust means a resolution of which special notice has been given which is agreed to at any general meeting of the Trust by every person who, being entitled to do so, attends the meeting and votes upon the resolution.

Vesting of Reserves in Trusts

3 Registers of residents to be prepared

- (1) As soon as may be after the commencement of this Act, the Minister shall cause to be prepared for each reserve a register showing the names of all aborigines resident on the reserve at the commencement of this Act who—

- (a) were resident on the reserve on the 1st day of January, 1968;
 - (b) in the case of the Lake Tyers reserve—
became resident on the reserve after the 1st day of January, 1968 but before the 1st day of October, 1970 with the approval of the Lake Tyers Aboriginal Council (whether granted before or after they became resident); or
 - (c) are children born before the commencement of this Act whose mothers were persons of a class referred to in paragraph (a) or paragraph (b).
- (2) For the purposes of subsection (1), the Minister shall be entitled to treat any person as having been resident on a reserve on any day or at any time if the Minister is satisfied that the person was ordinarily resident on the reserve during a period of not less than three months including that day or time.
- (3) Notwithstanding anything to the contrary in this section, the Minister may cause to be omitted from any such register the name of any person who is a member of a family in respect of which the Minister has made a grant for the purpose of enabling the purchase of a dwelling-house outside the reserve.

4 Register to be exhibited

The Minister shall cause a copy of each such register certified by him to be a true copy thereof to be exhibited at the reserve concerned for a period of two months, together with a notice calling upon interested persons having objections to the register to notify their objections to the Minister in writing before a specified date, being

not less than three months after the date on which the register and notice are first exhibited.

5 Minister to consider objections and revise register

- (1) After the register has been exhibited in accordance with section 4, the Minister shall consider any objections notified to him, and revise the register by making such alterations (if any) as he thinks fit.
- (2) Any decision made by the Minister in revising the register or considering an objection shall be final and without appeal.

6 Publication of revised register

The Minister shall cause a copy of each register showing any alterations made upon any revision made under section 5 and certified by him to be a true copy of the register to be presented to the Governor in Council and published in the Government Gazette.

7 Day to be fixed

The Governor in Council may, after receiving a certified copy of each register, by Order published in the Government Gazette fix a day (hereinafter called *the appointed day*) for the purposes of this Act.

8 Trusts to be constituted and reservations of reserves revoked

On the appointed day, without any further or other authority than this Act—

- (a) the persons whose names appear on the register published in relation to the Framlingham reserve and who are still living shall together constitute a body corporate to be known as the Framlingham Aboriginal Trust, and the persons whose names appear on the register published in relation to the

Lake Tyers reserve and who are still living shall together constitute a body corporate to be known as the Lake Tyers Aboriginal Trust; and

- (b) any reservation of the Framlingham reserve or the Lake Tyers reserve made under any Act relating to Crown lands shall be revoked.

9 Governor in Council to make Crown grants of reserves to Trusts

- (1) Notwithstanding anything to the contrary in the **Land Act 1958** but subject to this Act, the Governor in Council shall as soon as may be after the appointed day issue a Crown grant of the lands constituting the Framlingham reserve to the Framlingham Aboriginal Trust, and a Crown grant of the lands constituting the Lake Tyers reserve to the Lake Tyers Aboriginal Trust.
- (2) Any such grant may adjust the boundaries of a reserve as shown in the First or Second Schedule in any respect in order to overcome any defect found on survey.
- (3) Any such grant may be made subject to such covenants conditions reservations exceptions and restrictions as the Governor in Council thinks fit.
- (4) Without affecting the generality of subsection (3), there may be excepted from any grant made under this section—
- (a) in the case of the Framlingham reserve—any portion of the reserve which at the time of the grant lies within a distance of not more than two hundred links from the Hopkins River; and
- (b) in the case of the Lake Tyers reserve—any portion of the reserve which at the time of the grant lies within a distance of not more

than two hundred links from the high water mark of Lake Tyers.

- (5) Notwithstanding anything to the contrary in any Act but subject to this Act—
- (a) the Framlingham Aboriginal Trust shall be entitled to be granted by the Governor in Council without fee a perpetual licence to occupy and use so much of the Framlingham reserve as is excepted pursuant to subsection (4) from any grant made in respect of the reserve; and
 - (b) the Lake Tyers Aboriginal Trust shall be entitled to be granted by the Governor in Council without fee a perpetual licence to occupy and use so much of the Lake Tyers reserve as is excepted pursuant to subsection (4) from any grant made in respect of the reserve.
- (6) A licence granted to a Trust under subsection (5) may be revoked by the Governor in Council if the Governor in Council thinks fit, but only in accordance with the following provisions—
- (a) the licence may be revoked as to the whole or any part of the land comprised therein at the request of the Trust;
 - (b) the licence may be revoked as to the whole or any part of the land comprised therein if at any time the Trust holds an estate in fee simple in less than—
 - (i) in the case of the Framlingham reserve—two hundred acres; or
 - (ii) in the case of the Lake Tyers reserve—on thousand five hundred acres—of the land granted to the Trust under this section; and

S. 9(6)
amended by
No. 33/2013
s. 5.

- (c) the licence may be revoked as to any part of the land comprised therein if the Trust ceases to hold an estate in fee simple in the land abutting upon that part.
- (7) No person other than the Trust, a member of the Trust or any person authorized by the Trust shall be entitled to enter upon any land in respect of which a licence granted under this section is in force.

Nature and Powers of Trusts

10 Nature of Trusts

A Trust shall have perpetual succession and a common seal, and shall by the name assigned to it by this Act be capable in law of suing and being sued, of purchasing taking holding selling leasing taking on lease exchanging and disposing of real and personal property, and of doing and suffering all such other things as corporations are by law capable of doing and suffering.

11 Powers of Trusts

- (1) A Trust may subject to this Act—
 - (a) manage maintain improve and develop any land held by the Trust;
 - (b) carry on any business on any land held by the Trust;
 - (c) purchase take hold sell lease take on lease exchange or dispose of any real or personal property (other than securities falling outside paragraph (e));
 - (d) borrow money on the security of a mortgage charge or other assurance of any real or personal property of the Trust, or on overdraft of current account at any authorised deposit-taking institution within

S. 11(1)(d)
amended by
No. 11/2001
s. 3(Sch.
item 1(a)).

-
- the meaning of the Banking Act 1959 of the Commonwealth;
- (e) invest money in any manner in which money may be invested under the **Trustee Act 1958**;
- (f) have accounts with any authorised deposit-taking institution within the meaning of the Banking Act 1959 of the Commonwealth;
- (g) appoint and employ officers and employees;
- (h) distribute amongst its members in the form of dividends any moneys of the Trust available for distribution in accordance with this Act;
- (ha) collect and record information, other than personal information, for the purposes of a report to the Minister under section 18E in relation to—
- (i) in the case of the Framlingham Trust, the community of residents of the Framlingham reserve; or
- (ii) in the case of the Lake Tyers Trust, the community of residents of the Lake Tyers reserve; and
- (i) do all such other things as are properly incidental to the exercise of any powers conferred on the Trust by this or any other section of this Act.
- * * * * *
- S. 11(1)(e) substituted by No. 104/1995 s. 6(Sch. 1 item 1).
- S. 11(1)(f) substituted by No. 11/2001 s. 3(Sch. item 1(b)).
- S. 11(1)(g) amended by No. 33/2013 s. 6(1).
- S. 11(1)(h) amended by No. 21/2014 s. 3(Sch. 1 item 1).
- S. 11(1)(ha) inserted by No. 33/2013 s. 6(2).
- S. 11(2) repealed by No. 33/2013 s. 6(3).

S. 11(3)
amended by
Nos 8177 s. 2,
33/2013
s. 6(4).

(3) Subject to subsection (4), a Trust shall not sell, give in exchange or otherwise dispose of any land to any person, except in accordance with a unanimous resolution of the Trust.

S. 11(4)
substituted by
No. 33/2013
s. 6(5).

(4) A Trust may lease land, but must not lease land for a period of more than 21 years, except in accordance with a resolution, of which special notice has been given, which is agreed to at any general meeting of the Trust by not less than three-quarters of the persons who, being entitled to do so, attend the meeting and vote upon the resolution.

(5) A Trust shall not under this section make a loan to any person who is a member of a Trust, or of its committee of management.

S. 11A
inserted by
No. 33/2013
s. 7.

11A Forms of contracts

- (1) Contracts on behalf of a Trust may be made as follows—
- (a) a contract which if made between private persons would be by law required to be in writing under seal may be made on behalf of the Trust in writing under the common seal of the Trust;
 - (b) a contract which if made between private persons would be by law required to be in writing signed by the parties to the contract may be made on behalf of the Trust in writing signed by any person acting under its authority, express or implied;
 - (c) a contract which if made between private persons would by law be valid although made orally only (and not reduced into writing) may be made orally on behalf of the Trust by any person acting under its authority, express or implied.

- (2) A contract made in accordance with subsection (1) is effective in law and binds the Trust and its successors and all other parties to the contract.
- (3) A contract made in accordance with subsection (1) may be varied or discharged in the manner in which it is authorised to be made.
- (4) A document or proceeding requiring authentication by a Trust may be signed by an authorised officer of the Trust and need not be under its common seal.

Members' Shares in Trusts

12 Provisions concerning shares in Trusts

- (1) The undertaking of a Trust shall be divided into shares.
- (2) On the appointed day, each of the first members of a Trust not being an infant shall be entitled to one thousand shares, and each of the first members of a Trust being an infant shall be entitled to five hundred shares, and the total number of shares in each Trust shall be determined accordingly.
- (3) A share in a Trust shall be personal property, and shall be transferable in accordance with this Act.
- (4) A general meeting of a Trust may at any time resolve that the total number of shares in the Trust be amended to a specified number and the number of shares held by each member be correspondingly amended so as to represent the same proportion of the total number of shares as the member held before the amendment.
- (5) A resolution made under subsection (4) shall take effect on its being passed, and the Trust shall immediately amend the register of members accordingly.

**S. 12(4)
amended by
No. 33/2013
s. 8(1).**

S. 12(8)
amended by
No. 33/2013
s. 8(2).

- (6) A Trust shall immediately after its incorporation establish a register of members, showing the name and address of, and the extent of the shares held by, each member of the Trust.
- (7) Only those persons whose names appear from time to time in the register of members as the owners of any shares shall be members of a Trust.
- (8) The Trust may, at the request of any member, issue to the member a certificate under seal showing the number of shares held by the member at the date of issue of the certificate, and any such certificate shall be prima facie evidence of title at the date of its issue.
- (9) No member of a Trust shall, by virtue of holding a share in the Trust, have any personal liability whatsoever (whether to the Trust or any other person) in respect of any debts or liabilities of or claims made upon the Trust or any amount by which at any time the assets of the Trust fall short of its liabilities or otherwise.

13 Entries in register of members

S. 13(2)
amended by
No. 33/2013
s. 9.

- (1) Subject to the provisions of this section, the transfer of shares in a Trust shall be effected only by alteration of the register of members on production by the transferee of a proper instrument of transfer.
- (2) The personal representative of a deceased member of a Trust may, on making application in writing and producing evidence of his or her appointment satisfactory to the Trust, have his or her name entered in the register of members as the owner of the shares of the deceased member.
- (3) Except as required by law, no person shall be recognized by a Trust as holding any share upon any trust, and the Trust shall not be bound by or compelled to recognize (even when having notice

thereof) any equitable contingent future or partial interest in any share or any other rights in respect of any share, except an absolute right as to the entirety thereof in the person registered as the owner thereof.

- (4) Where a share is owned by a person known by the Trust to be an infant or under any other disability, the Trust shall mark the register accordingly.

14 Restriction on transfer of shares

- (1) A member of a Trust shall not sell or transfer any shares to any person otherwise than in accordance with this section, and no transfer in contravention of this section shall be registered.
- (2) A member of a Trust may transfer his or her shares or any of them as follows—
- (a) to the Trust;
 - (b) to another member;
 - (c) to the Crown in right of the Commonwealth or the State; or
 - (d) To a person whom the Trust believes to be—
 - (i) the husband or wife, or a child or remoter issue, brother, sister or parent of the member;
 - (ii) a brother or sister of a parent of the member; or
 - (iii) a child or remoter issue of a parent of the member, or of a brother or sister of a parent of the member:

S. 14(2)
amended by
No. 33/2013
s. 10(1).

Provided that for the purposes of this paragraph, any natural blood relationship shall be treated as being legitimate.

- (3) Nothing in this section shall be construed as preventing a transfer of shares—
- (a) by the personal representative of a deceased member to the persons entitled thereto under the will or on the intestacy of the deceased member; or
 - (b) by the Crown to the member from whom the shares were acquired or the member's personal representative.
- S. 14(3)(b) amended by No. 33/2013 s. 10(2).
- (4) A member of a Trust may make to the Trust an offer in writing to sell any shares owned by the member to—
- (a) the Trust; or
 - (b) a person referred to in subsection (2) who is to be nominated by the Trust.
- S. 14(4) substituted by No. 33/2013 s. 10(3).
- (4A) The price of the shares offered for sale under subsection (4) shall be the price fixed in accordance with this Act by an auditor appointed under this Act.
- S. 14(4A) inserted by No. 33/2013 s. 10(3).
- (5) An offer under subsection (4) shall remain open for acceptance by the Trust or person nominated by the Trust (as the case requires) for a period of 3 months from the date the offer is made, and then lapses.
- (6) Upon the lapsing of any such offer, the member shall be entitled to transfer the shares or any of them to any person at a price being not less than the price fixed for them by the auditor.
- (7) Where any shares in a Trust are acquired by the Trust—
- (a) the shares shall be deemed to have been acquired on behalf of the remaining members rateably according to the number of shares owned by them;
- S. 14(5) substituted by No. 33/2013 s. 10(3).

- (b) the shares shall be deemed to be held in Trust for the remaining members until the end of the financial year in which they were acquired, when the total number of shares shall be reduced by the number so acquired;
- (c) the Trust shall not be entitled to exercise any voting rights at any general meeting of the Trust in respect of the shares; and
- (d) any dividends paid in respect of shares after they are acquired shall be deemed to be income of the Trust.

Committee of Management

15 Committee of management

- (1) Seven persons shall be elected at the first general meeting of a Trust to form a committee of management of the Trust, and of these—
 - (a) two shall be elected to hold office until the second annual general meeting;
 - (b) two shall be elected to hold office until the third annual general meeting; and
 - (c) three shall be elected to hold office until the fourth annual general meeting.
- (2) The members of a Trust shall from time to time in general meeting as may be required elect a person to fill any vacancy in the committee of management.
- (3) Any person elected to fill a vacancy arising by expiration of the term of office for which a member was elected shall hold office until the third annual general meeting following his or her election, and any person elected to fill a vacancy otherwise arising shall hold office for the balance of the term of office of the member he or she replaces.

**S. 15(3)
amended by
No. 33/2013
s. 11(1).**

S. 15(5)
amended by
No. 33/2013
s. 11(2).

- (4) It shall not be necessary for a member of a committee of management of a Trust to be a member of the Trust.
- (5) No person shall be disqualified from being elected as a member of a committee of management of a Trust by reason of the fact that he or she is an officer or employee of the Trust or is interested in a contract made by the Trust, but a member of a committee of management shall not vote or take part in any discussion on any matter affecting any contract in which he or she may be interested (other than a contract of service).

S. 15(6)
amended by
No. 33/2013
s. 11(3)(a).

- (6) The office of a member of a committee of management of a Trust shall become vacant if the member—

(a) becomes of unsound mind or otherwise incapable of acting;

(b) becomes bankrupt;

(c) resigns from office in writing addressed to the Chairperson of the Trust; or

(d) is removed from office by a resolution of which special notice is given passed at a general meeting of the Trust.

S. 15(6)(c)
substituted by
No. 33/2013
s. 11(3)(b).

- (7) A member of a committee of management shall be eligible for re-election.
- (8) The members of a committee of management of a Trust shall be entitled to receive such fees and travelling expenses (if any) as are from time to time fixed by resolution of the Trust passed in general meeting.

- (9) A committee of management shall at its first meeting—
- (a) elect one of its members to be Chairman of the Trust, and determine the period for which he is to hold office;
 - (b) appoint a Secretary of the Trust; and
 - (c) appoint some place to be the office of the Trust—

and thereafter make such elections determinations and appointments as often as may be required.

- (10) A committee of management shall meet at least six times in each year.
- (11) Three members of a committee of management shall constitute a quorum at any meeting.
- (12) During a vacancy in the office of any member of a committee of management, the continuing members may (if there is a quorum) act as if the vacancy had not occurred.
- (13) Subject to this Act, a question arising at any meeting of a committee of management shall be decided by a majority of votes of those present at the meeting, but where there is no majority, the Chairperson of the Trust or, if he or she is not present, the person chosen to preside at the meeting in his or her absence, shall have a second or casting vote.

S. 15(13)
amended by
No. 33/2013
s. 11(4).

16 Committee to act on behalf of Trust

- (1) Subject to this Act, the powers and functions of a Trust may be exercised on its behalf by its committee of management and not otherwise, but a committee of management shall comply with the terms and conditions of any resolution relating to the powers and functions of the Trust passed at a general meeting of the Trust.

S. 16(1)
amended by
No. 58/2004
s. 5.

S. 16(3)
amended by
No. 8177 s. 3.

- (2) All acts done in good faith by a committee of management shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment or continuance in office of any member be as valid as if the member had been duly appointed or had duly continued in office.
- (3) Notwithstanding anything to the contrary in subsection (1), a Trust shall be bound by everything done by its committee of management which it is lawful for the Trust to do, and no person dealing with the Trust shall be concerned to inquire in relation to any such act whether the committee is authorized to act as it does.

17 Seal

The seal of the Trust shall be kept by the Secretary and shall be affixed to a document only by resolution of the committee of management, and when affixed shall be authenticated by the signatures of two members of the committee of management and the Secretary.

Financial

18 Accounts

S. 18
substituted by
No. 33/2013
s. 12.

A Trust must cause to be kept proper books of account giving a true and complete account of the affairs and transactions of the Trust.

18A Financial reports

S. 18A
inserted by
No. 33/2013
s. 12.

- (1) A Trust must cause to be prepared—
 - (a) a balance-sheet as at the end of each financial year; and
 - (b) a profit and loss account in respect of each financial year.
- (2) A balance-sheet must, when read in conjunction with a report by the committee of management under section 18B, give a true and fair view of the

state of affairs of the Trust as at the end of the financial year.

- (3) A profit and loss account must give a true and fair view of the profit or loss of the Trust for the financial year.
- (4) A balance-sheet and profit and loss account prepared under subsection (1) must be audited by the auditor of the Trust.

18B Report of state of affairs of Trust

S. 18B
inserted by
No. 33/2013
s. 12.

The committee of management of a Trust must prepare for each financial year a report concerning the state of affairs of the Trust during that financial year, including—

- (a) a statement of the amount (if any) which the committee has determined is available for distribution in the form of dividends; and
- (b) with respect to the assets of the Trust, a statement setting out their estimated current market value and the liabilities charged on or relating particularly to those assets.

18C Accounts to be laid before annual general meeting of Trust

S. 18C
inserted by
No. 33/2013
s. 12.

- (1) A Trust must cause an audited balance-sheet and profit and loss account prepared under section 18A to be laid before the first annual general meeting of the Trust held after the end of the financial year to which the balance-sheet and profit and loss account relate.
- (2) A Trust must cause to be annexed to the balance-sheet and profit and loss account laid before the annual general meeting of the Trust—
 - (a) a report by the committee of management prepared under section 18B; and

(b) a report by the auditor prepared under section 19A(1).

(3) A Trust must send a copy of the balance-sheet, profit and loss account and the reports by the committee of management and auditor annexed to those documents to all persons entitled to receive notice of general meetings of the Trust at least 14 days before the annual general meeting at which the documents are to be laid.

S. 18D
inserted by
No. 33/2013
s. 12.

18D Interim financial report

(1) A Trust must cause to be prepared a balance-sheet as at the end of the period 1 July to 31 December in any year and a profit and loss account in respect of that period.

(2) A Trust must cause to be prepared an interim financial report that includes—

(a) a balance-sheet and profit and loss account prepared under subsection (1); and

(b) a report by the committee of management concerning the state of affairs of the Trust and the financial activities of the Trust during the period to which the balance-sheet and profit and loss account relate.

S. 18E
inserted by
No. 33/2013
s. 12.

18E Report of economic and social wellbeing of community of residents

(1) A Trust must cause to be prepared in respect of each 6 month period ending on 30 June or 31 December in any year a report on the economic and social wellbeing of the community of residents of—

(a) in the case of the Framlingham Trust, the Framlingham reserve; or

(b) in the case of the Lake Tyers Trust, the Lake Tyers Reserve.

- (2) A report under subsection (1) must include any matters and comply with any requirements specified in a written notice issued by the Minister to the Trust.
- (3) A report under subsection (1) and any information collected by the Trust for the purposes of preparing the report must not include personal information.

19 Appointment of auditor

**S. 19
substituted by
No. 33/2013
s. 12.**

- (1) Subject to subsection (2), a Trust must appoint a person to be the auditor of the Trust at an annual general meeting of the Trust.
- (2) If an auditor has not been appointed at an annual general meeting within 3 months after a vacancy occurs in that office, the committee of management of the Trust must appoint a person to fill the vacancy.
- (3) A person appointed as auditor—
 - (a) must be a registered company auditor; and
 - (b) must not be an officer or employee of the Trust.
- (4) An auditor of a Trust holds office until the auditor—
 - (a) dies; or
 - (b) resigns from office in writing addressed to the Chairperson of the Trust; or
 - (c) ceases to be a registered company auditor; or
 - (d) is removed from office by a resolution, of which special notice is given, passed at a general meeting of the Trust.
- (5) The Trust must pay any reasonable fees and expenses of the auditor.

- (6) Nothing in this section affects the appointment of an auditor of a Trust holding office immediately before the commencement of the **Aboriginal Lands Amendment Act 2013**.

S. 19A
inserted by
No. 33/2013
s. 12.

19A Audit

- (1) An auditor of a Trust must report in writing to the members of the Trust on—
- (a) the accounts examined by the auditor; and
 - (b) any balance-sheet and profit and loss account prepared under section 18A.
- (2) A report under subsection (1) must state—
- (a) whether, in the auditor's opinion, the books of account and register of members required to be kept by the Trust have been properly kept; and
 - (b) whether, in the auditor's opinion, the balance-sheet, profit and loss account and the report of the committee of management prepared under section 18B give a true and fair view of the state of affairs of the Trust at the end of the financial year and of its activities during the financial year; and
 - (c) whether the auditor has obtained all the information and explanations that the auditor has required.
- (3) An auditor of a Trust is entitled—
- (a) to access to the records of the Trust; and
 - (b) to require from officers and employees of the Trust any information concerning, and explanation of, any matter that the auditor thinks fit; and
 - (c) to receive all notices relating to any general meeting of the Trust that members are entitled to receive; and

- (d) to attend a general meeting; and
- (e) to be heard at a general meeting on any part of the business of the meeting which concerns the auditor in the auditor's capacity as auditor.

20 Valuation of shares

- (1) Whenever by any provision of this Act the value of any shares in a Trust is required to be fixed by the auditor, the auditor shall fix the value of the shares in relation to the equity value of the Trust at the date of the last published balance-sheet (as disclosed by the balance-sheet and the statement concerning the estimated current value of the assets in the annexed report of the committee of management), with such adjustments thereto (if any) as in the auditor's opinion are necessary to arrive at a fair and reasonable equity value for the shares at the date of the valuation having regard to—
 - (a) any material change in the current market value of the assets since the date of the last published balance-sheet;
 - (b) any dividends paid or to be paid to members since the said date;
 - (c) the estimated profit or loss of the Trust for the current financial year; and
 - (d) any other matter which in the auditor's opinion materially affects the equity value of the Trust.
- (2) In this section *equity value* in relation to a Trust, means the sum remaining after deducting from the total value of all assets of the Trust the amount of all liabilities claims and debts to which the Trust is subject or which it owes.

S. 20(1)
amended by
No. 33/2013
s. 13.

S. 20(1)(d)
amended by
No. 33/2013
s. 13.

21 Dividends

- (1) The Trust shall not distribute any moneys amongst its members in the form of dividends except from profits (including accumulated profits and realized capital profits), and in accordance with an express resolution of a general meeting of the Trust.
- (2) Any amount distributed in any financial year shall not exceed the amount determined by the committee of management to be available for that purpose in that year, after adequate provision is made for the payment or setting aside of other moneys to be paid or set aside from the income of the Trust.
- (3) Any amount authorized to be distributed as dividends by a resolution of a general meeting shall be deemed to be appropriated for the purpose, and held in trust for the persons entitled to receive dividends in their respective shares.

General Meetings

22 General meetings

- (1) The Minister shall call the first general meeting of a Trust for a date being not more than three months after the appointed day.
- (2) Subject to subsection (1), every general meeting of a Trust shall be called by the Secretary.
- (3) The Secretary of a Trust shall call a general meeting of the Trust if called upon to do so by a requisition in writing under the hands of not less than one-quarter of those members of the Trust who are not infants.
- (4) General meetings of a Trust shall be called by giving at least fourteen days' notice of the meeting in writing to every member of the Trust (not being an infant) who has a place of address shown against his or her name in the register of members.

S. 22(4)
amended by
No. 33/2013
s. 14.

- (5) Any such notice may be sent by post to a member at the place of address shown against his or her name in the register of members. **S. 22(5) amended by No. 33/2013 s. 14.**
- (6) The accidental failure to send or failure to receive any such notice shall not invalidate anything done at any general meeting.
- (7) A Trust may hold a general meeting at any time.
- (8) A Trust shall hold an annual general meeting within six months after the end of each financial year, but a Trust shall not be obliged to hold its first annual general meeting until the Trust has been in existence for a full financial year.

23 Procedure at general meetings

- (1) Subject to subsection (5), a member may attend and vote at a general meeting in person only.
- (2) Unless on any question submitted at a general meeting to a vote a poll is demanded by not less than five persons present, or by any person or persons entitled to exercise not less than one-tenth of the total votes of those present, every member present shall be entitled to one vote only, and a resolution shall be carried if a majority of the votes is in favour thereof.
- (3) If a poll is demanded in accordance with subsection (2), the number of votes to which each member is entitled shall be determined by the number of shares the member owns. **S. 23(3) amended by No. 33/2013 s. 15(1).**
- (4) The quorum for a general meeting shall be one-half of the persons entitled to vote at the meeting who are residents of the reserve on the day the meeting was called in accordance with section 22(4). **S. 23(4) amended by No. 58/2004 s. 6.**

(5) Notwithstanding anything to the contrary in this Act—

S. 23(5)(b)
amended by
No. 33/2013
s. 15(2).

- (a) an infant member shall not be entitled to vote at any general meeting;
- (b) where any member is by any rule of law disabled from dealing with his or her property, any vote ordinarily exercisable by the member at a general meeting shall not be exercised by the member, but any person who is for the time being authorized by law to control the property of the person so disabled may attend and exercise the vote in his or her place; and
- (c) where the Crown or a corporation is entitled to exercise any vote at a general meeting, any person authorized to represent the Crown or the corporation at the meeting may attend and vote on behalf of the Crown or the corporation.

Heading
preceding
s. 23A
inserted by
No. 58/2004
s. 7,
amended by
No. 33/2013
s. 16.

Administration of the Trusts

S. 23A
(Heading)
amended by
No. 33/2013
s. 17(1).

23A Minister may require Trust to comply with Act

S. 23A
inserted by
No. 58/2004
s. 7,
amended by
No. 33/2013
s. 17(2).

If the Minister believes on reasonable grounds that a Trust has failed to comply with a provision of this Act, the Minister may, by notice served on the Chairperson of the Trust, require the committee of management of the Trust to take the action specified in the notice, within a reasonable period of time specified in the notice, for the purpose of complying with this Act.

23B Appointment of Administrator

(1) In this section—

S. 23B
inserted by
No. 58/2004
s. 7.

relevant grounds means any one or more of the following—

S. 23B(1)
def. of
*relevant
grounds*
amended by
No. 33/2013
s. 18(1).

(a) that the committee of management of a Trust has—

(i) failed to take the action specified in a notice served under section 23A within the period of time specified in the notice; and

(ii) failed to provide an explanation that is to the reasonable satisfaction of the Minister for its failure to take the action specified in a notice served under section 23A within the period of time specified in the notice;

(b) that the members of the committee of management of a Trust have acted in the affairs of the Trust in their own interests rather than in the interests of the members of the Trust;

(c) that the appointment of an Administrator is required in the interests of the members of a Trust or the residents of a reserve.

(2) If the Minister considers that there may be relevant grounds for appointing an Administrator of a Trust, the Minister may serve on the Chairperson of the Trust, a notice in writing—

S. 23B(2)
amended by
No. 33/2013
s. 18(2).

(a) calling on the Trust to show cause, within a reasonable period specified in the notice, why an Administrator should not be appointed; and

S. 23B(4)
amended by
No. 33/2013
s. 18(3).

- (b) setting out the grounds on which the Minister relies for the service of the notice.
- (3) The grounds set out in the notice must be relevant grounds.
- (4) The Trust may make representations to the Minister in respect of the relevant grounds set out in the notice within the period specified in the notice.
- (5) If the Minister considers it appropriate to do so, the Minister may, within the period specified in the notice—

S. 23B(5)(a)
amended by
No. 33/2013
s. 18(4).

- (a) inform the residents of the relevant reserve of the service of a notice under this section and the relevant grounds set out in the notice; and
- (b) ask for submissions from the residents in respect of those grounds.

S. 23B(6)
substituted by
No. 33/2013
s. 19.

- (6) After the period specified in the notice, and having considered any representations made by the Trust and submissions (if any) of the residents of the reserve, the Minister may appoint a person or board of persons as Administrator.

S. 23C
(Heading)
substituted by
No. 33/2013
s. 20(1).

23C Conditions of appointment of Administrator

S. 23C
inserted by
No. 58/2004
s. 7.

S. 23C(1)
amended by
No. 33/2013
s. 20(2).

- (1) An appointment of an Administrator must be for a specified period.
- (2) However, the Minister may extend the period of appointment before the expiry of the period for a further specified period.

- (3) An Administrator or, if a board is the Administrator, a member of the board, is entitled to receive the fees (if any) determined by the Minister.

S. 23C(3)
inserted by
No. 33/2013
s. 20(3).

23D Appointment of new Administrator in certain cases

- (1) The Minister may cancel the appointment of an Administrator and appoint another Administrator if the Minister considers it necessary to do so.
- (2) The Minister may appoint a new Administrator if, in the case of an Administrator who is a person, the Administrator dies or resigns.
- (3) The Minister may appoint a new Administrator if, in the case of an Administrator that is a board, the board is abolished under section 23R.
- (4) An Administrator appointed under this section may only be appointed for the balance of the period of appointment of the Administrator whose appointment the new Administrator is replacing.
- (5) In appointing an Administrator under this section, the Minister is not required to comply with section 23B.

S. 23D
inserted by
No. 58/2004
s. 7,
substituted by
No. 33/2013
s. 21.

23E Notice of appointment

As soon as practicable after the appointment of an Administrator, the Minister must publish notice of the appointment and the period of the appointment, in—

- (a) the Government Gazette; and
- (b) a newspaper (if any) circulating generally in—
- (i) in the case of the Framlingham Trust, the area where the Framlingham reserve is located; or

S. 23E
inserted by
No. 58/2004
s. 7.

S. 23E(b)
substituted by
No. 33/2013
s. 22.

- (ii) in the case of the Lake Tyers Trust, the area where the Lake Tyers reserve is located.

S. 23F
inserted by
No. 58/2004
s. 7,
substituted by
No. 33/2013
s. 23.

23F Effect of appointment of Administrator

On the appointment of the Administrator of a Trust all members of the committee of management of the Trust, including the Chairperson, cease to hold office.

S. 23G
inserted by
No. 58/2004
s. 7.

23G Administrator to establish advisory committee

S. 23G(1)
substituted by
No. 33/2013
s. 24(1).

- (1) The Administrator of a Trust must establish an advisory committee which the Administrator must consult in relation to the Administrator's conduct of the affairs of the Trust.
- (2) The advisory committee must be established after the appointment of the Administrator without delay.
- (3) The advisory committee must include at least—

S. 23G(3)(a)
amended by
No. 33/2013
s. 24(2).

- (a) 3 persons who were members of the committee of management of the Trust immediately before the appointment of the Administrator; and

S. 23G(3)(b)
substituted by
No. 33/2013
s. 24(3).

- (b) 2 persons, not being members of the committee of management of the Trust, who are residents of—
 - (i) in the case of the Framlingham Trust, the Framlingham reserve; or
 - (ii) in the case of the Lake Tyers Trust, the Lake Tyers reserve.

23H Functions and powers of Administrator

S. 23H
inserted by
No. 58/2004
s. 7.

- (1) The Administrator of a Trust is responsible for the conduct of the affairs of the Trust.
- (2) Without limiting subsection (1), the Administrator may exercise the powers and functions of the committee of management of the Trust and Secretary of the Trust under this Act, other than the powers referred to in section 23I.
- (3) In addition, the Administrator may provide assistance and training to the members of the Trust in the proper administration and management of the Trust.

S. 23H(1)
substituted by
No. 33/2013
s. 25.

S. 23H(2)
substituted by
No. 33/2013
s. 25.

23I Restriction on powers of Administrator

S. 23I
inserted by
No. 58/2004
s. 7,
substituted by
No. 33/2013
s. 26.

- (1) Subject to subsection (2), the Administrator must not—
- (a) sell, exchange or dispose of any land constituting a reserve; or
- (b) borrow money on the security of a mortgage, charge or other assurance of any land constituting a reserve.
- (2) The Administrator may lease land constituting a reserve for a period of 21 years or less.

23J Immunity

S. 23J
inserted by
No. 58/2004
s. 7,
amended by
No. 33/2013
s. 27.

The Administrator or, in the case of an Administrator that is a board, a member of the board, is not personally liable for anything done or omitted to be done in good faith—

- (a) in the exercise of a power or the discharge of a duty under this Act; or

- (b) in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under this Act.

S. 23K
inserted by
No. 58/2004
s. 7.

23K Report to Minister

The Administrator must give the Minister such information as the Minister requires from time to time.

S. 23L
inserted by
No. 58/2004
s. 7.

23L Committee of management elected at end of period of administration

- (1) If the Minister intends not to extend the period of appointment of an Administrator, or intends to cancel the appointment of an Administrator under section 23D and not immediately appoint another, the Minister must direct the Administrator to convene a general meeting of the Trust for the purpose of electing 7 persons to form a committee of management of the Trust.
- (2) On receiving a direction under subsection (1), the Administrator of a Trust must convene and hold a general meeting, in accordance with this Act, of the Trust for the purpose of electing 7 persons to form a committee of management of the Trust.
- (3) At a general meeting convened and held in accordance with subsection (2), the members of the Trust shall elect 7 persons to form a committee of management of that Trust.
- (4) If at a meeting convened and held in accordance with subsection (2), 7 persons are not elected to form a committee of management of the Trust, the Minister may direct the Administrator to convene and hold such further general meetings, in accordance with this Act, as are necessary until such time as the members of the Trust elect 7 persons to form a committee of management of that Trust.

S. 23L(2)
amended by
No. 33/2013
s. 28(1).

S. 23L(3)
amended by
No. 33/2013
s. 28(2).

(5) Section 15 applies to the persons elected in accordance with this section to form the committee of management of the Trust as if the meeting at which they were elected was the first meeting of the Trust referred to in section 15(1).

S. 23L(5)
amended by
No. 33/2013
s. 28(3).

(6) Members of the committee of management of the Trust elected in accordance with this section take office on the expiration of the period of appointment, or cancellation of the appointment, of the Administrator (as the case requires).

S. 23L(6)
amended by
No. 33/2013
s. 28(3).

Appointment of board to act as Administrator

Heading
preceding
s. 23M
inserted by
No. 33/2013
s. 29.

23M Constitution of board

S. 23M
inserted by
No. 33/2013
s. 29.

- (1) A board of persons appointed to act as Administrator under section 23B must consist of up to 7 persons of whom—
- (a) at least 3 have skills and experience relevant to the functions of an Administrator;
 - (b) at least 3 are appointed after consulting, in the manner determined by the Minister, the residents of—
 - (i) in the case of an Administrator to the Framlingham Trust, the Framlingham reserve; or
 - (ii) in the case of an Administrator to the Lake Tyers Trust, the Lake Tyers reserve.
- (2) If a member of a board dies, resigns or is removed under section 23Q(2), the Minister may appoint a new member to a board who is of the same category of member under subsection (1) as the

category of member that the new member is replacing.

S. 23N
inserted by
No. 33/2013
s. 29.

23N Chairperson

- (1) The Minister must appoint a member of a board as chairperson of the board.
- (2) A member appointed as chairperson must be a member appointed in accordance with section 23M(1)(a).
- (3) The chairperson or, if the chairperson is absent, a person nominated by the chairperson, must preside at a meeting of the board.

S. 23O
inserted by
No. 33/2013
s. 29.

23O Meetings of a board

- (1) The quorum for a meeting of a board is 3 members of the board, of which there must be—
 - (a) at least one member appointed in accordance with section 23M(1)(a); and
 - (b) at least one member appointed in accordance with section 23M(1)(b).
- (2) A decision of the board is a decision of the majority of members of the board present at a meeting and voting, and, if there is no majority, the chairperson of the board or the person nominated by the chairperson of the board to preside in the chairperson's absence has a second or casting vote.

S. 23P
inserted by
No. 33/2013
s. 29.

23P Procedures of a board

- (1) Subject to this Act and the rules of the board, a board may regulate its own procedures.
- (2) A board must make rules to regulate its procedures, including rules establishing—
 - (a) a code of conduct for members of the board; and

- (b) procedures for managing conflicts of interest.
- (3) The rules do not take effect until approved by the Secretary to the Department.
- (4) A failure to comply with the rules referred to in subsection (2)(a) or (b) is evidence of improper conduct for the purposes of section 23Q(2)(a).
- (5) The Secretary to the Department may, by instrument, delegate a function under this section other than this power of delegation.

23Q Resignation or removal of member of board from office

S. 23Q
inserted by
No. 33/2013
s. 29.

- (1) A member of a board may resign from office by giving notice in writing to the Minister.
- (2) The Minister may remove a member of a board from office if—
 - (a) there is evidence that the member has engaged in improper conduct; or
 - (b) the member has failed to attend 3 or more meetings without reasonable excuse; or
 - (c) the member has otherwise failed to meet his or her obligations as member of a board without reasonable excuse.
- (3) During a vacancy in the office of any member of a board, the continuing members may (if there is a quorum) act as if the vacancy had not occurred.

23R Abolition of board

S. 23R
inserted by
No. 33/2013
s. 29.

The Minister may abolish a board and remove all of its members from office if—

- (a) there is evidence that the board has engaged in improper conduct; or
- (b) the board has failed to meet its obligations under this Act without reasonable excuse.

Miscellaneous

Reports to Minister and Records

Heading
preceding
s. 23S
inserted by
No. 33/2013
s. 30.

23S Trust must give Minister certain reports

- (1) A Trust must give the Minister a copy of an audited balance-sheet and profit and loss account prepared under section 18A and the reports by the committee of management and auditor annexed to those documents within 14 days after the annual general meeting at which the documents are laid.

Note

Failure to provide the documents referred to in this subsection to the Minister constitutes an offence under section 25(2)(f).

- (2) A Trust must give the Minister a copy of an interim financial report prepared in accordance with section 18D within 28 days of the end of the period to which the report relates or within a later period approved by the Minister.
- (3) A Trust must give the Minister an economic and social wellbeing report prepared in accordance with section 18E within 28 days of the end of the period to which the report relates or within a later period approved by the Minister.

S. 23S
inserted by
No. 33/2013
s. 31.

23T Other information to be provided to Minister

- (1) A Trust must give the Minister the details of any change in the particulars referred to in section 24AA(1)(a) or (b) within 14 days of the change.
- (2) A Trust must give the Minister a copy of a unanimous resolution within 14 days of the meeting at which the resolution is agreed to.

S. 23T
inserted by
No. 33/2013
s. 31.

- (3) A Trust must give the Minister a copy of a resolution under section 11(4) within 14 days of the meeting at which the resolution is agreed to.

Note

Failure to provide the documents referred to in subsections (1) and (2) to the Minister constitutes an offence under section 25(2)(f).

24AA Minister to keep records

S. 24AA
inserted by
No. 33/2013
s. 32.

- (1) The Minister must keep in the Office of the Department the following documents in respect of each Trust—
- (a) if there is a committee of management, a record of the name, occupation and address of—
 - (i) the Chairperson of the Trust; and
 - (ii) the Secretary of the Trust; and
 - (iii) any other member of the committee of management;
 - (b) a record of the address of the office of the Trust;
 - (c) a copy of the most recent balance-sheet and profit and loss account prepared under section 18A(2) and the reports by the committee of management and auditor annexed to those documents;
 - (d) a copy of the most recent interim financial report prepared under section 18D;
 - (e) a copy of the most recent report of the social and economic wellbeing of a community of residents prepared under section 18E;
 - (f) a copy of a unanimous resolution of the Trust;
 - (g) a copy of a resolution under section 11(4);

- (h) if there is a board as Administrator, a copy of the rules of the board.
- (2) The documents under subsection (1) must be available for inspection on request by any person during ordinary business hours.
- (3) A copy of a unanimous resolution of a Trust kept by the Minister is evidence that the unanimous resolution was duly agreed to by the Trust.
- (4) A copy of a resolution of a Trust under section 11(4) kept by the Minister is evidence that the resolution was duly agreed to by the Trust.

Heading preceding s. 24 inserted by No. 33/2013 s. 32.

Service on Trust

S. 24 amended by No. 8177 s. 4, substituted by No. 33/2013 s. 32.

24 Service on Trust

Any document, including any summons, notice, order or other legal process, may be served on a Trust by leaving the document at the place which is shown in the record referred to in section 24AA(1)(b) as the office of the Trust, or by sending it by registered post addressed to the Trust at that place.

Heading preceding s. 24A inserted by No. 33/2013 s. 33.

Access to Lake Tyers Reserve

S. 24A inserted by No. 58/2004 s. 8.

24A Access to designated places within Lake Tyers reserve

- (1) The Minister, by notice published in the Government Gazette, may declare any place within the Lake Tyers reserve that is not a residential premises to be a designated place for the purposes of this section.

- (2) The Minister must consult with the members of the Lake Tyers Aboriginal Trust and the residents of the Lake Tyers reserve before declaring a place to be a designated place under subsection (1).
- (3) Despite anything to the contrary in this Act but subject to this section—
- (a) a public official exercising or performing a function or power conferred on the person by or under any Act, or regulations made under any Act, or at law, may enter and remain in a designated place within the Lake Tyers reserve;
 - (b) a non-government health and community service provider providing health and community services to the residents of the Lake Tyers reserve, may enter and remain in a designated place within the Lake Tyers reserve.
- (4) A person referred to in subsection (3) must not remain in a designated place any longer than is reasonably necessary—
- (a) in the case of a public official, to exercise or perform the relevant function or power; or
 - (b) in the case of a non-government health and community service provider, to provide the relevant health and community services to the residents of the Lake Tyers reserve.
- (5) In this section—

designated place means a place declared under subsection (1) to be a designated place;

non-government health and community service provider means a person who, under an agreement with the Commonwealth, the State or the municipal council in whose municipal district the Lake Tyers reserve is

located, provides health and community services to the residents of the Lake Tyers reserve or a class of persons that includes the residents of the Lake Tyers reserve;

public official means a person who exercises or performs a function or power conferred on the person by or under any Act, or regulations made under any Act, or at law.

S. 24B
inserted by
No. 58/2004
s. 9.

24B Survey plan of Lake Tyers reserve roads

S. 24B(1)
amended by
No. 53/2017
s. 67.

- (1) On receiving a plan of survey, signed by the Surveyor-General, of the land shown hatched on the plan numbered LEGL./04–270 and lodged in the Central Plan Office, or that land as nearly as practicable, the Minister may recommend that the Governor in Council approves the plan.
- (2) A plan under this section may make any adjustment to boundaries that is necessary because of a defect found on survey.
- (3) For the purposes of this section, the Governor in Council, on the Minister's recommendation, may approve a plan by Order published in the Government Gazette.

S. 24C
inserted by
No. 58/2004
s. 9.

24C Lake Tyers reserve roads to be public roads

- (1) Despite anything to the contrary in this Act, on and from the date of publication in the Government Gazette of the Order under section 24B(3)—
 - (a) the Lake Tyers reserve roads—
 - (i) are deemed to be roads open to and for use by the public, and for passage with vehicles; and

- (ii) are deemed to be highways within the meaning of the **Road Safety Act 1986**; and
 - (iii) are to be treated, for the purposes of the **Road Management Act 2004**, as if they were roads declared under section 204(1) of the **Local Government Act 1989**; and
- (b) section 205 of the **Local Government Act 1989** applies to the Lake Tyers reserve roads as if they were public highways within the meaning of that Act; and
- (c) the municipal council in whose municipal district the Lake Tyers reserve roads are located is deemed to be, in respect of those roads, the coordinating road authority and responsible road authority for the purposes of the **Road Management Act 2004**.
- (2) Despite subsection (1)(a)(iii) and (1)(b), clause 1(4) of Schedule 5 to the **Road Management Act 2004** does not operate to vest, in fee simple, the Lake Tyers reserve roads in the municipal council in whose district the Lake Tyers reserve roads are located.
- (3) Despite anything to the contrary in the **Local Government Act 1989**, the municipal council that is, in respect of the Lake Tyers reserve roads, deemed to be the coordinating road authority and responsible road authority for the purposes of the **Road Management Act 2004** must not discontinue the Lake Tyers reserve roads or any part of those roads.

S. 24D
inserted by
No. 58/2004
s. 9.

24D Lake Tyers Aboriginal Trust is not liable as an occupier in relation to Lake Tyers reserve roads

For the avoidance of doubt, it is hereby declared that for the purposes of section 14B of the **Wrongs Act 1958**—

- (a) the Lake Tyers Aboriginal Trust is not an occupier of the Lake Tyers reserve roads; and
- (b) the Lake Tyers reserve roads are not premises.

S. 24E
inserted by
No. 58/2004
s. 9.

24E Partial abrogation of *ratione tenure* rule for the Lake Tyers reserve roads

The Lake Tyers Aboriginal Trust is not liable for the maintenance of the Lake Tyers reserve roads only by reason of tenure over the land in those roads.

Heading
preceding
s. 25
inserted by
No. 33/2013
s. 34.

Offences

25 Offences

S. 25(1)
substituted by
No. 58/2004
s. 10(1).

- (1) A Trust which contravenes this Act in any manner referred to in subsection (2), and every officer of the Trust who knowingly authorises or permits the contravention, shall be guilty of an offence and liable to a penalty not exceeding 10 penalty units.
- (2) The contraventions to which subsection (1) applies are as follows—

S. 25(2)(b)
amended by
No. 58/2004
s. 10(2).

- (a) failing to keep proper books of account;
- (b) failing to establish or maintain a register of members;

- (c) failing to hold an annual general meeting in any year;
- (d) failing to cause to be laid before any annual general meeting the balance-sheet profit and loss account and reports required to be laid before the meeting by section 18C; **S. 25(2)(d) amended by No. 33/2013 s. 35(a).**
- (e) failing to appoint at any annual general meeting an auditor to fill any vacancy which exists at the time of the annual general meeting;
- (f) failing to supply or deliver to the Minister any particulars or documents required to be supplied or delivered to the Minister under section 23S(1) or 23T(1) or (2); and **S. 25(2)(f) amended by No. 33/2013 s. 35(b).**
- (g) making any payment from the funds of the Trust which is not authorized by this Act.
- (3) In this section *officer* of a Trust includes a member of the committee of management and the Secretary.
- (4) Notwithstanding anything to the contrary in any Act, a charge-sheet charging an offence against this Act may be filed at any time within three years after the date on which the offence was committed. **S. 25(4) amended by Nos 57/1989 s. 3(Sch. item 2.1(a)(b)), 68/2009 s. 97(Sch. item 2).**
- * * * * *
- S. 26 repealed by No. 8606 s. 10.**

Relief

Heading preceding s. 27 inserted by No. 33/2013 s. 36.

27 Court may grant relief to persons aggrieved in certain circumstances

S. 27(1) amended by Nos 110/1986 s. 140(2), 33/2013 s. 37.

(1) A member of a Trust who complains that the affairs of the Trust are being conducted in a manner oppressive to one or more of the members (including himself or herself) may apply to the Supreme Court for an order under this section and, if the Court is of opinion that the affairs of the Trust are being so conducted and that it would be just and equitable to make an order under this section, the Court may make such order as the Court thinks fit whether for regulating the affairs of the Trust in future or for the purchase of the shares of any members by other members or by the Trust, or otherwise.

S. 27(2) amended by Nos 110/1986 s. 140(2), 57/1989 s. 3(Sch. item 2.2).

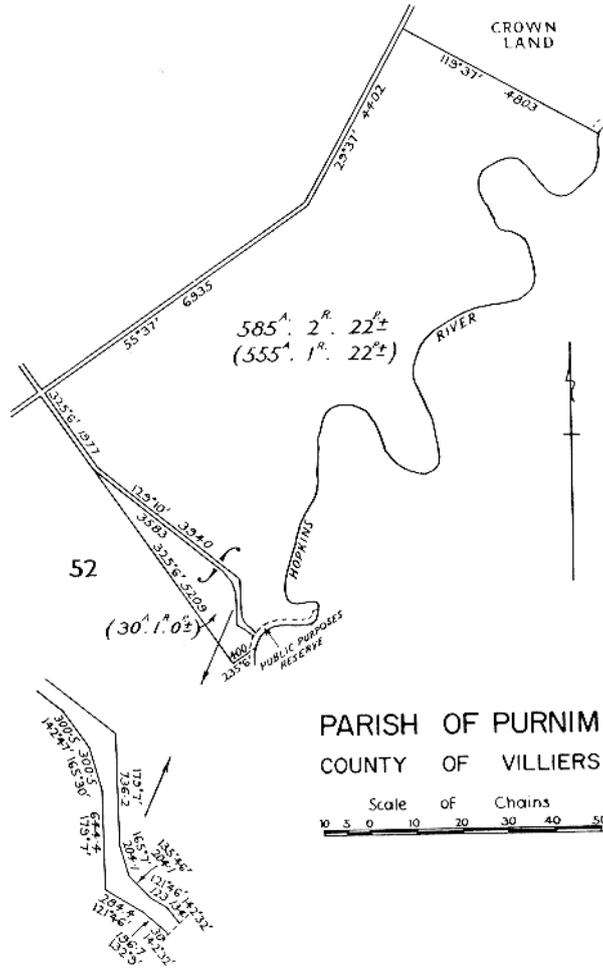
(2) Any person (whether a member of a Trust or not) who is aggrieved by anything which the Trust has done or failed to do in contravention of this Act may apply to the Supreme Court for an order under this section and, if the Court is of the opinion that the Trust has contravened this Act and that the person aggrieved has suffered injustice on that account, the Court may make such order as appears to the Court to be necessary to give proper relief to the person aggrieved.

* * * * *

Heading and ss. 28, 29 repealed by No. 9863 s. 2.

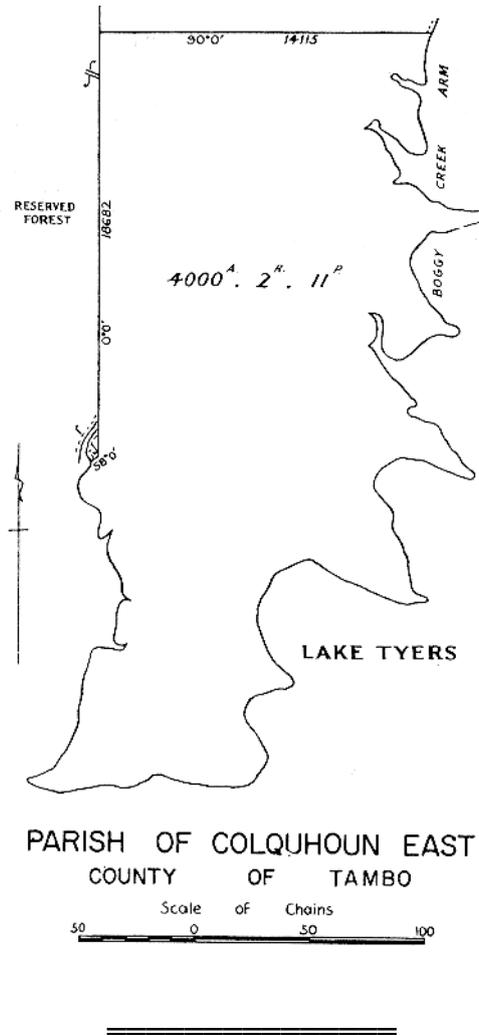
Schedules

First Schedule—Framlingham Reserve



Aboriginal Lands Act 1970
No. 8044 of 1970
Second Schedule—Lake Tyers Reserve

Second Schedule—Lake Tyers Reserve



Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

The **Aboriginal Lands Act 1970** was assented to on 8 December 1970 and came into operation on the date of assent.

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

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- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

2 Table of Amendments

This publication incorporates amendments made to the **Aboriginal Lands Act 1970** by Acts and subordinate instruments.

Aboriginal Lands (Amendment) Act 1971, No. 8177/1971

Assent Date: 23.11.71
Commencement Date: 23.11.71
Current State: All of Act in operation

Aboriginal Affairs (Transfer of Functions) Act 1974, No. 8606/1974

Assent Date: 3.12.74
Commencement Date: S. 10 on 14.12.74: Government Gazette 13.12.74 p. 4297
Current State: This information relates only to the provision/s amending the **Aboriginal Lands Act 1970**

Statute Law Revision (Repeals) Act 1983, No. 9863/1983

Assent Date: 5.1.83
Commencement Date: 5.1.83
Current State: All of Act in operation

Supreme Court Act 1986, No. 110/1986

Assent Date: 16.12.86
Commencement Date: 1.1.87: s. 2
Current State: All of Act in operation

Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989

Assent Date: 14.6.89
Commencement Date: S. 4(1)(a)–(e)(2) on 1.9.89: Government Gazette 30.8.89 p. 2210; rest of Act on 1.9.90: Government Gazette 25.7.90 p. 2217
Current State: All of Act in operation

Trustee and Trustee Companies (Amendment) Act 1995, No. 104/1995

Assent Date: 5.12.95
Commencement Date: 1.1.96: s. 2
Current State: All of Act in operation

Statute Law Amendment (Authorised Deposit-taking Institutions) Act 2001, No. 11/2001

Assent Date: 8.5.01
Commencement Date: S. 3(Sch. item 1) on 1.6.01: s. 2(2)
Current State: This information relates only to the provision/s amending the **Aboriginal Lands Act 1970**

Aboriginal Lands (Amendment) Act 2004, No. 58/2004

Assent Date: 12.10.04
Commencement Date: 4.11.04: Government Gazette 4.11.04 p. 3048
Current State: All of Act in operation

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**Criminal Procedure Amendment (Consequential and Transitional Provisions)
Act 2009, No. 68/2009**

Assent Date: 24.11.09
Commencement Date: S. 97(Sch. item 2) on 1.1.10: Government Gazette
10.12.09 p. 3215
Current State: This information relates only to the provision/s
amending the **Aboriginal Lands Act 1970**

Aboriginal Lands Amendment Act 2013, No. 33/2013

Assent Date: 18.6.13
Commencement Date: 1.7.13: s. 2
Current State: All of Act in operation

Privacy and Data Protection Act 2014, No. 60/2014

Assent Date: 2.9.14
Commencement Date: S. 140(Sch. 3 item 1) on 17.9.14: Special Gazette
(No. 317) 16.9.14 p. 1
Current State: This information relates only to the provision/s
amending the **Aboriginal Lands Act 1970**

Statute Law Revision Act 2015, No. 21/2015

Assent Date: 16.6.15
Commencement Date: S. 3(Sch. 1 item 1) on 1.8.15: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Aboriginal Lands Act 1970**

Parks and Crown Land Legislation Amendment Act 2017, No. 53/2017

Assent Date: 24.10.17
Commencement Date: S. 67 on 15.12.17: Special Gazette (No. 433) 12.12.17
p. 1
Current State: This information relates only to the provision/s
amending the **Aboriginal Lands Act 1970**

3 Amendments Not in Operation

There are no amendments which were Not in Operation at the date of this publication.

4 Explanatory details

¹ Preamble (a): Government Gazette 1 February 1967 page 266.

² Preamble (b): Government Gazette 26 May 1965 page 1664.