

TASMANIA

ABORIGINAL LANDS REGULATIONS 2018
STATUTORY RULES 2018, No. 17

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ABORIGINAL LANDS REGULATIONS 2018

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council and on being satisfied that the Aboriginal Land Council of Tasmania has been consulted, make the following regulations under the *Aboriginal Lands Act 1995*.

Dated 21 May 2018.

C. WARNER
Governor

By Her Excellency's Command,

J. PETRUSMA
Minister for Aboriginal Affairs

1. Short title

These regulations may be cited as the *Aboriginal Lands Regulations 2018*.

2. Commencement

These regulations take effect on 4 June 2018.

3. Interpretation

In these regulations –

Act means the *Aboriginal Lands Act 1995*;

Commissioner means the Executive
Commissioner of the Tasmanian

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Planning Commission established under
the *Tasmanian Planning Commission Act*
1997.

4. Guidelines

For section 28(2) of the Act, the guidelines in
Schedule 1 are prescribed.

5. Hearing of appeal

- (1) An appeal under section 29 of the Act is to be heard at a place determined by the Commissioner.
- (2) Before an appeal is heard, the Commissioner is to give reasonable notice of the hearing in at least 3 newspapers published and circulated generally in Tasmania stating –
 - (a) the subject of the appeal; and
 - (b) the time and place at which the appeal is to be heard.

6. Procedure at hearing

- (1) An appeal is to be heard in public.
- (2) The Commissioner may receive evidence in private if –
 - (a) a person who appears to give evidence at a hearing objects to doing so in public and the Commissioner considers that –

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- (i) the evidence may be of a confidential nature; and
 - (ii) the interest in confidentiality is greater than the interest in having the evidence taken in public; or
 - (b) the Commissioner considers that –
 - (i) the evidence to be given at the hearing may be of a confidential nature even though the person who appears to give the evidence has not objected to doing so in public; and
 - (ii) the interest in confidentiality is greater than the interest in having the evidence taken in public; or
 - (c) an Aboriginal person who appears to give evidence at a hearing objects to doing so in public and the Commissioner considers that the evidence may relate to Aboriginal historical or cultural matters.
- (3) At the hearing, the Commissioner –
- (a) may inform himself or herself about any matter in any way he or she thinks fit; and
 - (b) may receive oral or written evidence; and
 - (c) may receive evidence on oath or affirmation; and

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- (d) is not bound to act in a formal manner;
and
- (e) is not bound by the rules of evidence.

SCHEDULE 1 – GUIDELINES

Regulation 4

1. In determining whether to grant a further lease or licence under section 28 of the Act in relation to any Aboriginal land, the Council is to consider the following:
 - (a) whether the proposed lease or licence –
 - (i) may affect any Aboriginal historical, cultural or social interest in the land; or
 - (ii) may impede the Council in sustainably managing the land; or
 - (iii) is contrary to, or may adversely affect, any management plan or draft management plan in respect of the land; or
 - (iv) may tend to deprive any Aboriginal group or Aboriginal person of a connection with the land;
 - (b) whether there has been any adverse effect upon the land as a result of the grant of the existing lease or licence;
 - (c) whether the local Aboriginal group or, if no such group has been nominated, the local Aboriginal community, agrees to the grant of the proposed lease or licence.

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2. In determining the terms and conditions of a further lease or licence to be granted under section 28 of the Act in relation to any Aboriginal land, the Council is to consider the following:
 - (a) whether the proposed lease or licence may –
 - (i) affect any Aboriginal historical, cultural or social interest in the land; or
 - (ii) impede the Council in sustainably managing the land;
 - (b) whether it is necessary or desirable to protect or encourage the association or connection of any local Aboriginal group, local Aboriginal community or local Aboriginal person with the land.

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 30 May 2018.

EXPLANATORY NOTE

(This note is not part of the regulations)

These regulations –

- (a) prescribe guidelines for section 28 of the *Aboriginal Lands Act 1995*; and
- (b) prescribe the procedure for hearing an appeal under section 29 of that Act; and
- (c) are made consequentially on the repeal of the *Aboriginal Lands Regulations 2008* under section 11 of the *Subordinate Legislation Act 1992*.