TASMANIA

ABORIGINAL LANDS AMENDMENT BILL 2008

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ABORIGINAL LANDS AMENDMENT BILL 2008

(Brought in by the Premier, the Honourable David John Bartlett)

A BILL FOR

An Act to amend the Aboriginal Lands Act 1995

Be it enacted by His Excellency the Governor of Tasmania, by
and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the Aboriginal Lands Amendment Act 2008.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

3. Principal Act

In this Act, the Aboriginal Lands Act 1995* is referred to as the Principal Act.

*No. 98 of 1995
4. **Section 10AA inserted**

After section 10 of the Principal Act, the following section is inserted in Division 2:

**10AA. Protection of sensitive enrolment records**

(1) The procedures referred to in section 10(7) are not to be taken as including a requirement for the Electoral Commissioner to—

(a) divulge the existence or contents of any sensitive enrolment record to any person; or

(b) give any person an opportunity to comment on any sensitive enrolment record or its contents.

(2) A court must not, under the *Judicial Review Act 2000* or otherwise, make an order impugning an enrolment decision on the ground that the Electoral Commissioner—

(a) did not divulge to a person the existence or contents of any sensitive enrolment record taken into account in making the decision; or

(b) did not give a person an opportunity to comment on any sensitive enrolment record taken into account in making the
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decision or on the contents of any such record.

(3) For the purposes of subsection (2), an order of a court is taken to impugn an enrolment decision if the order –

(a) quashes the decision or sets it aside; or

(b) varies the decision; or

(c) remits the decision to the Electoral Commissioner, with or without directions, for further consideration or remaking; or

(d) contains any adverse declaration about the legality or fairness of the decision or the process by which it was arrived at; or

(e) stays or defers the implementation of the decision.

(4) This section applies to every enrolment decision made after the commencement of the Aboriginal Lands Amendment Act 2008, even if the decision –

(a) relates to a Preliminary Roll or Roll in respect of which, immediately before that commencement, proceedings of any kind were in progress; or
(b) is in substitution for an enrolment decision made before that commencement.

(5) In this section –

“enrolment decision” means any decision of the Electoral Commissioner under section 10;

“proceedings” include –

(a) appeals under section 10(7); and

(b) applications for orders of review under the Judicial Review Act 2000; and

(c) applications for any form of equitable relief;

“sensitive enrolment record” means a record –

(a) which is provided to the Electoral Commissioner by any person for or in connection with the preparation of a Preliminary Roll or Roll; and

(b) which the Electoral Commissioner in good faith believes is regarded by that person as being a
record of a personally sensitive or confidential nature.