

TASMANIA

**ABORIGINAL LANDS AMENDMENT BILL
2004**

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**ABORIGINAL LANDS AMENDMENT BILL
2004**

*(Brought in by the Premier, the Honourable Paul Anthony
Lennon)*

A BILL FOR

**An Act to amend the *Aboriginal Lands Act 1995* and
to provide for other matters**

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:

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the *Aboriginal Lands
Amendment Act 2004*.

Commencement

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

**PART 2 – ABORIGINAL LANDS ACT 1995
AMENDED**

Principal Act

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

Section 3 amended (Interpretation)

4. Section 3 of the Principal Act is amended by inserting after the definition of “regulations” the following definition:

“reserved road” means a road (however described) which has been reserved in a land grant or a folio of the Register of title or by the exercise of a power of reservation conferred by or under an Act;

Section 27 amended (Land vested in Council)

5. Section 27 of the Principal Act is amended by omitting subsection (8) and substituting the following subsections:

(8) There is reserved to the public at all times, in relation to the land referred to in items 3, 4, 8, 9, 10, 12, 15 and 16 of Schedule 3, a right of pedestrian access over the area of land 15 metres wide immediately above the high-water mark.

(8A) There is reserved to the public at all times, in relation to the land referred to in item 2 of Schedule 3, a right of pedestrian access over the

*No. 98 of 1995

area of land 15 metres wide immediately above the high-water mark except that area of land between points A and D shown as being on the high-water mark in Plan 3467 in the Central Plan Register.

(8B) In relation to the land referred to in item 14 of Schedule 3 there is reserved to the public at all times –

- (a) a right of access over all roads and vehicular tracks shown on Plan 6457 in the Central Plan Register; and
- (b) a right of access over all reserved roads in existence at the commencement of the *Aboriginal Lands Amendment Act 2004*; and
- (c) a right of pedestrian access over the area of land 15 metres wide immediately above the high-water mark except those areas of land shown as hatched on Plan 6457 in the Central Plan Register; and
- (d) a right of pedestrian access over those areas of land shown as hatched on Plan 6457 in the Central Plan Register.

Section 28A inserted

6. After section 28 of the Principal Act, the following section is inserted in Part 3:

Power to grant new leases and licences

28A. (1) The Council may grant a lease or licence of or in respect of any Aboriginal land and other land acquired by the Council other than land which is leased or licensed pursuant to section 28.

(2) Subsections (2), (3), (4) and (5) of section 28 do not apply to a lease or licence granted under subsection (1) of this section.

Section 38A inserted

7. After section 38 of the Principal Act, the following section is inserted in Part 4:

Cessation of reserved status of certain land

38A. (1) Clarke Island Nature Reserve, that –

- (a) was, under section 21(1)(a) of the *Regional Forest Agreement (Land Classification) Act 1998*, declared to be reserved land in the class of nature reserve and taken to have been so declared under the *National Parks and Wildlife Act 1970*; and
- (b) is taken to be reserved land in the corresponding class under the *Nature Conservation Act 2002* –

ceases to be reserved land.

(2) The area of land on Goose Island that –

- (a) was, under section 17(2)(d) of the *Regional Forest Agreement (Land Classification) Act 1998*, declared to be reserved land in the class of conservation area and taken to have been so declared under the *National Parks and Wildlife Act 1970*; and

- (b) is taken to be reserved land in the corresponding class under the *Nature Conservation Act 2002* –

ceases to be reserved land.

(3) The areas of land on Cape Barren Island that were, under section 10(3)(b) of the *Regional Forest Agreement (Land Classification) Act 1998*, reserved to the Crown as public reserves and taken to have been so reserved under the *Crown Lands Act 1976* cease to be public reserves.

(4) This section has effect notwithstanding section 11(5) and section 21 of the *Nature Conservation Act 2002*.

Schedule 3 amended (Land Vested in the Council)

8. Schedule 3 to the Principal Act is amended by inserting after

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the following items:

14	Cape Barren Island	6457
15	Clarke Island	5135
16	Goose Island	4883

PART 3 – CROWN LANDS ACT 1976 AMENDED**Principal Act**

9. In this Part, the *Crown Lands Act 1976** is referred to as the Principal Act.

Section 35B inserted

10. After section 35A of the Principal Act, the following section is inserted in Division 3:

Compensation payable on vesting of certain land to Aboriginal Land Council of Tasmania

35B. (1) The Minister, on the written application of a lessee of prescribed land which is vested in the Aboriginal Land Council of Tasmania under section 27(1) of the *Aboriginal Lands Act 1995*, may approve an improvement which was carried out by the lessee on that land before the date on which the land became so vested.

(2) An application referred to in subsection (1) is to be made within 6 months after the date of the vesting of the land to which the application relates.

(3) The Minister is to pay to the lessee of the land referred to in subsection (1) compensation for an improvement approved by the Minister which was carried out on that land by the lessee for the purposes for which the lease was granted.

(4) The compensation payable under subsection (3) is to be such amount as is determined by the Director-General on the recommendation of

*No. 28 of 1976

the Valuer-General to be the fair and reasonable value of the improvements.

(5) A lessee who is aggrieved by the amount of compensation payable under this section may apply to the Magistrates Court (Administrative Appeals Division) for a review of the determination of the amount of compensation.

(6) For the purposes of this section –

“LIST” means the Land Information System Tasmania administered by the Department;

“prescribed land” means land on Cape Barren Island that is leased for rural purposes and identified by property identification numbers 7664256 and 6432613 contained in the LIST.

PART 4 – MISCELLANEOUS**Transfer of Crown land to M Summers**

11. (1) The land described in the folio of the Register Volume 142363 Folio 1 is vested in Morton Lyell Summers of Long Beach Road, Cape Barren Island in Tasmania.

(2) Subject to subsection (3), the provisions of the *Crown Lands Act 1976* do not apply to the land described in subsection (1).

(3) Section 16(2), (3) and (4) and section 54(1) of the *Crown Lands Act 1976* apply to the land described in subsection (1).