

TASMANIA

**SULLIVANS COVE WATERFRONT AUTHORITY
(REPEAL) BILL 2011**

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**SULLIVANS COVE WATERFRONT AUTHORITY
(REPEAL) BILL 2011**

*(Brought in by the Minister for Planning, the Honourable
Bryan Alexander Green)*

A BILL FOR

An Act to repeal the *Sullivans Cove Waterfront Authority Act 2004* and to provide for savings and transitional provisions and amendments to other Acts consequent on the repeal of that Act

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 *Sullivans Cove Waterfront Authority (Repeal) Act 2011*.

2. Commencement

This Act commences on a day to be proclaimed.

3. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

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- (a) the administration of this Act is assigned to the Minister for Planning; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Justice.

4. Savings and transitional provisions

Schedule 1 has effect.

5. Consequential amendments

The legislation specified in Schedule 2 is amended as specified in that Schedule.

6. Legislation repealed

The legislation specified in Schedule 3 is repealed.

7. Legislation rescinded

The legislation specified in Schedule 4 is rescinded.

8. Legislation revoked

The legislation specified in Schedule 5 is revoked.

**SCHEDULE 1 – SAVINGS AND TRANSITIONAL
PROVISIONS**

Section 4

1. Interpretation

In this Schedule –

“**Authority**” means the Sullivan Cove Waterfront Authority in existence immediately before the commencement of this Act;

“**HCC**” means the Hobart City Council;

“**records**”, in relation to the Authority, means registers, papers, documents and other records, however compiled, recorded or stored, that relate to any matter associated with the Authority’s roles and functions under the *Land Use Planning and Approvals Act 1993*, the *Building Act 2000*, the *Local Government (Building and Miscellaneous Provisions) Act 1993* and the *Strata Titles Act 1998* (the “**associated matters**”) and includes any records pertaining to specific properties within the planning area, within the meaning of the repealed Act, that are relevant to the associated matters;

“**repealed Act**” means the *Sullivans Cove Waterfront Authority Act 2004*.

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2. Abolition of Authority

- (1) On the commencement of this Act, the Authority is abolished.
- (2) The appointment of each member of the Authority is revoked and a member of the Authority is not entitled to receive any benefit in respect of the revocation of his or her appointment as such a member.

3. Decisions of Authority

A decision of the Authority under the *Land Use Planning and Approvals Act 1993* or the *Building Act 2000* in force immediately before the commencement of this Act is taken to be a decision of the HCC.

4. References to Chief Executive Officer of Authority

A reference to the Chief Executive Officer of the Authority in any permit or other authority granted by the Authority and in force immediately before the commencement of this Act is taken to be a reference to the officer of the HCC determined by the General Manager of the HCC to be the appropriate officer.

5. Applications for permits

- (1) An application to the Authority for a permit under the *Sullivans Cove Planning Scheme 1997*

made before the commencement of this Act that has not been determined by the Authority before that commencement is taken to be an application to the HCC.

- (2) The Authority must, on the day preceding the commencement of this Act, supply the HCC with any application referred to in subclause (1) and any associated documents.
- (3) The period specified in section 57(6)(b) or 58(2) of the *Land Use Planning and Approvals Act 1993* commences on the day on which the HCC receives the application referred to in subclause (1) from the Authority.

6. Minor amendment of permits

A request made to the Authority before the commencement of this Act, under section 56(1) of the *Land Use Planning and Approvals Act 1993*, to amend a permit and not dealt with by the Authority before that commencement is taken to be a request to the HCC.

7. Appeals against decision of Authority

If an appeal has been lodged under Division 3 of Part 4 of the *Land Use Planning and Approvals Act 1993* before the commencement of this Act against a decision of the Authority and has not been determined before that commencement, the appeal is to be dealt with as if the decision were a decision of the HCC.

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8. Rights of appeal

On and after the commencement of this Act, if a person has a right of appeal under Division 3 of Part 4 of the *Land Use Planning and Approvals Act 1993* or under the *Building Act 2000* against a decision of the Authority, that right continues as if the decision were a decision of the HCC.

9. Planning scheme amendments

If the Tasmanian Planning Commission has received a report under section 39 of the *Land Use Planning and Approvals Act 1993* from the Authority, the consideration by the Tasmanian Planning Commission under section 40 of that Act continues as if the report had been received from the HCC.

10. Records of Authority

The records of the Authority that, before the commencement of this Act, were held by the Authority are, on that commencement, transferred to the custody of the HCC.

11. Annual report

- (1) The Department must give the Minister a report on the operation of the Authority for any period that has not yet been reported by the Authority

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ending on the day immediately preceding the day on which this Act commences.

- (2) The report is to include the matters specified in paragraphs (a), (b), (c), (d) and (e) of section 42(2) of the repealed Act.
- (3) The report is to be appended to the annual report of the Department.
- (4) Subclause (3) has effect notwithstanding section 36(3) of the *State Service Act 2000* or section 27(2) of the *Financial Management and Audit Act 1990*.

12. Proceedings under section 63 of the *Land Use Planning and Approvals Act 1993*

Any proceedings commenced before the commencement of this Act by the Authority against a person for a contravention of section 63 of the *Land Use Planning and Approvals Act 1993*, and not determined before that commencement, continue as if they had been commenced by the HCC.

13. Proceedings under section 64 of the *Land Use Planning and Approvals Act 1993*

Any proceedings commenced by the Authority before the commencement of this Act to apply for an order under section 64 of the *Land Use Planning and Approvals Act 1993*, and not determined before that commencement, continue

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as if the proceedings had been commenced by
the HCC.

**14. Applications, permits, consents, certificates,
approvals and authorisations under the *Building
Act 2000***

- (1) Any application under the *Building Act 2000* made to the Authority before the commencement of this Act and not determined before that commencement is taken to be an application to the HCC.
- (2) Any permit, consent, certificate, approval or authorisation granted by the Authority under the *Building Act 2000* and in force immediately before the commencement of this Act is taken to have been granted by the HCC.

15. Notices and orders under the *Building Act 2000*

Any notice or order made or issued under the
Building Act 2000 by the Authority before the
commencement of this Act, and in force
immediately before that commencement, is taken
to have been made or issued by the HCC.

16. Proceedings under the *Building Act 2000*

Any proceedings instituted by the Authority
under the *Building Act 2000* before the
commencement of this Act, and not determined

before that commencement, are taken to have been instituted by the HCC.

17. Appeals and applications under the *Building Act 2000*

Any appeal or application to the Building Appeal Board made under the *Building Act 2000* before the commencement of this Act against a decision of the Authority, and not determined before that commencement, is to be dealt with as if the decision were a decision of the HCC.

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SCHEDULE 2 – CONSEQUENTIAL AMENDMENTS

Section 5

Building Act 2000

1. Section 5 is amended by omitting “, except the *Sullivans Cove Waterfront Authority Act 2004*,”.

Marine and Safety Authority Act 1997

1. Section 34 is repealed.

Tasmanian Planning Commission Act 1997

1. Schedule 3A is amended by omitting item 8.

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SCHEDULE 3 – LEGISLATION REPEALED

Section 6

Sullivans Cove Waterfront Authority Act 2004 (No. 60 of
2004)

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SCHEDULE 4 – LEGISLATION RESCINDED

Section 7

Sullivans Cove Waterfront Authority Regulations 2005 (No.
150 of 2005)

Sullivans Cove Waterfront Authority Amendment Regulations
2007 (No. 129 of 2007)

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SCHEDULE 5 – LEGISLATION REVOKED

Section 8

Proclamation under the Sullivans Cove Waterfront Authority
Act 2004 (No. 19 of 2005)