

TASMANIA

**YOUTH JUSTICE FACILITY DEVELOPMENT
BILL 2025**

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YOUTH JUSTICE FACILITY DEVELOPMENT BILL 2025

*(Brought in by the Minister for Children and Youth, the
Honourable Roger Charles Jaensch)*

A BILL FOR

**An Act to facilitate the accelerated construction of a
facility in the south of the State to be used for the purposes
of youth justice**

Be it enacted by Her 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

1. Short title

This Act may be cited as the *Youth Justice
Facility Development Act 2025*.

2. Commencement

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

3. Interpretation

In this Act, unless the contrary intention
appears –

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adjacent land means land that shares a boundary with the relevant site;

declared project means the development of the relevant site taken to be declared under Part 2;

development – see section 4;

National Construction Code has the same meaning as in the *Building Act 2016*;

relevant site means the land at 466 Brighton Road, Pontville, as described in Certificate of Title Volume 172508 Folio 2, under the *Land Titles Act 1980*;

Tasmanian Planning Scheme has the same meaning as in the *Land Use Planning and Approvals Act 1993*;

work has the same meaning as in the *Building Act 2016*;

youth has the same meaning as in the *Youth Justice Act 1997*;

youth justice facility means a facility that is primarily used for one or more of the following purposes:

- (a) to detain youths who are sentenced to a period of detention at such a facility;
- (b) to remand youths in custody while awaiting the determination of proceedings for an offence;

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- (c) to hold youths who are in the process of being transferred, under the *Youth Justice Act 1997*, to another State.

4. Meaning of *development*

- (1) In this Act, ***development*** includes, but is not limited to –
 - (a) development, within the meaning of the *Land Use Planning and Approvals Act 1993*; and
 - (b) work, within the meaning of the *Building Act 2016*, other than low-risk work within the meaning of that Act; and
 - (c) works relating to the following matters, whether permanent or temporary:
 - (i) roads and parking spaces;
 - (ii) fencing and signage;
 - (iii) drainage and stormwater management;
 - (iv) wastewater management and treatment;
 - (v) infrastructure required for essential services.
- (2) For the avoidance of doubt, ***development*** does not include the following:

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- (a) the operation of the youth justice facility on the site;
- (b) any work undertaken on the site that is –
 - (i) not part of, or incidental to, the declared project; or
 - (ii) undertaken for a purpose that does not relate to the use, within the meaning of the *Land Use Planning and Approvals Act 1993*, of the site as a youth justice facility;
- (c) any matter that is prescribed as not being development for the purposes of this Act.

5. Act binds Crown

This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

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PART 2 – DECLARATION OF PROJECT

6. Declaration of project

- (1) The development of the relevant site is taken to be declared, for the purposes of this Act, if the following criteria apply:
- (a) the development is for the purpose of constructing a youth justice facility for, or on behalf of, the State;
 - (b) the proposed youth justice facility, to be constructed on the site –
 - (i) does not have a gross floor area in excess of 6 875 square metres, as calculated in accordance with the Tasmanian Planning Scheme; and
 - (ii) does not include an on-site waste water management system, within the meaning of the National Construction Code, that involves the treatment of more than 100 kilolitres per day; and
 - (iii) will be set back from the boundaries of the site by at least 20 metres;
 - (c) at least 80% of the proposed youth justice facility, to be constructed on the site, does not exceed an average building height of 15 metres, as calculated in

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- accordance with the Tasmanian Planning Scheme;
- (d) work associated with the development commences on the relevant site no later than 1 December 2025;
- (e) the relevant site is not intended to be used or developed, by the State, for any other commercial purpose operated by the State.
- (2) The Minister, by order and on one or more occasions, may amend subsection (1) in one or more of the following ways:
- (a) by omitting the specifications specified in subsection (1)(b) and substituting new specifications;
- (b) by omitting the date specified in subsection (1)(d) and substituting a new date.
- (3) Section 47(3), (3A), (4), (5), (6) and (7) of the *Acts Interpretation Act 1931* apply to an order under subsection (2) as if the order were regulations within the meaning of that Act.
- (4) An order under subsection (2) –
- (a) is a statutory rule for the purposes of the *Rules Publication Act 1953*; and
- (b) is not an instrument of a legislative character for the purposes of the *Subordinate Legislation Act 1992*.

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7. Non-application of declaration

For the avoidance of doubt, this Act does not apply to any use, or development, within the meaning of the *Land Use Planning and Approvals Act 1993*, performed on the relevant site –

- (a) for any purpose other than a youth justice facility; or
- (b) that exceeds one or more of the criteria specified in section 6; or
- (c) as prescribed in the regulations.

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Part 3 – Effect of Declaration of Project

PART 3 – EFFECT OF DECLARATION OF PROJECT

8. Application of *Aboriginal Heritage Act 1975*

For the avoidance of doubt –

- (a) the *Aboriginal Heritage Act 1975* applies in respect of an object or relic, under that Act, that –
 - (i) is discovered during the development of the relevant site as part of the declared project; and
 - (ii) is not an object or relic of a type that was expected, or reasonably likely, to be discovered during the development of the relevant site; and
- (b) all works performed on the relevant site, or adjacent land, in relation to the declared project are to be performed in a manner that minimises, as far as is practicable, the impact on Aboriginal heritage.

9. Application of *Land Titles Act 1980*

- (1) In this section –

Recorder of Titles means the person appointed as the Recorder of Titles under section 4 of the *Land Titles Act 1980*;

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Register has the same meaning as in the *Land Titles Act 1980*;

- (2) The Minister, in writing, may direct the Recorder of Titles to create, amend, rearrange or extinguish a folio of the Register in relation to land that is affected, directly or indirectly, by the declared project and any development of the relevant site for the purpose of the declared project.
- (3) For the avoidance of doubt, a direction under subsection (2) may relate, but is not required to relate, to –
 - (a) an easement that is, or is to be, recorded on a folio of the Register; or
 - (b) a notice that is, or is to be, placed on the Register in respect of the relevant site or declared project; or
 - (c) a covenant that is, or is to be, recorded on a folio of the Register.
- (4) The Minister may only make a direction under subsection (2) after consulting each of the following Ministers about the direction:
 - (a) the Treasurer;
 - (b) the Minister administering the *Crown Lands Act 1976*;
 - (c) the Minister administering the *Youth Justice Act 1997*.

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- (5) On receipt of a direction under subsection (2), the Recorder of Titles is to create, amend, rearrange or extinguish a folio of the Register as the Recorder considers appropriate to give effect to the direction.
- (6) For the avoidance of doubt, this section is in addition to, and doesn't derogate from, the operation of Part 3 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* as it may apply to the relevant site or declared project.

10. Application of *Land Use Planning and Approvals Act 1993*

- (1) For the purposes of the *Land Use Planning and Approvals Act 1993*, an application for a permit under that Act, in respect of the use and development of the relevant site or any adjoining land, for the purposes of the declared project –
 - (a) is taken to be an application to which section 57 of that Act applies; and
 - (b) must be approved, under that section, by the relevant planning authority unconditionally or subject to conditions or restrictions; and
 - (c) may not be the subject of an appeal under that Act, other than an appeal by the applicant.
- (2) This section does not apply to an application for a permit, in respect of the relevant site or any

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adjoining land, that is made after an occupancy permit has been issued, under the *Building Act 2016*, in respect of all or part of the declared project.

11. Non-application of *Building Act 2016*

- (1) Unless the contrary intention appears, words in this section have the same meaning in this section as they have in the *Building Act 2016*.
- (2) Sections 77, 78, 79, 80 and 81 of the *Building Act 2016* do not apply in respect of any protection work, within the meaning of that Act, that may be required for the declared project including, but not limited to, protection work required on adjacent land.
- (3) For the purposes of the *Building Act 2016*, if protection work, within the meaning of that Act, is carried out, in respect of the declared project, as determined by the building surveyor for the declared project under that Act –
 - (a) the person carrying out the protection work is taken to have complied with the provisions of that Act as specified in subsection (2); and
 - (b) notification of the protection work is taken to have been given under section 77 of that Act; and
 - (c) that protection work is taken to have been determined under section 81 of that Act.

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- (4) Except as excluded under this section, nothing in this section affects the application of –
 - (a) Parts 4, 15, 16, 17 and 18 of the *Building Act 2016* as those Parts may apply to the declared project; and
 - (b) the National Construction Code as it may apply, under the *Building Act 2016*, to the declared project.
- (5) For the avoidance of doubt –
 - (a) section 7 of the *Building Act 2016* does not apply in respect of the declared project; and
 - (b) nothing in this section removes a requirement, under the *Building Act 2016* or the *Occupational Licensing Act 2005*, for a person performing work at the relevant site to hold a specific qualification, or experience, to perform that work.

12. Non-application of *Public Works Committee Act 1914*

On the commencement of this Act, this section is taken to be a resolution adopted by each House of Parliament, as specified in section 15(1) of the *Public Works Committee Act 1914*, that the declared project has been withdrawn from the operation of that Act.

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13. Effect of issue of certain authorisations

- (1) Nothing in this Part prevents a permit, licence or other authorisation from being issued in respect of the declared project under legislation that, in accordance with this Part, does not apply in respect of the declared project.
- (2) However, if a permit, licence or other authorisation is issued in respect of the declared project under any Act, that Act applies, and this Part no longer applies, to the declared project to the extent necessary for the permit, licence or other authorisation to be enforced.

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Part 4 – Miscellaneous

PART 4 – MISCELLANEOUS

14. Exemption from certain fees and charges

(1) In this section –

relevant Act means an Act referred to in Part 3;

relevant fees and charges means any tax, duty, charge, application fee, registration fee or other fee that is imposed by the State under an Act or other law of Tasmania.

(2) All relevant fees and charges are not payable in relation to any action taken under this Act, or under a relevant Act, in respect of the declared project.

15. Regulations

(1) The Governor may make regulations for the purposes of this Act.

(2) Regulations made under this section may be made subject to such conditions, or be made so as to apply differently according to such factors as may be specified in the regulations or according to such limitations or restrictions, whether as to time or circumstance or otherwise, as may be so specified.

(3) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

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- (4) A provision referred to in subsection (3) may take effect, if the regulations so provide, from the commencement of this Act or a later specified date.

16. Administration of Act

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

- (a) the administration of this Act is assigned to the Minister for Children and Youth; and
- (b) the department responsible to the Minister in relation to the administration of this Act is the Department for Education, Children and Young People.