

TASMANIA

**PARLIAMENT SQUARE PLANNING PERMIT
BILL 2012**

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PARLIAMENT SQUARE PLANNING PERMIT BILL 2012

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*
15 November 2012

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

A BILL FOR

An Act to give effect to a planning permit for the development of Parliament Square, Hobart, and for related purposes

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 *Parliament Square Planning Permit Act 2012*.

2. Commencement

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

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3. Interpretation

In this Act, unless the contrary intention appears –

affected land means the land comprised in folios of the Register volume 156768 folios 1 and 2 registered under the *Land Titles Act 1980*;

Authority means the Sullivans Cove Waterfront Authority established under the repealed Act;

development means the development, known as “Parliament Square”, which is the subject of the planning permit;

Heritage Register means the Tasmanian Heritage Register kept under Part 4 of the *Historic Cultural Heritage Act 1995*;

place has the meaning given in section 3 of the *Historic Cultural Heritage Act 1995*;

planning permit means planning permit number PLN-10-00495-01 issued under the *Land Use Planning and Approvals Act 1993* by the Authority;

relevant date means the date on which the Bill for this Act was first tabled in Parliament;

repealed Act means the *Sullivans Cove Waterfront Authority Act 2004*;

specified person means a person, other than the applicant for the planning permit, who is a party at the relevant date to an appeal in respect of the planning permit that has not been finally determined as at the relevant date.

4. 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.

5. Inconsistency

If any provisions of this Act are inconsistent with any provisions of any other Act, planning scheme, special planning order, interim order or any other instrument, the provisions of this Act prevail to the extent of the inconsistency.

6. Planning permit to take effect, &c.

On the commencement of this Act –

- (a) the planning permit comes into effect as a permit that has taken effect for the purposes of the *Land Use Planning and Approvals Act 1993*; and
- (b) all rights of appeal in relation to the planning permit are extinguished; and
- (c) notwithstanding any other Act, planning scheme, special planning order, interim

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order or any other instrument, the development may proceed in accordance with, and subject to, the planning permit.

7. Approvals for purposes of planning permit

- (1) Notwithstanding any other Act, the Minister is authorised to give any approval, consent or permission that is required by the planning permit.
- (2) Without limiting subsection (1), any reference in the permit to the Chief Executive Officer of the Authority is taken to be a reference to the Minister.
- (3) Subject to subsection (2), for the purposes of any Act, an approval, consent or permission given by the Minister under subsection (1) takes effect as if the approval, consent or permission had been given by the person or body that was required to give that approval, consent or permission for the purposes of the planning permit.
- (4) A person or body that was required to give any approval, consent or permission pursuant to the planning permit does not incur any liability because of anything done or omitted to be done by the Minister under subsection (1).

8. Amendment of planning permit

For the purposes of section 56 of the *Land Use Planning and Approvals Act 1993*, in relation to the planning permit, the Minister –

- (a) is taken to be the planning authority; and
- (b) may exercise the powers of a planning authority under that section.

9. Limitation of rights of appeal

(1) Subject to subsections (2) and (3) and notwithstanding the provisions of any other Act –

- (a) a person is not entitled to appeal to a body or other person, court or tribunal; or
- (b) no order or review may be made under the *Judicial Review Act 2000*; or
- (c) no declaratory judgment may be given; or
- (d) no other action or proceeding may be brought –

in respect of anything done pursuant to section 7(1) or 8.

- (2) Subsection (1) does not apply to any thing which has involved or has been affected by criminal conduct.
- (3) Subsection (1) does not apply to a purchaser or an owner of any affected land.

10. Delegation

The Minister may delegate any of the Minister's functions or powers under this Act other than this power of delegation.

11. Appeal costs

The Crown in right of Tasmania is to reimburse to a specified person any legal costs and disbursements, including expert witness costs, reasonably incurred by that person before the relevant date in relation to any appeal under the *Land Use Planning and Approvals Act 1993* in respect of the planning permit that has not been determined before the relevant date.

12. Heritage Register, &c.

- (1) The Heritage Register is amended by permanently removing from that register any place, or part of a place, which is required to be destroyed or demolished to enable the development to be carried out in accordance with the planning permit.
- (2) A place, or part of a place, that is removed from the Heritage Register in accordance with subsection (1) is not capable of being re-entered in that register, whether provisionally or permanently, unless the Minister has given his or her written consent to the making of that entry.
- (3) The Heritage Council must not make any order under the *Historic Cultural Heritage Act 1995* in

respect of a place, or part of a place, that is removed from the Heritage Register in accordance with subsection (1) unless the Minister has given his or her written consent to the making of that order.

13. Regulations

- (1) The Governor may make regulations for the purpose of this Act.
- (2) Regulations may be made so as to apply differently according to such factors as are specified in the regulations.
- (3) The regulations may –
 - (a) provide that a contravention of any of the regulations is an offence; and
 - (b) in respect of such an offence, provide for the imposition of a fine not exceeding 50 penalty units and, in the case of a continuing offence, a further fine not exceeding 10 penalty units for each day during which the offence continues.
- (4) The regulations may authorise any matter to be from time to time determined, applied or regulated by the Minister.
- (5) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

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- (6) A provision referred to in subsection (5) may take effect on and from the day on which this Act commences or a later day.

14. 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 Planning; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Treasury and Finance.