

TASMANIA

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**HOBART CENOTAPH BILL 2024**

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# HOBART CENOTAPH BILL 2024

*(Brought in by Vica Bayley MP)*

## A BILL FOR

**An Act to provide for the protection of the sightlines, cultural heritage, and reverential ambience of the Hobart Cenotaph and its surrounds**

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 *Hobart Cenotaph Act 2024*.

### 2. Commencement

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

### 3. Interpretation

In this Act –

***Commission*** means the Tasmanian Planning Commission established under the *Tasmanian Planning Commission Act 1997*;

***Development Assessment Panel*** means a panel established under section 60V of the *Land Use Planning and Approvals Act 1993* in relation to a major project;

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***Hobart Cenotaph sightlines*** means the sightlines described in Schedule 1 to this Act;

***integrated assessment*** has the meaning conferred by Part 3 of the *State Policies and Projects Act 1993*;

***major infrastructure project*** has the same meaning as in the *Major Infrastructure Development Approvals Act 1999*;

***major infrastructure project permit*** means a permit, within the meaning of the *Land Use Planning and Approvals Act 1993*, that is issued under that Act in respect of a major infrastructure project;

***major project permit*** has the same meaning as in the *Land Use Planning and Approvals Act 1993*;

***notice of cancellation*** means a notice published under section 8(3) of this Act;

***project of State significance*** means a project declared under section 18 of the *State Policies and Projects Act 1993*;

***relevant approval*** means –

- (a) A major project permit; and
- (b) A major infrastructure project permit; and
- (c) an order made under section 26(6) or (8) or section 26A of the *State Policies*

*and Projects Act 1993*, or, if such an order is amended or substituted under section 26B of that Act, any such order as amended or substituted;

***relevant approval process*** means –

- (a) an integrated assessment; and
- (b) an assessment and approval of major infrastructure project under the *Major Infrastructure Development Approvals Act 1999*; and
- (c) an assessment and approval of a major project permit under the *Land Use Planning and Approvals Act 1993*;

***relevant planning legislation*** means –

- (a) Part 4, Division 2A of the *Land Use Planning and Approvals Act 1993*; and
- (b) Part 3 of the *State Policies and Projects Act 1993*; and
- (c) the *Major Infrastructure Development Approvals Act 1999*; and

***RSL Tasmania*** means the Returned and Services League of Australia (Tasmanian Branch) Inc (ABN 11977093123).

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**4. Inconsistency**

If any provisions of this Act are inconsistent with any provisions of any relevant planning legislation, the provisions of this Act prevail to the extent of the inconsistency.

**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.

## **PART 2 – PROTECTION OF CENOTAPH VALUES**

### **6. Major project not to adversely impact Cenotaph values**

- (1) A Development Assessment Panel must not grant a major project permit under section 60ZZM of the *Land Use Planning and Approvals Act 1993* if it is satisfied on reasonable grounds that the granting of such a permit would be likely to –
  - (a) adversely impact on the cultural heritage and reverential ambience of the Hobart Cenotaph and its surrounds; or
  - (b) unreasonably impact on Hobart Cenotaph sightlines.
- (2) If a Development Assessment Panel considers that the matters referred to in subsection (1)(a) and (b) may apply in respect of a major project, a Development Assessment Panel, in considering those matters –
  - (a) must consult with RSL Tasmania; and
  - (b) may consult with such other persons the panel considers fit.

### **7. Major infrastructure project not to adversely impact Cenotaph values**

- (1) A combined planning authority or the Commission, as the case may be, conducting an assessment of a major infrastructure project under the *Major Infrastructure Development Approvals Act 1999*, must refuse to grant a permit for that major infrastructure project if it

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is satisfied on reasonable grounds that the granting of such a permit would be likely to –

- (a) adversely impact on the cultural heritage and reverential ambience of the Hobart Cenotaph and its surrounds; or
  - (b) unreasonably impact on Hobart Cenotaph sightlines.
- (2) If a combined planning authority or the Commission, as the case may be, considers that the matters referred to in subsection (1)(a) and (b) may apply in respect of a major infrastructure project, a combined planning authority or the Commission, in considering those matters –
  - (a) must consult with RSL Tasmania; and
  - (b) may consult with such other persons the combined planning authority or the Commission considers fit.

**8. Project of State significance not to adversely impact Cenotaph values**

- (1) In undertaking an integrated assessment, the Commission is to consider whether the project of State significance is likely to –
  - (a) adversely impact on the cultural heritage and reverential ambience of the Hobart Cenotaph and its surrounds; or
  - (b) unreasonably impact on Hobart Cenotaph sightlines.



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- (2) If the Commission considers that the matters referred to in subsection (1)(a) and (b) may apply in respect of a project of State significance, the Commission, in considering those matters –
- (c) must consult with RSL Tasmania; and
  - (d) may consult with such other persons the panel considers fit.
- (3) If, in the course of an integrated assessment, the Commission becomes satisfied, on reasonable grounds, that the matters contained in subsection (1)(a) or (b) are likely to apply, the Commission must notify –
- (a) the person proposing the project of State significance, within the meaning of section 16 of the *State Policies and Projects Act 1993*; and
  - (b) the Minister administering the *State Policies and Projects Act 1993*, that –
- the Commission intends to publish a notice of cancellation in respect of the project of State significance.
- (4) After making a notification under subsection (3), the Commission must publish a notice of cancellation in respect of the project of State significance in the *Gazette*.
- (5) If a notice of cancellation in respect of the project of State significance is published under subsection (4),

the integrated assessment in respect of that project is to cease on and from the day on which the notice of cancellation is published.

- (6) If an integrated assessment ceases under subsection (5), the requirements in respect of that integrated assessment under Part 3 of the *State Policies and Projects Act 1993* no longer apply, including but not limited to the requirement to submit a report under section 26(1) of that Act.
- (7) After a notice of cancellation in respect of a project of State significance is published in the Gazette under subsection (4), the order under section 18(2) of the *State Policies and Projects Act 1993* in relation to that project is taken to be revoked, as if it were revoked under section 28A(6) of that Act, on the day of the gazettal.

### **PART 3 – TRANSITIONAL PROVISIONS**

#### **9. When approvals taken to be valid**

For the avoidance of doubt –

- (a) this Act does not apply, and is taken to have never applied, in respect of a development, or a relevant approval process in respect of such development if a relevant approval was issued, or purportedly issued, for that development, prior to the commencement of this Act; and
- (b) this Act does apply to a relevant approval process that commenced prior to the

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commencement of this Act, if a relevant approval was not issued prior to the commencement of this Act.

**SCHEDULE 1 – MEANING OF HOBART CENOTAPH  
SIGHTLINES**

Hobart Cenotaph sightlines include the following sightlines, as shown in schedule 2:

- (a) From the Cenotaph toward the mouth of the Derwent River, including the flat river plane that extends to the horizon;
- (b) From the Cenotaph to the horizon of the natural amphitheater, including the Wellington Range descending to the Mount Nelson ridge, then to Porter Hill and down to the water plane at Long Point, Lower Sandy Bay;
- (d) From the Cenotaph to St George’s Church;
- (e) From the Cenotaph to the Parliament House forecourt along Morrison Street;
- (f) The views across the Cove toward the Cenotaph, including from Macquarie Street, the forecourt of the Princes Wharf No. 1 Shed; the Paddock between Princes Wharf No. 1 Shed and the Institute for Marine and Antarctic Studies (IMAS), Runnymede Street and the open space at the eastern end of the IMAS building;
- (g) The view of the sunrise from the grounds of the Cenotaph on Anzac Day;
- (h) To and from Sullivans Cove and the Derwent River aligning NE/SW;

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- (i) From the Royal Engineers Building to Kangaroo Bay;
- (j) Along the Key Public Space;
- (k) To and from the Key Public Space and Cove Floor to the Cenotaph; and

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SCHEDULE 2 – HOBART CENOTAPH SIGHTLINES

**SCHEDULE 2 – HOBART CENOTAPH SIGHTLINES**

