

2008

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Military Memorials of National Significance Bill 2008

No. , 2008

(Veterans' Affairs)

**A Bill for an Act to provide for certain memorials
to have the status of Military Memorials of
National Significance, and for related purposes**

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1 **A Bill for an Act to provide for certain memorials**
2 **to have the status of Military Memorials of**
3 **National Significance, and for related purposes**

4 The Parliament of Australia enacts:

5 **Part 1—Preliminary**
6

7 **1 Short title**

8 This Act may be cited as the *Military Memorials of National*
9 *Significance Act 2008*.

Part 1 Preliminary

Section 2

1 **2 Commencement**

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

4 **3 Definition**

5 In this Act:

6 *State or Northern Territory authority* means:

- 7 (a) a State or the Northern Territory; or
8 (b) a local government body, or other authority, established by or
9 under a law of a State or the Northern Territory.

Part 2—Declaration of Military Memorials of National Significance

4 Declaration of Military Memorials of National Significance

- (1) The Minister may, by notice published in the *Gazette*, declare a memorial to be a Military Memorial of National Significance if:
- (a) an application for the memorial to be so declared has been made in accordance with section 7 (subject to subsection (2) of this section); and
 - (b) the Minister is satisfied that the memorial meets the criteria specified in subsection (3); and
 - (c) the Prime Minister has, in writing, agreed to the making of the declaration.
- (2) Paragraph (1)(a) does not apply in relation to the Australian Ex-Prisoners of War Memorial in Ballarat.
- (3) For the purpose of paragraph (1)(b), the criteria are as follows:
- (a) the memorial is of a scale, design and standard appropriate for a memorial of nationally significant status, and is appropriately dignified and symbolic;
 - (b) the memorial commemorates Australia's military involvement in a significant aspect of Australia's wartime history, and that is its sole purpose;
 - (c) the memorial has a major role in community commemorations;
 - (d) Commonwealth flag protocols are observed in relation to the memorial;
 - (e) the memorial is owned or managed by a State or Northern Territory authority that has responsibility (including financial responsibility) for the ongoing maintenance of the memorial, and for any refurbishments;
 - (f) the memorial complies with applicable planning, construction and related requirements;

Section 5

- 1 (g) the memorial is located on public land within a State or the
2 Northern Territory;
- 3 (h) the memorial is publicly accessible and there is no entry fee;
- 4 (i) the memorial is a completed and functioning memorial;
- 5 (j) the memorial is not associated with a commercial function
6 that conflicts with its commemorative purpose.
- 7 (4) The following are not legislative instruments:
- 8 (a) a notice published in the *Gazette* under subsection (1);
- 9 (b) an agreement by the Prime Minister under paragraph (1)(c).

5 Approval of alterations

- 11 (1) The Minister may, in writing, approve an alteration to a memorial
12 in relation to which a declaration under section 4 has been made if:
- 13 (a) an application for approval of the alteration has been made in
14 accordance with section 7; and
- 15 (b) the Minister is satisfied that the memorial will still meet the
16 criteria specified in subsection 4(3) if the alteration is made.
- 17 (2) An approval under subsection (1) is not a legislative instrument.

6 Revocation of declarations

- 19 (1) The Minister may, by notice published in the *Gazette*, revoke a
20 declaration made under section 4 in relation to a memorial if:
- 21 (a) either:
- 22 (i) the Minister is no longer satisfied that the memorial
23 meets the criteria specified in subsection 4(3); or
- 24 (ii) the memorial has been altered since the declaration was
25 made, and the Minister has not approved the alteration
26 under section 5; and
- 27 (b) the Prime Minister has, in writing, agreed to the revocation of
28 the declaration.
- 29 (2) The following are not legislative instruments:
- 30 (a) a notice published in the *Gazette* under subsection (1);
- 31 (b) an agreement by the Prime Minister under paragraph (1)(b).

1 **7 Making applications**

2 (1) Subject to this section, an application may be made for:

3 (a) a memorial to be declared to be a Military Memorial of
4 National Significance; or

5 (b) approval of an alteration to a memorial that has been declared
6 to be a Military Memorial of National Significance.

7 (2) The application can only be made by, or on behalf of, a State or
8 Northern Territory authority that owns or manages the memorial.

9 (3) The applicable requirements of the regulations must be complied
10 with in relation to the application.

11 **8 Consultation**

12 For the purpose of making decisions under this Act, the Minister
13 may consult any persons or bodies that the Minister thinks it
14 appropriate to consult.

Section 9

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Part 3—Miscellaneous

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9 Commonwealth not responsible for declared memorials

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The Commonwealth does not have any responsibility (financial or otherwise) for a memorial merely because a declaration has been made under section 4 in relation to the memorial.

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10 Regulations

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The Governor-General may make regulations prescribing matters:

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(a) required or permitted by this Act to be prescribed; or

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(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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