Military Memorials of National Significance Act 2008

No. 80, 2008

An Act to provide for certain memorials to have the status of Military Memorials of National Significance, and for related purposes
Contents

Part 1—Preliminary 2
  1 Short title ................................................................. 2
  2 Commencement .................................................. 2
  3 Definition ......................................................... 2

Part 2—Declaration of Military Memorials of National Significance 3
  4 Declaration of Military Memorials of National Significance .......... 3
  5 Approval of alterations ........................................... 4
  6 Revocation of declarations ........................................ 4
  7 Making applications .............................................. 5
  8 Consultation .......................................................... 5

Part 3—Miscellaneous 6
  9 Commonwealth not responsible for declared memorials ............ 6
  10 Regulations ................................................................ 6
Military Memorials of National Significance Act 2008

No. 80, 2008

An Act to provide for certain memorials to have the status of Military Memorials of National Significance, and for related purposes

[Assented to 12 July 2008]

The Parliament of Australia enacts:
Part 1 Preliminary

Section 1

Part 1—Preliminary

1 Short title

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

2 Commencement

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

3 Definition

In this Act:

(State or Northern Territory authority means:
(a) a State or the Northern Territory; or
(b) a local government body, or other authority, established by or under a law of a State or the Northern Territory.)

2 Military Memorials of National Significance Act 2008 No. 80, 2008
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;
Part 2 Declaration of Military Memorials of National Significance

Section 5

(g) the memorial is located on public land within a State or the Northern Territory;
(h) the memorial is publicly accessible and there is no entry fee;
(i) the memorial is a completed and functioning memorial;
(j) the memorial is not associated with a commercial function that conflicts with its commemorative purpose.

(4) The following are not legislative instruments:
   (a) a notice published in the Gazette under subsection (1);
   (b) an agreement by the Prime Minister under paragraph (1)(c).

5 Approval of alterations

(1) The Minister may, in writing, approve an alteration to a memorial in relation to which a declaration under section 4 has been made if:
   (a) an application for approval of the alteration has been made in accordance with section 7; and
   (b) the Minister is satisfied that the memorial will still meet the criteria specified in subsection 4(3) if the alteration is made.

(2) An approval under subsection (1) is not a legislative instrument.

6 Revocation of declarations

(1) The Minister may, by notice published in the Gazette, revoke a declaration made under section 4 in relation to a memorial if:
   (a) either:
       (i) the Minister is no longer satisfied that the memorial meets the criteria specified in subsection 4(3); or
       (ii) the memorial has been altered since the declaration was made, and the Minister has not approved the alteration under section 5; and
   (b) the Prime Minister has, in writing, agreed to the revocation of the declaration.

(2) The following are not legislative instruments:
   (a) a notice published in the Gazette under subsection (1);
   (b) an agreement by the Prime Minister under paragraph (1)(b).
Section 7

7 Making applications

(1) Subject to this section, an application may be made for:
   (a) a memorial to be declared to be a Military Memorial of National Significance; or
   (b) approval of an alteration to a memorial that has been declared to be a Military Memorial of National Significance.

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

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

8 Consultation

For the purpose of making decisions under this Act, the Minister may consult any persons or bodies that the Minister thinks it appropriate to consult.
Part 3—Miscellaneous

9 Commonwealth not responsible for declared memorials

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.

10 Regulations

The Governor-General may make regulations prescribing matters:
(a) required or permitted by this Act to be prescribed; or
(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

[Minister’s second reading speech made in—
House of Representatives on 19 March 2008
Senate on 24 June 2008]