



New South Wales

# Summary Offences Amendment (War Memorials and Other Protected Places) Bill 2025

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to amend the *Summary Offences Act 1988* (*the Act*) to—

- (a) make clear that all war memorials are included as protected places for the offence of damaging or desecrating protected places, and
- (b) increase the penalty for the offence of damaging or desecrating a protected place, and
- (c) provide that a court that convicts a person, or finds a person guilty, of an offence of damaging or desecrating a protected place must, unless satisfied that special circumstances exist, order the offender to pay costs and expenses incurred in connection with the harm caused by the commission of the offence or making good any resulting damage, or for the compensation for loss or damage suffered.

## Outline of provisions

**Clause 1** sets out the name, also called the short title, of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act.

## Schedule 1      Amendment of Summary Offences Act 1988 No 25

**Schedule 1[1]** substitutes the Act, section 8(1), definition of *war memorial*, paragraph (b) to provide that the definition includes all war shrines, monuments, statues or other similar structures or places, unless excluded by the regulations. The substituted provision provides that it includes

things or areas in the vicinity of, and that form part of the site of, the shrines, monuments, statues or other similar structures or places and gives examples of gardens, pools and other integrated designs.

**Schedule 1[2]** amends the Act, section 8(2) to increase the maximum penalty for the offence of wilfully damaging or defacing a protected place from 40 penalty units to 200 penalty units or imprisonment for 2 years, or both.

**Schedule 1[3]** amends the Act, section 8(3) to increase the maximum penalty for the offence of committing any nuisance or any offensive or indecent act in, on or in connection with any war memorial or interment site from 20 penalty units to 200 penalty units.

**Schedule 1[4]** substitutes the Act, section 8(3A), and inserts proposed section 8(3B)–(3D), to provide that the court must, unless satisfied that special circumstances exist, order an offender it convicts, or finds guilty, of an offence against the Act, section 8 to pay certain costs and expenses incurred, or compensation for loss or damage suffered, if it appears to the court that—

- (a) a public authority has incurred costs and expenses in connection with the harm caused by the commission of the offence or making good any resulting damage, or
- (b) a person, including a public authority, has, because of the commission of the offence, suffered loss of or damage to property or has incurred costs and expenses in preventing or mitigating, or in attempting to prevent or mitigate, the loss or damage.

**Schedule 1[5]** substitutes the Act, section 8(4), and inserts proposed section 8(5), to allow regulations to be made to exclude a war shrine, monument, statue or other similar structure or place from the definition of *war memorial*.



New South Wales

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*This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly*

*Clerk of the Legislative Assembly*



New South Wales

## **Summary Offences Amendment (War Memorials and Other Protected Places) Bill 2025**

No , 2025

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### **A Bill for**

An Act to amend the *Summary Offences Act 1988* to make further provision for the protection of war memorials; to increase the penalty for damaging or desecrating protected places; and for related purposes.

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*The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.*

*Legislative Council*

*Clerk of the Parliaments*

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**Tabling copy**

<b>The Legislature of New South Wales enacts—</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Summary Offences Amendment (War Memorials and Other Protected Places) Act 2025</i> .	3
	4
<b>2 Commencement</b>	5
This Act commences on the date of assent to this Act.	6

## Schedule 1      **Amendment of Summary Offences Act 1988 No 25**

### [1]      **Section 8 Damaging or desecrating protected places**

Omit section 8(1), definition of *war memorial*, paragraph (b). Insert instead—

- (b)      subject to subsection (4), a war shrine, monument, statue or other similar structure or place, and includes a thing or area in the vicinity of, and that forms part of the site of, the shrine, monument, statue or other similar structure or place.

**Examples—** a garden, pool or other integrated design that is in the vicinity of, and forms part of the site of, a war shrine, monument, statue or other similar structure or place

### [2]      **Section 8(2), penalty**

Omit “40 penalty units”.

Insert instead “200 penalty units or imprisonment for 2 years, or both”.

### [3]      **Section 8(3), penalty**

Omit “20 penalty units”.

Insert instead “200 penalty units”.

### [4]      **Section 8(3A)–(3D)**

Omit section 8(3A). Insert instead—

- (3A)      Subsection (3B) applies if the court convicts a person, or finds a person guilty, of an offence against this section (the *offender*) and it appears to the court that—
  - (a)      a public authority has incurred costs and expenses in connection with the harm caused by the commission of the offence or making good any resulting damage, or
  - (b)      a person, including a public authority, has, because of the commission of the offence, suffered loss of or damage to property or has incurred costs and expenses in preventing or mitigating, or in attempting to prevent or mitigate, the loss or damage.
- (3B)      The court must, unless satisfied that special circumstances exist, order the offender to pay to the public authority or person the costs and expenses incurred, or compensation for the loss or damage suffered, as the case may be, in the amount fixed by the order.
- (3C)      The Local Court may not make an order under subsection (3B) for the payment of an amount that exceeds the amount for which an order may be made by the court when exercising jurisdiction under the *Civil Procedure Act 2005*.
- (3D)      An order under subsection (3B)—
  - (a)      operates in addition to a penalty that may be imposed or another action that may be taken in relation to the offence, and
  - (b)      is enforceable as if it were an order made by the court when exercising jurisdiction under the *Civil Procedure Act 2005*.

### [5]      **Section 8(4) and (5)**

Omit section 8(4). Insert instead—

(4)	The regulations may exclude a war shrine, monument, statue or other similar structure or place from subsection (1), definition of <i>war memorial</i> , paragraph (b).	1 2 3
(5)	A regulation under subsection (4) may be made by reference to one or both of the following—	4 5
(a)	a specified war shrine, monument, statue or other similar structure or place,	6 7
(b)	a specified thing or area in its vicinity.	8