



TASMANIA

**ROADS AND JETTIES AMENDMENT (WORKS IN
HIGHWAYS) ACT 2019**

No. 38 of 2019

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ROADS AND JETTIES AMENDMENT (WORKS IN HIGHWAYS) ACT 2019

No. 38 of 2019

An Act to amend the *Roads and Jetties Act 1935*

[Royal Assent 4 November 2019]

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:

1. Short title

This Act may be cited as the *Roads and Jetties Amendment (Works in Highways) Act 2019*.

2. Commencement

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

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3. Principal Act

In this Act, the *Roads and Jetties Act 1935** is referred to as the Principal Act.

4. Section 16 amended (Works in highways)

Section 16 of the Principal Act is amended by omitting subsections (5), (6), (7) and (8) and substituting the following subsections:

- (5) If the Minister under subsection (1) has consented to the erection or placement of a structure, or to the doing of any other works, the Minister may do any one or more of the following by written notice to the relevant person:
- (a) if the erection or placement of the structure, or the other works, has not been completed, impose conditions or further conditions, or remove or amend any conditions, to which the consent is subject;
 - (b) whether or not the erection or placement of the structure, or the other works, has been completed and if the Minister considers that a condition of the consent has not or is not being complied with, require the relevant person to ensure that, within the time

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specified in the notice, the condition is complied with to the satisfaction of the Minister;

- (c) if the erection or placement of the structure, or the other works, has been completed and the Minister considers that the standard of the structure or other works is not satisfactory, require the relevant person to upgrade the structure or other works, within the time specified in the notice, to a standard satisfactory to the Minister;
- (d) if the erection or placement of the structure, or the other works, has been completed, require the person to carry out maintenance or repairs, within the time specified in the notice, to a standard satisfactory to the Minister;
- (e) if the erection or placement of the structure, or the other works, is not completed, require the relevant person to complete the works within the time specified in the notice;
- (f) if the erection or placement of the structure, or the other works, has not been completed and –

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(i) a condition of the consent has been, or is being, contravened; or

(ii) a person has not complied with a notice under paragraph (b) or (e) –

require the relevant person to cease erecting or placing the structure, or doing the other works, within the time specified in the notice;

(g) if the erection or placement of the structure, or the other works, has been completed and –

(i) a condition of the consent has been contravened; or

(ii) a person has not complied with a notice under paragraph (b), (c) or (d) –

require the relevant person to remove or undo the structure or other works, or part of the structure or other works, within the time specified in the notice;

(h) if the Minister has issued a notice under paragraph (f) or (g), include in the notice under that paragraph a requirement that the relevant person, within the time specified in the notice, take all

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action necessary to restore the State highway or subsidiary road, or a section of the State highway or subsidiary road specified in the notice, to the condition it was in before the erection or placement of the structure, or the doing of the other works, was commenced.

- (6) If a person is erecting or placing a structure or is doing other works in a State highway or subsidiary road without the consent of the Minister under subsection (1), or has so erected or placed a structure or done other works, the Minister may do one or more of the following by written notice provided to the relevant person:
- (a) require the relevant person to cease erecting or placing the structure or doing the other works;
 - (b) require the relevant person to remove or undo the structure or other works, or part of the structure or other works, within the time specified in the notice;
 - (c) require the relevant person, within the time specified in the notice, to take all action necessary to restore the State highway or subsidiary road to the condition it was in before the

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erection or placement of the structure, or the doing of the other works, was commenced;

(d) consent to the erection or placement of the structure or the doing of the other works, regardless of whether or not the erection or placement of the structure or the doing of the other works has been completed.

(7) If the Minister under subsection (6)(d) consents to the erection or placement of a structure or the doing of other works, this section applies as if the consent were granted before the erection or placement of the structure, or the doing of the other works, was commenced.

(8) A notice under subsection (5) or (6) may specify that the action required by the notice to be undertaken must be completed within the period (being a period of not less than 60 days) specified in the notice or such longer period as the Minister may allow on the application of the relevant person.

(9) A relevant person must comply with a notice under subsection (5) or (6).

Penalty: Fine not exceeding 10 penalty units.

(10) If –

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- (a) a relevant person fails to comply with a notice under subsection (5) or (6); or
- (b) the Minister considers that an action that could be required to be taken by a relevant person by such a notice needs to be undertaken as a matter of urgency –

the Minister may authorise a person to take that action and, for the purpose of taking that action, the person may enter onto and remain on any land if the person considers it necessary to do so.

- (11) If the Minister under subsection (10)(b) authorises a person to take action, the Minister is to take reasonable steps to notify the relevant person of the authorisation before the action is taken.
- (12) If the Minister under subsection (10) authorises a person to take any action, the reasonable costs incurred in taking that action –
 - (a) are a debt due and payable by the relevant person to the Crown; and
 - (b) may be recovered in a court of competent jurisdiction.
- (13) The relevant person is responsible for the construction of the structure or the doing of other works and for the completion,

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upgrading, maintenance and repair of the structure constructed or works done under this section.

(14) A reference in this section to a structure includes a reference to –

- (a) a sign or banner, whether fixed or movable; and
- (b) a pathway that is constructed by a construction process or other works and that allows vehicular access to a State highway or subsidiary road.

(15) In this section –

relevant person means, in relation to a structure or works –

- (a) a person to whom consent has been given under subsection (1) to erect or place a structure or to undertake other works; or
- (b) a person who owns, or who has possession or control of, the structure or other works; or
- (c) a person who owns, or who has possession or control of, the land from which –
 - (i) there is vehicular access to a State highway or subsidiary road by means

of a pathway referred to
in subsection (14)(b); or

- (ii) vehicular access to a State highway or subsidiary road by means of a pathway referred to in subsection (14)(b) will be available once the construction of the pathway is completed.

- (16) Nothing in this section applies to a pathway by which vehicular access to a State highway or subsidiary road occurs if that pathway is formed by, or exists because of, the use of a vehicle over an area to access the highway or road and not by any construction process or other works.

5. Section 16AA substituted

Section 16AA of the Principal Act is repealed and the following section is substituted:

16AA. Informal vehicular access to State highway or subsidiary road

- (1) In this section –

informal access pathway means a pathway by which vehicular access to a State highway or a subsidiary road occurs if that pathway is formed by, or exists

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because of, the use of a vehicle over an area to access the highway or road and not by any construction process or other works;

relevant person means a person who owns, or who has possession or control of, the land from which vehicular access to a State highway or subsidiary road occurs, or may occur, by means of an informal access pathway.

- (2) The relevant person has responsibility for the upgrading, maintenance and repair of an informal access pathway.
- (3) The Minister, by written notice provided to the relevant person, may require an informal access pathway to be –
 - (a) upgraded to a standard satisfactory to the Minister; or
 - (b) maintained to a standard satisfactory to the Minister; or
 - (c) repaired to a standard satisfactory to the Minister; or
 - (d) relocated to a place or area specified in the requirement; or
 - (e) removed.

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- (4) A notice under subsection (3)(e) requiring the removal of an informal access pathway may include a statement that the notice does not prevent the relevant person applying for the Minister's consent under section 16(1) for the construction of a pathway to allow vehicular access to the relevant State highway or subsidiary road.
- (5) If the Minister requires the relocation of an informal access pathway or its removal under subsection (3)(d) or (e), the Minister, in the notice under that subsection, also may require the relevant person to take all action necessary to restore the State highway or subsidiary road to the condition it was in before the informal access pathway was created.
- (6) A notice under subsection (3) may specify that the action required by the notice to be taken must be completed within the period (being a period of not less than 60 days) specified in the notice or such longer period as the Minister may allow on the application of the relevant person.
- (7) If the relevant person does not comply with a notice under subsection (3), the Minister may authorise a person to take the action required by the notice and, for that purpose, the person may enter and remain on the land from which the informal access pathway runs to the

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relevant State highway or subsidiary road.

- (8) If the Minister considers that any action that a relevant person could be required to take under subsection (3) needs to be taken as a matter of urgency, the Minister may authorise a person to take the action required by the notice and, for that purpose, the person may enter and remain on the land from which the informal access pathway runs to the relevant State highway or subsidiary road.
- (9) If the Minister under subsection (8) authorises a person to take action, the Minister is to take reasonable steps to notify the relevant person of the authorisation before the action is taken.
- (10) If the Minister under subsection (7) or (8) authorises a person to take action, the reasonable costs incurred in taking the action –
- (a) are a debt due and owing by the relevant person to the Crown; and
 - (b) may be recovered in a court of competent jurisdiction.

6. Repeal of Act

This Act is repealed on the first anniversary of the day on which it commenced.

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*[Second reading presentation speech made in:–
House of Assembly on 3 September 2019
Legislative Council on 19 September 2019]*