

TASMANIA

ROADS AND JETTIES AMENDMENT BILL 2022

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ROADS AND JETTIES AMENDMENT BILL 2022

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*
29 September 2022

*(Brought in by the Minister for Infrastructure and Transport,
the Honourable Michael Darrel Joseph Ferguson)*

A BILL FOR

An Act to amend the Roads and Jetties Act 1935

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 Act 2022*.

2. Commencement

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

3. Principal Act

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

*No. 82 of 1935

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4. Section 8 amended (Vesting of State highways and subsidiary roads)

Section 8 of the Principal Act is amended by omitting subsections (3), (4) and (5).

5. Section 16A substituted

Section 16A of the Principal Act is repealed and the following section is substituted:

16A. Temporary closing of State highways and subsidiary roads

- (1) The Minister may close a State highway or subsidiary road if the Minister is satisfied that the closure is necessary for one or more of the following:
 - (a) the highway or road has become unsafe for traffic;
 - (b) the highway or road has been damaged by flood, rain or other causes and, as a result of the damage, the Minister is satisfied that the use of the highway or road while it is damaged would –
 - (i) result in further damage to the highway or road; or
 - (ii) result in the highway or road becoming unsafe for traffic; or

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- (iii) significantly increase the cost of the repair of the damage; or
 - (iv) significantly increase the period of time that the highway or road would need to be closed, under this section, for the damage to be repaired or made fit;
- (c) for the purposes of carrying out the maintenance, construction, repair, reconstruction or upgrade of –
 - (i) the highway or road; or
 - (ii) the associated infrastructure in respect of, or a bridge relating to, the highway or road;
- (d) for the purposes of carrying out other works on, or in respect of, the highway or road including, but not limited to, works consented to by the Minister under section 16;
- (e) a hazard, danger or obstruction has occurred, or is likely to occur, on, or in respect of, the highway or road;

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- (f) an activity is being, or is about to be, undertaken on land adjacent to the highway or road and that activity poses a risk to –
 - (i) the condition of the highway or road; or
 - (ii) the visibility or driving conditions of road users; or
 - (iii) the safety of the road or road users.
- (2) A State highway or subsidiary road closed in accordance with subsection (1) may be closed in either or both of the following ways:
 - (a) in whole or in part;
 - (b) to all traffic or to specified classes of traffic.
- (3) If a State highway or subsidiary road is closed, in whole or in part, under this section, the Minister is to ensure that –
 - (a) sufficient traffic control devices, within the meaning of the *Road Rules*, are erected on or in respect of the highway or road to warn traffic of –
 - (i) the closure of the highway or road; and

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- (ii) if relevant, the specified classes of traffic in respect of which the highway or road is so closed; and
- (b) if appropriate, the highway or road, or part of the highway or road, that is closed under this section is cordoned off to prevent unauthorised use of the closed highway or road, or closed part of the highway or road.
- (4) Unless authorised under this Act or by the Minister, a person must not go along, or cause an animal or vehicle to go along, a State highway or subsidiary road while it is closed under this section.

Penalty: Fine not exceeding 2 penalty units.

6. Section 39 substituted

Section 39 of the Principal Act is repealed and the following section is substituted:

39. Entry upon certain adjoining lands for specified purposes

- (1) The Minister, or a person authorised by the Minister under subsection (2)(a), may enter upon any land adjoining any road for which the Minister is the road authority, if entry upon that land is

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necessary for one or more of the following purposes:

- (a) to take any action necessary to maintain, reconstruct or upgrade the road;
- (b) to take any action necessary to monitor and investigate infrastructure and conditions, including subsurface conditions, in respect of the road;
- (c) to take any action necessary for the planning, designing or investigating in respect of works to be performed in relation to, or in connection with, the road;
- (d) to take any action necessary in respect of the following items on the land that may negatively impact on the condition of the road or the safety of the road or road users:
 - (i) a building or structure, whether permanent or temporary, other than a place of residence of the owner or occupier of the land;
 - (ii) vegetation or land formations, whether natural or man-made.

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- (2) The Minister may –
 - (a) authorise a person to take an action under subsection (1) as is specified in the authorisation; or
 - (b) direct the owner, or occupier, of land to take an action under subsection (1) as specified in the direction.
- (3) A person entering land, for the purpose of taking an action under this section, must –
 - (a) give notice, in accordance with subsection (4), to each owner and occupier of the land of –
 - (i) the intended action to be taken; and
 - (ii) the anticipated period during which the action is to be taken; and
 - (b) give the notice under paragraph (a) at least 14 days, or such other prescribed period, before taking the action.
- (4) A notice under subsection (3)(a) is to be given to an owner or occupier of land –
 - (a) by serving a copy of the notice on the owner or occupier; or

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- (b) if a valid email address, or other form of communication is known for the owner or occupier, by transmitting a copy of the notice to the owner or occupier by electronic means; or
 - (c) by displaying, for the duration of the period referred to in subsection (3)(b), a copy of the notice on the land –
 - (i) in a conspicuous location; and
 - (ii) in a manner that enables the information on the notice to be read without trespassing onto the land.
- (5) Subsection (3) does not apply in respect of the taking of an action on land under this section if the Minister is satisfied that action must be immediately taken to address an immediate risk to the safety of road users.
- (6) A person taking an action under this section in respect of land –
 - (a) must ensure, so far as is possible, the security of the land while the action is taken; and
 - (b) must make good all damage, or injury, to the land (including, but not limited to, damage or injury

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to the fences, hedges, ditches, buildings, structures or other things on the land) that occurs as a result of the person taking the action; and

- (c) may take onto the land such persons, and equipment, as are necessary to take the action.
- (7) Subsections (3) and (6) do not apply to the owner, or occupier, of land that is taking an action under this section as directed by the Minister under subsection (2)(b).
- (8) Nothing in this section authorises a person –
 - (a) to fail to comply with this Act, or any other Act, when taking an action under this section; or
 - (b) to enter a building or structure on land without the consent of the owner, or occupier, of the building or structure.

7. Repeal of Act

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