

CLAUSE NOTES

Roads and Jetties Amendment (Works in Highways) Bill 2019

- Clause 1** **Short Title**
This clause provides that, once passed, the Bill be cited as the *Roads and Jetties Amendment (Works in Highway) Act 2019*.
- Clause 2** **Commencement**
This clause provides that the Bill commences upon Royal Assent.
- Clause 3** **Principal Act**
The Principal Act to which the amendments apply is the *Roads and Jetties Act 1935* (the Act).
- Clause 4** **Section 16 amended (Works in highways)**
This clause provides the Minister with additional powers to deal with incomplete and substandard works and structures on State highways or subsidiary roads. These powers mean that the Minister can:
- require a person to complete works and structures or upgrade where the standard of the structure or other works is not satisfactory
 - take all necessary action to complete works and structures and to recover reasonable costs from the relevant person where the person fails to complete these works
 - provide consent for works and structures where these have been undertaken without consent.
- These powers will provide greater flexibility to deal with incomplete and substandard works and structures. These powers are in addition to the pre-existing powers in section 16 of the Act that enable the Minister to:
- require the person to cease or remove works or structures, or to restore the State highway to the original condition
 - restore the highway and recover any reasonable costs from the responsible person.
- To remove any doubt, this clause makes clear that a reference to a structure in section 16 includes a pathway that is constructed to allow vehicular access to a State highway or subsidiary road.
- The clause also inserts a new definition of 'relevant person' into subsection 16(15) to clarify who is responsible under section 16 for completing and maintaining works and structures. This definition includes persons who own or who have possession or control of the relevant land to make clear that this responsibility for completing and maintaining works and structures are unaffected by a change in property ownership.

Clause 5

Section 16AA Substituted

This clause substitutes the existing section 16AA titled 'Maintenance and repair of vehicular access' with a new section titled 'Informal vehicular access to State highway or subsidiary road' in light of the fact that the maintenance and repair of vehicular accesses is now addressed by Clause 4 of this Bill.

Amended section 16AA provides the Minister the ability to upgrade (eg sealing an access), relocate or remove an informal access pathways, which are defined by new subsection 16AA(1) as pathways that are formed by the use of a vehicle, rather than by a construction process or other works.

This clause also inserts a definition of 'relevant person' to make clear that the responsibility for informal access pathways rests with the person who owns, or who has possession or control of the land with the informal access pathway (eg it is unaffected by a change in property ownership).

Clause 6

Repeal of Act

This clause repeals this amendment Act on the first anniversary of the day on which it is commenced.