

CLAUSE NOTES

ROADS AND JETTIES AMENDMENT BILL 2022

Clause 1	<p>Short title</p> <p>This clause provides that, once passed, the Bill will be cited as the <i>Roads and Jetties Amendment Act 2022</i>.</p>
Clause 2	<p>Commencement</p> <p>This clause provides that the Bill commences upon Royal Assent.</p>
Clause 3	<p>Principal Act</p> <p>In this Bill, the <i>Roads and Jetties Act 1935</i> is referred to as the Principal Act.</p>
Clause 4	<p>Section 8 amended (Vesting of State highways and subsidiary roads)</p> <p>This clause deletes the provisions regarding temporary closure of State highways from Section 8 as the Bill consolidates all temporary closure provisions in Section 16A.</p>
Clause 5	<p>Section 16A substituted</p> <p>16A. Temporary closing of State highways and subsidiary roads</p> <p>This clause replaces Section 16A with a new Section 16A that broadens the circumstances in which the Minister can temporarily close a State highway to ensure the Act provides for the implementation of closures where it is warranted for the protection of public safety, for facilitation of works, or for the good management of the road network.</p> <p>The reference to 'specified classes' in subsection 16A(2)(b) is intentionally broad to provide flexibility when implementing closures. For example, exemptions can be made for emergency vehicles to have access through closed sections of road (where practicable) or for roads to be closed to all traffic other than 'local traffic'.</p> <p>The new subsection 16A(3)(a) provides greater flexibility for how closures are to be communicated to traffic by removing the current prescriptive requirements and instead requiring the erection of 'sufficient traffic control devices' which can encompass</p>

traffic signs, traffic signals and all other things that come under the definition of 'traffic control device' under the Roads Rules.

Subsection 16A(3)(b) also provides for a broad range of ways that a closure can be physically implemented by requiring the 'cordoning off' of the closed section. This will allow for a variety of methods, including, but not limited, to fences, bollards, or simply traffic control personnel holding a Stop sign.

The powers of the Minister under the new Section 16A are delegable per Section 17D of the *Roads and Jetties Act 1935*.

Clause 6

Section 39 substituted

39. Entry upon certain adjoining lands for specified purposes

This clause replaces Section 39 with a new Section 39 that provides for the Minister, or a person authorised by the Minister, to enter land adjoining a State highway if it is necessary for a range of road-related purposes, including for:

- Maintaining, reconstructing or upgrading the road
- Undertaking investigations and inspections related to road planning, design and maintenance
- Taking action in relation to vegetation, land formations or structures that negatively impact on the condition of the road or road safety.

The new Section 39 clarifies that the powers of entry are only available to the Minister responsible for State highways, and not other road authorities, such as local councils, who already have similar powers of entry onto land under the *Local Government (Highways) Act 1982* and *Local Government Act 1993*.

The amended subsection 39(2)(b) provides the Minister with greater flexibility for managing hazards on adjoining land by providing the option to direct an owner or occupier to undertake an action under subsection 39(1) to deal with the hazard, where that is deemed a more appropriate course of action rather than pursuing the option of authorising other persons to enter the land to undertake the works. This will also bring these provisions in line with similar parts of the *Roads and Jetties Act 1935* and other infrastructure-related legislation where an authority may direct an owner or occupier of land to rectify something on that land that is creating a safety hazard or negatively impacting on the authority's infrastructure.

The new subsection 39(3) introduces requirements for giving notice to an owner or occupier of land being entered under Section 39. This subsection sets out the minimum time period that notice has to be given to the owner or occupier before entering land under Section 39. Subsection 39(3)(b) stipulates notice to be given “at least 7 days, or such other prescribed period, before taking the action”. ‘Other such prescribed period’, refers to a period stipulated by regulation. In the absence of any such regulation, seven (7) days is the applicable notice period.

Subsection 39(4) relates to the serving of notices and provides for the methods consistent with the *Acts Interpretation Act 1931*, which include giving the notice to the relevant person, leaving it at their postal address, or sending via post. Subsection 39(b) provides for notice to be given by email, or ‘other form of communication’, ensuring that the Act provides for future changes in common communication technology. Subsection 39(4)(c) provides an option for placement of a notice in a ‘conspicuous location’, such as on a property gate, to enable a method for giving notice in the event an owner or occupier cannot be contacted by other means.

Subsection 39(5) provides for an exemption to the notice period requirement to ensure there is scope to enter land for urgent safety works if the works need to be done immediately to address an immediate safety risk.

Subsections 39(6) and (8) set out several requirements for those entering land to comply with. This is to ensure that the impact on land being entered is minimised as much as practicable, and that all other requirements under the Act, or other applicable Acts, are complied with.

The powers of the Minister under the new Section 16A are delegable per Section 17D of the *Roads and Jetties Act 1935*.

Clause 7

Repeal of Act

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

