

FACT SHEET

Roads and Jetties Amendment (Validation) Bill 2019

Part IV A of the *Roads and Jetties Act* was inserted into the Act in 1957 to allow for certain roads to be declared as limited access roads. It was introduced in an effort to reduce degradation of highways from multiple access points which required the construction of new sections of highways to maintain safety and efficiency. It is an important tool in the protection of new sections of road.

The effect of a declaration of limited access is twofold. Firstly, it facilitates the road user's right to safe and reasonable unrestricted travel and, secondly, it acknowledges the abutting landowner's right to be given reasonable access to their property by providing compensation for any loss of that common law right of access. Any agreed private access to a declared limited access road is issued with a conditional licence; conditional in that the licence includes the land the access serves, the location and use of the access, together with other applicable conditions. Such a licence may be issued as full or partial compensation. There are provisions in the Act that allow for a variation to the conditions of a licence, providing that such a variation of use will not have an adverse effect on the declared limited access road.

The original 1957 provisions did not allow for a licence to be issued to a subsequent owner unless the licence specified that it could, however this had the potential to effectively leave land without any legal access to a road.

Access control assists in protecting the safety and functionality, and hence the economic viability, of the State's key roads. A proliferation of frontage access, and their use, to arterial roads can rapidly degrade a road's safety, service, and efficiency. The high cost of road construction requires that proper measures be taken to protect the community asset from premature obsolescence and the public from danger. This asset represents an enormous State investment.

Access control assists with the reduction of road crashes. The uncontrolled spread of direct access to any major arterial roads from abutting properties is a prime cause of crashes due to the turning movement conflicts that arise. In urban areas this relates to the high volumes of through traffic and the interference caused by access movements. On rural roads, the crashes occurring at access points are usually more severe due to the high speed of passing traffic.

A number of highways have been realigned as a result of lack of access control. Early examples are seen between Latrobe and Burnie, Claremont and Granton, and in many other places. Later examples include the Midland Highway between Bridgewater and Pontville and the Tasman Highway between Hobart and Cambridge. Those newer roads declared limited access have not suffered from these effects because of the statutory access controls and they, therefore, operate as efficient traffic routes.

Primarily, limited access was applied to new alignments of roads. Early examples are the Muddy Creek deviation on the West Tamar Highway and the East Tamar Highway from Mount Direction to Bell Bay; later examples include the Bass Highway between Launceston and Deloraine, Penguin and Howth, etc. With the advent of Commonwealth involvement with National highways, however, the situation changed dramatically, with long stretches of the existing Midland Highway and Bass Highway being declared limited access roads in accordance with the issued guidelines for construction of those National highways.

This amendment Bill is required to ensure the validity of licences issued to permit legal access to declared limited access roads.

Initially, the Minister was empowered to issue licences in full or partial satisfaction of any claim for compensation only to existing owners at the time of a declaration of limited access. This restriction meant that the Minister was legally prevented from issuing a licence to a new owner. The Act required amendment to allow for normal land ownership changes and was amended in 1994.

It has become apparent that, unless the Act is further amended, the current situation with respect to licences means that an existing or new owner may not hold or have a valid licence; one that permits legal access to their property from a limited access road. This relates to licences issued prior to the 1994 amendment and to those licences issued subsequent to that amendment as reissues of licences that had been issued prior to the amendment. The Act does not recognise any licence other than those issued on roads declared limited access after the coming into effect of the 1994 amendment.