

TASMANIA

ROADS AND JETTIES AMENDMENT (VALIDATION) BILL 2019

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ROADS AND JETTIES AMENDMENT (VALIDATION) BILL 2019

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.

LAURA ROSS, *Deputy Clerk of the House*
11 September 2019

*(Brought in by the Minister for Infrastructure, the Honourable
Jeremy Page Rockliff)*

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 (Validation) 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 52AA amended (Interpretation of Part)

Section 52AA of the Principal Act is amended as follows:

- (a) by omitting the definition of *licence* and substituting the following definition:

licence means –

- (a) a licence issued under section 52CB; or
- (b) a licence taken to be validly issued by virtue of section 52G;
- (b) by inserting the following definition after the definition of *potential access*:

proclaimed place of access, in relation to a limited access road, means a place of access set forth, for that limited access road, in a proclamation in accordance with section 52A(3);

- (c) by omitting “section 9A;” from paragraph (b) of the definition of

*No. 82 of 1935

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proclamation and substituting “section 9A.”;

- (d) by omitting the definition of *subsequent owner*.

5. Section 52A amended (Proclamation of limited access)

Section 52A(8) of the Principal Act is amended by omitting “shall” and substituting “is to”.

6. Section 52C amended (Compensation)

Section 52C(6) of the Principal Act is amended as follows:

- (a) by inserting “under section 52CA in respect of land” after “a licence”;
- (b) by omitting “gained an access to a limited access road at a place other than a proclaimed place of access” and substituting “been issued with the licence in respect of the land”.

7. Section 52CA amended (Application for licence)

Section 52CA of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “An” and substituting “Subject to subsections (2) and (3), an”;

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- (b) by omitting from subsection (1) “loses an” and substituting “does not have”;
- (c) by omitting subsections (2) and (3) and substituting the following subsections:
 - (2) An owner of land may only apply for a licence in respect of an access to the land if –
 - (a) he or she, or any previous owner of the land, has not received compensation under this Part in relation to that access, other than compensation under this Part that is, or has been, reduced to take into account that an owner of the land has gained, or retained, access to the limited access road other than at a proclaimed place of access; and
 - (b) subject to subsection (3), a licence has not been issued under this Part in respect of the land.
 - (3) Subsection (2)(b) does not apply to land, in respect of which a licence has been issued under this Part (the *initial licence*), if –
 - (a) the land is to be subdivided; and

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- (b) the application for a new licence is to reallocate, to the land so subdivided, an access that was provided in respect of the land under the initial licence.
- (d) by inserting the following subsections after subsection (5):
 - (5A) The Minister may refuse to grant an application of an owner in respect of land –
 - (a) if the Minister is satisfied that it was never intended for an owner of the land to have a licence allowing access to the land; or
 - (b) for any other reason that the Minister considers reasonable in the circumstances.
 - (5B) The Minister may not grant an application in respect of land that is already the subject of a licence if the approval of the application would provide that land with more access under this Part than was in force in respect of the land before the application was made.

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8. Section 52CB amended (Issue of licence)

Section 52CB of the Principal Act is amended by omitting subsections (2) and (3) and substituting the following subsections:

- (2) The Minister may issue a licence, on the Minister's own initiative and without an application under section 52CA, within 12 months after a proclamation is gazetted.
- (3) A licence issued under this section –
 - (a) is issued in respect of the land specified in the licence; and
 - (b) may be subject to any condition, specified in section 52CD, that the Minister thinks fit.

9. Section 52CC amended (Authority of licence)

Section 52CC of the Principal Act is amended as follows:

- (a) by inserting in subsection (3) “in respect of land” after “remains in force”;
- (b) by omitting paragraph (a) from subsection (3) and substituting the following paragraph:
 - (a) the licence ceases to have effect, or be in force, in accordance with a term or condition of the licence;
or

(c) by inserting the following subsection after subsection (3):

(4) For the avoidance of doubt, a licence in force in respect of land is taken to be transferred to a new owner of the land on the sale, or disposal, of the land to the new owner unless the sale, or disposal, of the land results in that licence ceasing to have effect or be in force.

10. Section 52CD amended (Conditions of licence)

Section 52CD of the Principal Act is amended as follows:

(a) by omitting paragraph (d) and substituting the following paragraph:

(d) the licence ceasing to be in force on the sale, or disposal, of the land;

(b) by omitting from paragraph (e) “granted” and substituting “issued”.

11. Section 52CF amended (Variation of conditions of licence by owner)

Section 52CF(1) of the Principal Act is amended by omitting “A licensee” and substituting “An owner”.

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12. Section 52CG amended (Revocation of licence)

Section 52CG(6) of the Principal Act is amended by omitting “licensee” and substituting “owner”.

13. Section 52D amended (Effect on building laws)

Section 52D(1) of the Principal Act is amended by omitting “under section 52A or section 52CC” and substituting “by virtue of a licence”.

14. Section 52G inserted

After section 52F of the Principal Act, the following section is inserted in Part IVA:

52G. Validation of certain limited access licences

- (1) A licence issued, or purportedly issued, by the Minister in good faith under this Part before the commencement of the *Roads and Jetties Amendment (Validation) Act 2019*, that was not revoked or surrendered under this Part before the commencement of that Act –
 - (a) is taken to have been validly issued; and
 - (b) is taken to have been so validly issued in respect of the land specified in the licence; and
 - (c) is taken to have remained in force on the same terms and conditions

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until the commencement of that Act; and

- (d) on and from the commencement of that Act, is taken to remain in force until the first of the following occurs:
 - (i) the licence ceases to have effect, or be in force, in accordance with a term or condition of the licence;
 - (ii) the licence is revoked under section 52CG;
 - (iii) the licence is surrendered under section 52CH.
- (2) A licence that is taken to remain in force on and from the commencement of the *Roads and Jetties Amendment (Validation) Act 2019*, by virtue of subsection (1)(d), is taken to have been in force continuously since the licence was issued, or purportedly issued, under this Part subject to its terms and conditions.
- (3) If, before the commencement of the *Roads and Jetties Amendment (Validation) Act 2019* –
 - (a) the owner of land, in respect of which a licence was issued, sold, or otherwise disposed of, the land; and

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- (b) the licence was not revoked under section 52CG, or surrendered under section 52CH, before the sale or disposal of the land by the owner –

the licence is not taken to have ceased to be in force solely on the basis of that sale, or disposal, of the land.

15. Repeal of Act

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