

## CLAUSE NOTES

### *Cable Care (kunanyi/Mount Wellington) Facilitation Bill 2017*

- Clause 1      Short title
- Clause 2      This clause provides for the Bill to commence on the day it receives Royal Assent.
- Clause 3      This clause defines certain terms for the purposes of the Bill.
- Of note:
- aerial easement** – is limited to land within Wellington Park. It does not include private land.
- project** – is broadly defined to allow for one or more cable cars to avoid limiting the design of a potential cable car. For example, the current proposal includes two distinct pieces of cable car infrastructure with a mid-station. For legal clarity, the use of 'one or more cable cars' has been used in the Bill to not preclude such designs being considered and assessed on their merits.
- It also provides for ancillary development. It will be appropriate to ensure that supportive infrastructure and facilities that are critical to the operation of the infrastructure are available for users of such a service. This may include access to food and drink, and utilities such as additional toilets. Any supporting services would be subject to the normal planning, and other statutory, processes.
- project land** – has been limited to council owned land to clarify it does not apply to privately held land – the intent of the legislation is to facilitate access to public land only. There is no need to include Crown land, as the Crown is already able to authorise access to its land.
- It is also limited to land within Wellington Park.
- Clause 4      This clause removes the need for a cable car proponent to seek landowner consent from a council or the Crown, before submitting a planning application that includes public land.
- Clause 5      This clause seeks to provide a land acquisition method that is subject to an order made by the Governor and approved through both Houses of Parliament.
- By applying Part 1A of the *Land Acquisition Act 1993*, the following process would apply:
- the Governor would make an order
  - the order would be published in the Government Gazette
  - the order must be Tabled before each House of Parliament

- the order will take effect after it has been approved or has not be disallowed or withdrawn within 15 sitting days.

Consistent with Clause 4, which removes the need for landowner consent to be obtained prior to making a development application, section 7C(1)(b) of the *Land Acquisition Act 1993*, which relates to obtaining landowner consent, does not apply

Consistent with the Government's policy on this matter, this clause also notes that section 7D(2)(f) may not apply for the purposes of a cable car project, ensuring the acquired land cannot be sold.

The clause includes the acquisition of freehold land as well as easements, including aerial easements.

**Clause 6** This clause clarifies that any land acquired through this Bill will remain part of Wellington Park.

**Clause 7** This clause enables the Minister to grant a proponent access to public land to undertake the necessary site investigations required to prepare a planning application.

Before granting entry, the Minister must:

- consult with the Wellington Park Management Trust; and
- notify the public land owner. In the current example, the landowner is Hobart City Council

The authority to enter:

- will be subject to identified terms and conditions;
- can be revoked; and
- can be issued without seeking applying for a development application from the relevant planning authority, and a permit from the Wellington Park Management Trust, however, all other normal application and permit processes will need to be met by the proponent.

If a proponent causes damage or a 'compensational loss' in the carrying out of this authority to enter, or actions related to that authority, this clause also clarifies that any affected person may seek compensation through an appropriate court.

**Clause 8** This clause provides a mechanism for the compensation of any compensable loss that occurs as a result of the proponent accessing project land under the authority of the Minister. It clarifies that liability rests with the project proponent and not with the Crown or landowner.

**Clause 9** This clause enable the Governor to make regulations.

**Clause 10** This clause notes that the Minister for State Growth is the responsible Minister, and the Department of State Growth is the responsible department unless otherwise stated through an order made through the *Administrative Arrangements Act 1990*.