

CLAUSE NOTES

Strategic Infrastructure Corridors (Strategic and Recreational Use) Bill 2016

Part 1 – Preliminary

Provisions in Part 1 of the Bill deal with technical and procedural matters, including citation and commencement of the Act and definitions used in the Act.

- Clause 1** Short title and citation.
- Clause 2** Provides for the *Strategic Infrastructure Corridors (Strategic and Recreational Use) Bill 2016* to commence on the day on which the Act received Royal Assent.
- Clause 3** Sets out the definition of terms used in the Bill.
- Clause 4** Sets out the definition of reserved purpose as being the provision of transport infrastructure, the provision of telecommunications or energy; or a prescribed purpose.
- Clause 5** Provides that the Act binds the Crown in the Right of Tasmania and that the corridor manager is not an agent or instrument of the Crown.

Part 2 – Strategic Infrastructure Corridors

Provisions in Part 2 of the Bill deals with the declaration of a strategic infrastructure corridor and the effect of that declaration on land within the corridor.

Division 1 – Declaration of strategic infrastructure corridors

- Clause 6** Provides that the Minister may, by a corridor notice, declare an area of land designated on a Central Plan Registry (CPR) plan to be a strategic infrastructure corridor, and specifies the details that a corridor notice must include.
- This clause provides that land can only be declared to form a strategic infrastructure corridor if it currently or previously formed, or was associated with the rail network, and includes bridges over a public road, but not the public road itself. The intent of this clause is to clarify what land can be covered by a corridor notice.
- Clause 7** Provides that the Minister may, by notice, amend a corridor notice to either change the name of the corridor or to alter the area of land within the corridor. The intent of this clause is to enable land to be removed from or added to the corridor if required.
- Clause 8** Provides that the Minister may, by notice, revoke a corridor notice. This clause outlines the impact of revocation on any licences or leases made under the *Crown Lands Act 1976*, and on the effect of the operation of Division 2 or Part 6 of the Bill.

Division 2 – Effect of declaration of strategic infrastructure corridors

- Clause 9** Provides that on the day on which land becomes land within a corridor, that land ceases to be a rail planning corridor, or part of the rail network for the purposes of the *Rail Infrastructure Act 2007*.
- Clause 10** Provides that on the day on which the land becomes land within a corridor, land not already vested in the Crown, vests in the Crown.
- Clause 11** Provides that when the land becomes part of a corridor, it is freed from any existing limitations (other than preserved limitations) and rights (other than preserved rights).
- Where part of the land covered by an existing leases, sub-leases or licences becomes part of a corridor, the extinguishment of existing limitations and rights only applies to that land, and the Minister must vary the lease or licence accordingly.
- Clause 12** Provides that the Minister may by notice declare that a limitation/right is a preserved limitation/right, or re-impose a right or limitation that has been extinguished and that the Minister must provide a corridor manager with information relating to any preserved or re-imposed rights or limitations.
- Clause 13** Provides that a lease or licence that is a preserved limitation/right is taken to be a lease or licence granted under the *Crown Lands Act 1976*. A sub-lease is taken to be a preserved lease for the same purposes. The intent of this clause is to provide a framework to manage preserved or pre-existing leases, sub-leases and licences, and to ensure that the responsible manager is responsible for administering licences, and can retain any licence fees.
- Clause 14** Provides that the owner of land that has vested in the Crown, or a person who held a lease, sub-lease or licence that is extinguished, is entitled to compensation. Compensation does not apply to a lease between the Crown and TasRail. The entitlement to compensation is extinguished 12 months following the day on which the land vests or the lease, sub-lease or licence is extinguished.
- Compensation, and any disputed claim for compensation, will be determined in accordance with the *Land Acquisition Act 1993*.
- Clause 15** Provides that the Minister and Director-General of Lands may create, re-arrange or extinguish folios of the Register under the *Land Titles Act 1980* in relation to all or part of land within a corridor, or adjoining land, and the Minister may issue a direction to the Recorder of Titles.
- Clause 16** Provides that the Minister may direct the Recorder of Titles to place on the Register a notice advising that the Bill applies to all or part of the land within the corridor; or subsequently remove or amend a notice placed on the Register.

Clause 17 Provides that if the Minister has given a direction to the Recorder of Titles in relation to the land, the Minister is not required to make an application under the *Local Government (Building and Miscellaneous Provisions) Act 1993* in respect of matters to which the direction relates.

Clause 18 Provides that State tax is not payable in relation to the vesting of land in the Crown or the creation or rearrangement of folios.

Part 3 – Powers of Minister in Relation to Land within Corridor

Provisions in Part 3 of the Bill deal with the Powers of the Minister in relation to land within the corridor [whether or not a corridor manager has been appointed to the corridor]

Clause 19 Establishes the relationship between this Bill and the *Crown Lands Act 1976*.

Provides that, subject to this Act, the *Crown Lands Act 1976* applies to Crown land that is within a corridor. Land within a corridor cannot be disposed of, other than the granting of an easement, under that Act except as authorised by this Bill.

To the extent of any inconsistency, the provisions of the Bill prevail over the provisions of the *Crown Lands Act 1976*, and specifically excludes the operation of section 45A of the *Crown Lands Act*.

Clause 20 Establishes that land within a corridor is portfolio land for the purposes of the *Crown Lands Act 1976*, and that the Minister is taken to be the Portfolio Minister in relation to the land.

Enables the Minister to grant a lease or licence under the *Crown Lands Act 1976* in relation to land within a corridor; and excludes the operation of specific provisions of the *Crown Lands Act 1976*. A lease or licence can only be granted if it is consistent with a reserve management plan or the corridor safety and use objectives.

Enables monies paid to be used by the Minister for the maintenance of the corridor; the costs of the administration of the lease or licence and any taxes, rates or other outgoings associated with the corridor.

Provides that the Minister must consult with the corridor manager before granting a licence; and may only grant a lease in relation to land within a corridor if there is no corridor manager in relation to the land. The intent of the clause is to ensure there is only one entity with exclusive occupation of the land.

Clause 21 Provides that the Minister may, in addition to the provisions of the *Crown Lands Act 1976* or the terms and conditions of the lease or licence, cancel a lease or licence in a range of circumstances, including when the land is required for a reserved purpose, the continuation of an authorisation may prevent the attainment of the corridor safety and use objectives; a term

or condition of the licence has been contravened, or the holder of the licence or lease is using the land for another purpose.

This clause provides that the Minister must cancel a lease if the lease relates to land all of which is land within a corridor; and the Minister intends to appoint, or has appointed, a corridor manager in relation to a corridor in which the land is situated.

If the Minister appoints a corridor manager in relation to a corridor for which there is a lease relating land both within and outside the corridor, the Minister must vary the lease so as to exclude the land that is within the corridor; and take the necessary steps to adjust the amount payable by the lessee to reflect the excluded land. The lessee is entitled to compensation only in relation to the excluded land.

Clause 22

Provides that the Minister may grant a business licence under Part VA of the *Crown Lands Act 1976* in relation to land within a corridor as if he or she were the Minister responsible for that Act.

The Minister may only grant or renew a business licence if of the opinion that the business licence is consistent with a reserve management plan (if any); and will not prevent the attainment of the corridor safety and use objectives.

Provides that the Minister may, in addition to provisions of the *Crown Lands Act 1976*, cancel a business licence in a range of circumstances, including the land is required for its reserved purposes, the licence preventing or inhibiting the attainment of the corridor safety and use objectives, the holder of the licence using the land for another purpose, or the Minister intends to appoint a corridor manager in relation to the corridor.

Provides that section 48B of the *Crown Lands Act 1976* does not apply to monies paid in respect of a business licence and enables monies to be used by the Minister for the maintenance of the corridor; the costs of the administration of the business licence and any taxes, rates or other outgoings associated with the corridor.

Provides that the Minister may grant or renew a business licence in relation to a corridor whether or not there is a corridor manager or a business permission has been issued in relation to the corridor.

Clause 23

Provides that the Minister may cancel a corridor authorisation granted by a corridor manager in certain circumstances, including when the land is required for a reserved purpose, the continuation of an authorisation may prevent the attainment of the corridor safety and use objectives; a term or condition of the licence has been contravened, or the holder of the licence or lease is using the land for another purpose.

Part 4 – Managing Authority

Provisions in Part 4 of the Bill deal with the powers and functions of the managing authority in relation to land within the corridor.

- Clause 24** Provides that the Minister is the managing authority in relation to a corridor for which there is no corridor manager appointed.
- Clause 25** Provides that the managing authority, in relation to a corridor, has the functions and powers that are imposed or conferred on it by this Bill or any other Act; and any incidental and ancillary powers that are necessary or convenient to exercise and perform those functions or powers.
- Clause 26** Provides that it is a function of the managing authority to manage the corridor subject to this Bill and any reserve management plan in relation to the corridor. If there is no reserve management plan, the managing authority is to manage the corridor in accordance with the corridor safety and use objectives.
- Clause 27** Provides that the managing authority, in relation to a corridor, may enter into a contract or other arrangement with a person to enable works to be undertaken, or the performance or exercise of the functions and powers of the managing authority.

Part 5 – Corridor Managers

Provisions in Part 5 of the Bill deal with appointment of a corridor manager, the powers and functions of the corridor manager in relation to land within the corridor, infrastructure works and improvements, the granting of business permissions etc.

Division 1 – Appointment of corridor managers and committees of management

- Clause 28** Provides that the Minister, by notice, may appoint a person to be the corridor manager in relation to all or part of a corridor- and sets out the range of persons who may be appointed to be a corridor manager. There can only be one corridor manager in relation to the same part of a corridor.
- Clause 29** Provides that in the notice appointing a person to be a corridor manager, the Minister must specify the designated recreational purposes for which the corridor manager is to manage and may develop the corridor. The Minister may, by notice, amend the designated recreational purposes.
- Clause 30** Provides that the Minister may, by notice, revoke the appointment of a person to be a corridor manager.
- Clause 31** Provides that a corridor manager may establish, in accordance with the regulations, a committee of management to assist in performing and exercising its functions and powers.

Subject to the regulations a committee of management may conduct its business in the manner it thinks fit. A member of a committee of management is subject to the directions of the corridor manager.

Division 2 – Functions and powers generally of corridor managers

Clause 32 Provides that the Minister, by notice in writing to a corridor manager, may direct the corridor manager in relation to the performance and exercise of the corridor manager’s functions and powers, and a corridor manager must comply with a notice issued by the Minister. This clause is necessary in the unlikely event that there are issues with the way in which the corridor manager is carrying out its duties and functions.

Clause 33 Provides that a person who is a corridor manager has the functions and powers that are imposed or conferred on the corridor manager by or under this Bill or any other Act; and has any incidental and ancillary powers that are necessary or convenient to exercise those functions or powers.

Clause 34 Provides that the corridor manager:

- must care for, protect, repair and manage the corridor and any fixtures on the corridor (subject to section 37); and
- must take all reasonable steps to ensure the attainment of the corridor safety and use objectives; and
- must ensure that the corridor is managed so as to ensure the attainment of the corridor safety and use objectives, in accordance with a reserve management plan (if any); and in accordance with each corridor plan (if any).

Clause 35 Provides that the corridor manager may enter into a contract or other arrangement with a person in relation to the performance or exercise of its functions and powers.

Clause 36 Provides that the corridor manager is taken to be the occupier of land within the corridor, as if they were a tenant in exclusive occupation of the land pursuant to lease granted by the Minister administering the *Crown Lands Act 1976*.

Provides that the corridor manager must comply with all State and Commonwealth legislation that relates to or affects the use or occupation of the land; and must comply with the duties and obligations and discharge the responsibilities and liabilities that apply to an occupier of the land.

If the Minister is satisfied that a corridor manager has failed to comply with a duty of the corridor manager or to take an action that the corridor manager is required to take under this Bill or any other Act, the Minister may take the necessary action and recover any costs reasonably

incurred in doing so from the corridor manager.

Division 3 – Infrastructure, works and improvements

Clause 37 Provides that the corridor manager may use, and permit the use of, for a designated recreational use, substantial fixed infrastructure situated on the corridor.

Provides that the corridor manager must notify the Minister before using, or permitting use, of the substantial fixed infrastructure and the Minister may by notice, refuse to permit the use; or grant permission to use with conditions specified.

Provides that the corridor manager must take all reasonable steps to ensure that, if permission has been refused, the infrastructure is not used by any person.

The corridor manager must ensure that the infrastructure is not dismantled or damaged, other than by deterioration that has occurred in the ordinary course of the effluxion of time. The corridor manager is not required to repair any such deterioration and must notify the Minister of the deterioration or that the infrastructure is not safe to be used.

If the Minister permits the use of the substantial fixed infrastructure with any conditions specified in the notice condition, the corridor manager must not use, or permit its use, except in accordance with the conditions.

Clause 38 Describes the corridor manager's responsibilities in relation to substantial fixed infrastructure. It provides that the corridor manager must take all reasonable steps to ensure that substantial fixed infrastructure that is used for a designated recreational use, is safe to be used for that purpose, and outlines what a corridor manager must do if the infrastructure is not safe to be used, including seeking approval from the Minister to repair the infrastructure, and restricting access and use by any person while it is unsafe.

Provides that the corridor manager must ensure that the infrastructure is not dismantled or damaged, other than by deterioration that has occurred in in the ordinary course of the effluxion of time. The corridor manager is not required to repair any such deterioration and must notify the Minister of the deterioration or that the infrastructure is not safe to be used.

If the Minister received a notice from the corridor manager that the infrastructure is not safe to be used, a person acting on behalf of the Crown may enter the corridor and take action that is necessary to repair the infrastructure.

Clause 39 Provides that subject to this Division and the requirements of a reserve management plan; and any corridor plan that applies in relation to the

corridor, the corridor manager may carry out, or arrange for the carrying out of works or improvements on the corridor for the purpose of enabling the corridor to be used for its designated recreational use, or enabling the corridor manager to comply with the requirements of section 36.

The Minister may, on the application of a corridor manager, determine that works are consistent with these purposes.

Clause 40 Provides that the corridor manager must ensure that works carried out on the corridor are in accordance with all of the relevant approvals required by any State or Commonwealth legislation, for the carrying out of works, and with the approval of the Minister.

The corridor manager may apply to the Minister for the approval to carry out works on the corridor. The Minister may approve, with conditions, the carrying out of works.

The corridor manager does not require the approval of the Minister for emergency works, routine works, or works authorised under a reserve management plan or a corridor plan.

Clause 41 Provides that if a person ceases to be a corridor manager, or a lease in relation to land within a corridor expires, all improvements on the land that have been made on behalf of the corridor manager or the lessee, vest in the Crown.

The parties may agree that an improvement does not vest in the Crown, that the improvement will be removed from the corridor, and whether the person is required to make good any damage caused by the removal of the improvement.

Provides that a person may not remove any improvement made within a corridor without the consent of the Minister.

Provides the Minister may direct a corridor manager or holder of a lease or sub-lease to remove an improvement; and to make good any damage caused by the removal of the improvement, and that if a direction to remove is issued, the improvement does not vest in the Crown.

If a person does not comply with a direction this clause allows the Minister to remove the improvement, make good any damage, and dispose of the improvement and recover all reasonable costs incurred.

Division 4 – Business permissions

Clause 42 Provides that a person, other than a corridor manager, may not undertake business on the corridor, unless that business is undertaken under a business permission or a business licence.

Clause 43 Provides that a person can apply to the corridor manager for a business permission. An application is to be lodged with a corridor manager, be in writing and accompanied by the fee or any information determined by

the corridor manager. The corridor manager may remit any or all of the fee for the application.

Clause 44 Provides that a corridor manager may only grant a business permission for the purposes of enabling the corridor to be used for a designated recreational use, or conducting tours or providing facilities for enabling the corridor to be used for the designated recreational use, or for a purposes approved by the Minister.

This clause enables the corridor manager to grant a business permission with or without conditions, and vary those conditions, or refuse to grant a business permission, but only if the operation of the business under the permission would not be contrary to the regulations, the requirements of a reserve management plan, corridor plan or the corridor safety and use objectives.

Clause 45 Provides that the holder of a business permission, before the permission ceases to be in force, may apply to the corridor manager for a renewal of the permission, and that the application must be in writing and accompanied by a fee or any other information required by the corridor manager.

Clause 46 Provides that the corridor manager may renew the business permission, with or without conditions; or refuse to renew the business permission, and that the corridor manager must notify the applicant of the renewal of, or refusal to renew, a business permission.

Clause 47 Provides that the holder a business permission may apply to the corridor manager for approval to transfer the permission before the transfer takes effect and that the application must be in writing and accompanied by a fee or any other information required by the corridor manager.

The corridor manager may authorise the transfer, with or without conditions, or refuse to authorise the transfer, and notify the applicant of the decision. A transfer is of no effect unless it is authorised by the corridor manager.

Clause 48 Provides that a corridor manager may, by notice cancel a business permission in a range of circumstances, including if requested to do so by the holder, the holder contravenes a condition of the permission or is carrying out an unauthorised activity on the corridor, the designated recreational use of the corridor changes, or the corridor manager is of the opinion that the holder of the permission has prevented or hindered the attainment of the corridor safety and use objectives.

Provides that all business permissions are cancelled on the day on which the person who granted the permission ceases to be a corridor manager in relation to the corridor.

Clause 49 Provides that a corridor manager may charge for the grant, renewal or transfer of a business permission, an amount of money agreed between

the corridor manager and the person to whom the business permission is granted. The money is to be applied to the management and maintenance of the land within the corridor and any object or structure situated on the land.

Division 5 – Miscellaneous

Clause 50 Provides that the Minister may direct a corridor manager to take out and maintain relevant insurance in relation to the corridor.

Clause 51 Requires the corridor manager to keep a register of any corridor authorisations granted or cancelled by the corridor manager; and any authorisation issued by the corridor manager transferring a business permission, and must provide access to this information upon request of the Minister.

Clause 52 Provides that a corridor manager by notice may, if authorised to do so by the Minister, designate an area of land within the corridor to be a prohibited or a restricted access area. Enables the corridor manager to specify who can enter and remain on the land, for what purposes they can enter and remain, and under what conditions, and the activities that may be carried out on the land.

A corridor manager may grant or refuse to grant a use permission, require the payment of a prescribed fee for the grant of a use permission, specify the period for which the use permission remains in force; and cancel a permission. A use permission is cancelled if the person who granted the permission ceases to be a corridor manager in relation to the corridor.

The Regulations may prescribe the purposes for which an area of land may be specified in a notices, the functions and powers of the corridor manager in relation to an area of land; and provisions in respect of use permissions.

Clause 53 Provides that any State tax payable by the Crown in relation to a corridor is payable by a corridor manager.

Part 6 – Planning

Provisions in Part 6 of the Bill deal with planning matters in relation to a corridor and adjoining land. The intent of this section is to ensure that the corridor has the same level of planning protection as it would have done had it remained a rail corridor.

Clause 54 Sets out the definition of terms used in this Part.

Clause 55 Provides that if an application is made, other than by a responsible manager, for a permitted development wholly or partly within a corridor or within adjoining land, the relevant planning authority must give the Minister notice of the application, and the Minister may give the planning

authority advice on the application recommending any conditions relating to the corridor safety and use objectives.

The planning authority may have regard to that advice in determining the application and may grant the permit subject to the conditions recommended by the Minister. The planning authority must give the Minister notice of any appeal, and the Minister is taken to be a person whose interests are affected and who has an interest in the subject matter of the appeal.

Clause 56

Provides that if an application is made, other than by a responsible manager, for a permit for a discretionary development wholly or partly within a corridor or within adjoining land, the relevant planning authority must refer the application to the Minister, and the Minister may give the planning authority advice on the application.

The planning authority may have regard to that advice in determining the application and may grant the permit subject to the conditions recommended by the Minister. The planning authority must give the Minister notice of any appeal, and the Minister is taken to be a person whose interests are affected and who has an interest in the subject matter of the appeal.

Provides that if the Minister fails to give the planning authority advice in relation to the application, the planning authority may determine the application without further reference to the Minister, and the planning authority must give the Minister notice of its decision, whether or not the Minister has given advice on the application.

Clause 57

Provides that a planning authority must, in making any determination under section 56(2)(b) of the *Land Use Planning and Approvals Act 1993* in relation to a permit that relates to all or part of a corridor; have regard to the corridor safety and use objectives.

Clause 58

Provides that a responsible manager is not required to comply with the requirements of the *Land Use Planning and Approvals Act 1993* for undertaking emergency works within the corridor or routine works that are carried out wholly within the corridor in order to attain the corridor safety and use objectives.

Part 7 – Reserve Management Plans and Corridor Plans

Provisions in Part 7 of the Bill deals with the preparation, approval, implementation and publication of plans dealing with the management of land reserved as a strategic infrastructure corridor; and for use of land for recreational purposes.

Clause 59

Provides that the Minister may require the Secretary to prepare and submit to the Minister a draft reserve management plan and that if a plan is in place it must be implemented by a managing authority.

This clause enables the Minister to accept, alter or revoke a reserve management plan. The plan must be reviewed periodically and may be published or otherwise made available to the public.

Clause 60 Provides that the Minister may, by notice, require a corridor manager to prepare and submit drafts of any or all of a corridor development plan, a corridor management plan, a vegetation management plan or a plan relating to any matters determined by the Minister.

A corridor plan is to include any matters that are required in the regulations (if any) to be included; and is to be consistent with the attainment of the corridor safety and use objectives.

The Minister may accept, revoke or review a plan prepared by a corridor manager, or require a plan to be amended and resubmitted.

The intent of this clause is to ensure there are appropriate mechanisms in place to ensure that the corridor is being managed and maintained while it is being used for the recreational purpose, and to ensure that any development of the corridor is appropriately considered and managed.

Clause 61 Provides that a corridor manager may publish a corridor plan and that the Minister may, by notice, require a corridor manager to publish a plan or make it available to the public.

Clause 62 Provides that a corridor manager must implement a reserve management plan, and each corridor plan, in relation to the corridor. To the extent of any inconsistency between a provision of a reserve management plan and a provision of a corridor plan, the provision of the reserve management plan applies

If there ceases to be a corridor manager in relation to a corridor, each corridor plan in relation to the corridor is revoked.

Part 8 – Fencing and Drainage

Provisions in Part 8 of the Bill deal with obligations in relation to fencing and the control of drainage by adjoining landowners

Clause 63 Sets out the definition of terms used in this Part of the Bill.

Clause 64 Provides that, except as provided in this Bill, a corridor manager and the Crown are not liable to make any contribution under the *Boundary Fences Act 1908* toward the erection or repair of a fence any part of the corridor land and any adjoining land.

The intent of this clause is to ensure the existing fencing arrangements applying to rail corridors continue to apply to the corridor.

Clause 65 Provides that the corridor manager and an adjoining landowner may

make an arrangement in relation to fencing, and that such an arrangement ceases to be in effect if there ceases to be a corridor manager in relation to a corridor.

Clause 66 Establishes the responsibilities of the responsible manager where an existing fence has been damaged or destroyed as a result of works undertaken by the responsible manager, and provides a process to be followed if the responsible manager fails to meet its obligations.

Clause 67 Establishes the responsibilities of an adjoining landowner in relation to drainage from adjoining land onto the corridor and the discharge of effluent onto the corridor and provides that the responsible manager can recover costs from the adjoining landowner if works are required as a result of the landowner's failure to comply with drainage requirements.

Part 9 – Service Infrastructure

Provisions in Part 9 of the Bill deal with the authorisation and management of service infrastructure installed on the corridor.

Division 1 – Interpretation of Part

Clause 68 Sets out the definition of terms used in this Part of the Bill.

Clause 69 Provides that nothing in this Part or section 92 derogates from the provisions of the *Electricity Industry Safety and Administration Act 1997*; the *Electricity Supply Industry Act 1995*; the *Gas Act 2000*; the *Gas Pipelines Act 2000*; the *Water Management Act 1999*; or any prescribed Act.

Division 2- Installation of service infrastructure

Clause 70 Provides that responsible entity for service infrastructure is, until it begins to be used, the installer; and once it is being used, the person who legally has primary responsibility for its maintenance. If it is not certain who this person is, the responsible manager may determine that person is either the installer, an adjoining landowner in the case of agricultural drains; or the service provider in the case of communications, gas, electricity or water.

A person who disputes such a determination may apply to the Magistrates Court for a review of that determination.

Clause 71 Provides that a responsible manager may grant a 'service infrastructure permission' authorising the installation of service infrastructure on a corridor in the form approved by the Minister, which may be subject to installation conditions. Establishes liability for the payment of costs and the recovery of those costs by the responsible manager.

Clause 72 Provides the ability for the responsible manager to vary the conditions of a service infrastructure permission, to enforce conditions dependent upon the urgency and seriousness of corridor safety and the ability to revoke the permission as well as the ability to recover administrative costs incurred in taking these actions. Establishes that, neither the Crown nor the relevant responsible manager is liable for any loss or damage that a responsible entity may incur as a result of these actions.

Division 3 – Installed service infrastructure

Clause 73 Establishes the conditions under which the responsible manager may remove problematic service infrastructure, the actions that can be taken ranging from a show cause notice to removal of the infrastructure, and the recovery of the responsible manager's costs associated with the required action. No action lies against the Crown or responsible manager for these actions.

Clause 74 Establishes the conditions under which the responsible manager may remove pre-existing infrastructure, the actions that can be taken ranging from a show cause notice to removal of the infrastructure, and the recovery of the responsible manager's costs associated with the required action. No action lies against the Crown or responsible manager for these actions.

Part 10 – Clearing of Obstructions to Line of Sight

Provisions in Part 10 of the Bill deal with the clearing of obstructions to the line of sight at corridor and road crossings.

Clause 75 Sets out the definition of terms used in this Part of the Bill.

Clause 76 Provides that if a responsible manager reasonably considers that a fence, sign or vegetation on adjoining land is obstructing a line of sight on the corridor that poses a genuine risk to the safety of persons on the corridor or on a road, the responsible manager may give the adjoining landowner a 'clearance notice' requiring the obstruction to be cleared. The responsible manager may offer assistance to the adjoining landowner to clear the obstruction.

Establishes the timeframe for action, the rights of the responsible manager to seek a warrant in certain circumstances and the execution of such a warrant as well as the recovery of any costs of clearing the obstruction being recoverable from the adjoining landowner.

Part 11 – Corridor Crossings

Provisions in Part 11 of the Bill deal with the authorisation and management of public and private roads crossing the corridor consistent with the provisions in the Rail Infrastructure Act 2007 as far as possible.

Clause 78 Sets out the definition of terms used in this Part of the Bill.

Clause 79 Provides that a public road authority must not unreasonably restrict or obstruct access to the road from the corridor.

If a corridor is declared in relation to areas of land between which extends, immediately before the corridor comes into existence, a public road or an area of land to which there was a public right of access, there is taken to be a continued right to enter onto that land.

Clause 80 Provides that a responsible manager may issue, apply conditions or revoke a private road use permission to a person, authorising the use of a private road.

Clause 81 Provides that a responsible manager is to enter into corridor crossing agreements following the assessment of safety risks and appropriate risk management, including the role of the road manager in managing safety risks. Establishes the provisions that a corridor crossing agreement is to include such as implementation, evaluation of risk management measures, roles and responsibilities and administrative procedures.

Clause 82 Provides for the removal of railway track on public roads that extend between parts of corridor. The corridor manager must ensure that, as soon as practicable, any railway track is removed and the road is reinstated. This can be through agreement with the road authority or by the corridor manager undertaking the work.

Establishes the responsibilities of the corridor manager in relation to advising the road authority and of the road authority to assess the work, require action and recover costs.

Clause 83 Establishes the maintenance responsibilities where a public road extends between parts of a corridor and where these are the responsibility of the road authority or the responsible manager, including the allocation of cost to the responsible party.

Clause 84 Provides for the responsibilities, cost allocation and liability for the maintenance of a private road in relation to the corridor.

Clause 85 Provides that a responsible manager may, in a form approved by the Minister, grant and impose conditions on a private road construction permission to an adjoining landowner authorising the construction of a private road on the corridor. The conditions may include the payment of administrative costs incurred by the responsible manager.

Clause 86 Provides that, if a private road construction permission is granted subject to construction conditions, the responsible manager may vary the conditions from time to time if necessary for the attainment of the corridor safety and use objectives. Establishes the actions the responsible manager may take if conditions are not complied with.

Neither the Crown nor the responsible manager are liable for any loss

or damage that a responsible entity may incur as a result of actions taken by the responsible manager.

Part 12 – Access to Corridor and Adjoining Land

Provisions in Part 12 of the Bill deal with access to corridor and adjoining land under certain circumstances. These clauses are intended to replicate existing legislative provisions as far as possible.

- Clause 87** Sets out the definition of terms used in this Part of the Bill.
- Clause 88** Provides that a responsible manager may access adjoining land to carry out emergency works in relation to the corridor, if necessary without warning to, or the permission of, the adjoining landowner, to the extent and for the period necessary to carry out the emergency works. Establishes the rights and obligations of the responsible manager or a person acting on its behalf and of land owners in such situations.
- Clause 89** Provides that if a responsible manager needs to access adjoining land to carry out routine works but cannot gain permission from the adjoining landowner, the responsible manager may apply to a justice for a warrant to access the land and establishes grounds on which a justice may issue a warrant.
- Clause 90** Provides that a warrant may authorise access by reference to specified times or for specified periods, and be issued on the conditions, if any, that the Justice considers appropriate. Establishes the rights and obligations of the responsible manager, a person acting on its behalf and adjoining landowners in the execution of a warrant.
- Clause 91** Provides the rights of adjoining landowners to access the corridor in an emergency and provides examples of such emergencies. Establishes the actions that a person who accesses the corridor for an emergency must take.
- Neither the Crown nor a responsible manager is liable for any loss or damage that a person incurs as a result of accessing, or carrying out emergency action on a corridor.
- An adjoining landowner must make good damage, or pay the responsible manager fair compensation for that damage, incurred as a result of accessing a corridor or carrying out emergency works on corridor with any dispute to be determined by an arbitral tribunal, within the meaning of the *Commercial Arbitration Act 2011*.

Part 13 – Removal of Objects in a Corridor and Making Good of Damage

Provisions in Part 13 of the Bill deal with the removal of unauthorised works, service infrastructure and abandoned articles from a corridor; and making good of damage by the responsible manager under certain circumstances.

Clause 92 Provides that if a person carries out works on a corridor or installs or leaves service infrastructure on a corridor, without lawful authority, the responsible manager may remove and dispose of those works, recover the costs of doing so as a debt due from that person and retain any proceeds of disposing of the unlawful works or service infrastructure. No action lies against the Crown or the relevant responsible manager in relation to an action taken, or failure to take action, by a responsible manager under this section.

Clause 93 Provides that a responsible manager may remove an object from the corridor if it appears to the responsible manager that the object has been abandoned and how the responsible manager must deal with that object within specified timeframes and subject to the value of the object. Also provides for the recovery of costs and the treatment of proceeds of sale.

Clause 94 Provides that the responsible manager must make good any unsanctioned damage caused in respect of accessing adjoining land to undertake routine or emergency works; or in clearing the line of sight.

Any dispute regarding the responsible manager's obligations is to be determined by an arbitration tribunal within the meaning of the *Commercial Arbitration Act 2011*, in accordance with that Act.

Part 14 – Miscellaneous

Provisions in Part 14 of the Bill deal with miscellaneous provisions in relation to the Bill.

Clause 95 Provides that the Minister may delegate any of the Minister's or the managing authority's powers or functions under this Bill, other than this power of delegation.

Clause 96 Provides that the Minister, by notice, may transfer to the Crown any rail infrastructure that is situated on a corridor; and that the Minister may dispose of any rail infrastructure that is owned by the Crown.

Clause 97 Provides that excepting the vesting of land in the Crown or the extinguishment of a licence, lease or sub-lease (excluding a lease between the Crown and TasRail), or the making good of unsanctioned damage, no compensation is payable by the Crown.

Clause 98 Provides protection for the Crown from a failure to carry out works unless, at the time of the alleged failure, the Crown had actual knowledge of the facts creating that particular risk, the materialisation of which resulted in the harm.

This section does not operate to create a duty of care or liability that would otherwise not exist.

Clause 99 Provides that the responsible manager may issue to any person a direction prohibiting or restricting the use of the corridor by the person.

A person must not, without reasonable excuse, fail to comply with a direction.

However, a responsible manager may not issue such a direction in respect of an activity for which a person has a permit, business permission, service infrastructure permission, private road use permission, private road construction permission or use permission under this Act; or a lease, licence or business licence under the *Crown Lands Act 1976*.

- Clause 100** Provides the circumstances under which fees may and may not be charged for the use of a corridor for recreational purposes or the use of a structure situated on a corridor.
- Clause 101** Provides that a fee collected under this Bill by a responsible manager is to be applied to the management and maintenance of land within a corridor and any object or structure situated on the land.
- Clause 102** Provides that land within a corridor is not rateable under the *Local Government Act 1993*.
- Clause 103** Provides that a notice under this Act is not a statutory rule for the purposes of the *Rules Publication Act 1953*; and is not subordinate legislation for the purposes of the *Subordinate Legislation Act 1992*.
- Clause 104** Provides that regulations may be made for the purposes of this Bill.
- Clause 105** Assigns the administration of this Act to the Minister for Infrastructure, supported by the Department of State Growth.