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### Cable Car (kunanyi/Mount Wellington) Facilitation Act 2017

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## Cable Car (kunanyi/Mount Wellington) Facilitation Act 2017

**An Act to facilitate the development of facilities in relation to, and the operation of, cable cars on kunanyi/Mount Wellington**

[Royal Assent 16 October 2017]

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 Cable Car (kunanyi/Mount Wellington) Facilitation Act 2017 .

#### 2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

#### 3. Interpretation

In this Act, unless the contrary intention appears –

***aerial easement*** means an easement, for the purposes of a project, that relates to airspace that is above land that is referred to in paragraph (a) of the definition of project land;

***compensable loss*** means –

- (a) damage to the surface of land; or
- (b) damage to crops, trees, grasses, fruit, vegetables or other vegetation; or
- (c) damage to buildings, structures, works or objects; or
- (d) damage to any improvement on land; or
- (e) loss of opportunity to make any planned improvement on land; or
- (f) deprivation of possession or use of the whole or part of the surface of land; or
- (g) severance of land from other land owned or occupied by the person claiming compensable loss; or
- (h) destruction or loss of, or injury to, disturbance of, or interference with, stock; or
- (i) loss of amenity, including recreation and conservation values; or
- (j) any decrease in the market value of a person's interest in land; or
- (k) the cost of rehabilitation or remediation of land;

***land*** has the same meaning as in the Land Acquisition Act 1993 ;

***project*** means all or part of a project consisting of –

- (a) the construction of facilities necessary for the operation of one or more cable cars, including –
  - (i) terminals for the purposes of such cable cars; and
  - (ii) towers, and a cableway between the towers, for the purposes of such cable cars; and
- (b) the construction of facilities related to the operation or use of such cable cars; and
- (c) the use of any facilities, or cable cars, referred to in paragraph (a) or (b) –

and includes other developments and uses forming part of that project;

***project land*** means –

- (a) land that is –
  - (i) within Wellington Park; and
  - (ii) owned by a council; and
  - (iii) required for the purposes of a project; and
- (b) any airspace to which an aerial easement relates;

***proponent*** means a person that wishes to undertake all or part of a project;

***public land*** has the same meaning as in section 4 of the Public Land (Administration and Forests) Act 1991 ;

***Wellington Park*** has the same meaning as in the Wellington Park Act 1993 ;

***Wellington Park Management Trust*** means the Wellington Park Management Trust established under section 9 of the Wellington Park Act 1993 .

#### 4. Planning permits

Section 52(1B) of the Land Use Planning and Approvals Act 1993 does not apply in relation to an application under that Act in relation to a project.

#### **5. Application of certain provisions of Land Acquisition Act 1993 for purposes of project**

- (1) Part 1A of the Land Acquisition Act 1993, and any other provision of that Act that is relevant to the operation of that Part, applies in relation to project land as if any structure, facility, or work, relating to a project were infrastructure for the purposes of Part 1A of the Land Acquisition Act 1993.
- (2) Despite subsection (1), section 7C(1)(b) of the Land Acquisition Act 1993 does not apply in relation to project land.
- (3) Despite subsection (1) and section 7D(2)(f) of the Land Acquisition Act 1993, an order made under section 7B(2) of the Land Acquisition Act 1993 may not authorise the sale by the Crown of any project land that is proposed to be acquired under that Act for the purposes of a project.
- (4) A reference in the Land Acquisition Act 1993 to land or an easement is to be taken, so far as is necessary for the purposes of the application of Part 1A of that Act to project land, to include, but is not limited to including, a reference to –
  - (a) an aerial easement; and
  - (b) an easement that enables persons, together with any vehicles, machinery and equipment, to enter and exit project land.

#### **6. Certain project land remains part of Wellington Park**

The acquisition, under Part 1A of the Land Acquisition Act 1993 as applied by section 5, for the purposes of a project, of project land is not to be taken to have the effect that any of that project land ceases to be part of Wellington Park.

#### **7. Authority to enter land, &c.**

- (1) The Minister may, in writing, grant to a proponent, under this subsection, an authority for the proponent, and persons acting on behalf of the proponent, to –
  - (a) enter public land; and
  - (b) carry out on the land activities, including testing, that are reasonably required to be carried out by or on behalf of the proponent for the purposes of enabling an application under the Land Use Planning and Approvals Act 1993 for a permit, in relation to a project, to be made by the proponent.
- (2) The Minister must consult with the Wellington Park Management Trust before granting an authority under subsection (1) in relation to land that is within Wellington Park.
- (3) If the land to which an authority under subsection (1) relates is not vested in the Crown, the Minister, before granting the authority, is to notify the person or body in whom or which the land is vested.
- (4) An authority granted under subsection (1) is subject to the terms and conditions specified in the authority.
- (5) Despite the Wellington Park Act 1993 and the Land Use Planning and Approvals Act 1993, the proponent to whom an authority is granted under subsection (1), and persons acting on behalf of the proponent, may, under and in accordance with the authority –
  - (a) enter and remain on the land to which the authority relates, together with any vehicles, machinery and equipment necessary for carrying out activities referred to in that subsection, for the purpose of carrying out such activities; and
  - (b) carry out on the land activities referred to in that subsection.
- (6) The Minister may revoke an authority under subsection (1) by notice in writing to the proponent to whom the authority was granted.

#### **8. Payment of compensation for certain losses**

- (1) A proponent, or a person acting on behalf of a proponent, must not –
  - (a) in the exercise of any rights under an authority under section 7(1); or
  - (b) by an act or omission on land to which an authority under section 7(1) relates –cause a person to suffer, or to be likely to suffer, compensable loss.
- (2) A person who suffers, or is likely to suffer, compensable loss because of a breach of subsection (1) by a proponent or a person acting on behalf of a proponent is entitled to receive from the proponent an amount of compensation sufficient to compensate the person for the compensable loss.

(3) A person to whom an amount of compensation is payable in accordance with subsection (2) may claim the amount in a court of competent jurisdiction.

(4) A reference in this section to an amount of compensation sufficient to compensate a person for compensable loss does not include so much of the amount as has been incurred, or is likely to be incurred, by a failure of the person to mitigate the loss.

#### **9. Regulations**

(1) The Governor may make regulations for the purposes of this Act.

(2) The regulations may be made so as to apply differently according to such factors as are specified in the regulations.

(3) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

#### **10. Administration of Act**

Until provision is made in relation to this Act by order under section 4 of the Administrative Arrangements Act 1990 –

(a) the administration of this Act is assigned to the Minister for State Growth; and

(b) the department responsible to that Minister in relation to the administration of this Act is the Department of State Growth.