



Mt Wellington Cable Car Facilitation Bill 2017

On 15 July 2017, the Minister for State Growth released draft legislation to allow the Mount Wellington Cable Car project to avoid the need to obtain landowner consent from Hobart City Council (the owner of land within Wellington Park required for the cable car project). Instead, the Minister will acquire the land on behalf of the proponent and allow a planning application to be submitted for the project.

To read the draft Bill, [click here](#). The key changes proposed are explained below.

Any person can make comments on the draft Bill until **4 August 2017**. Send your comments to:

Email: consultation@stategrowth.tas.gov.au

Post: State Growth (Attn: Anne Beach)
GPO Box 536, Hobart TAS 7001

What does the draft Bill do?

- ***Exempts the cable car project from the landowner consent requirements for public land***

Currently, a development application for the cable car project on kunanyi / Mt Wellington cannot be lodged until the proponent obtains written consent from the general manager of Hobart City Council.

The Bill explicitly exempts the cable car project from this requirement.

- ***Allows land within Wellington Park and airspace required for the project to be acquired***

Currently, land can only be acquired on behalf of a private developer for the purpose of providing "public infrastructure". The cable car would not fall within the existing categories of public infrastructure for which land can be acquired, so the Bill states that the cable car will fall within the "other prescribed services" category.

This acquisition power is limited to land within Wellington Park owned by the Hobart City Council, and any airspace above land required for the project. It does not extend to any privately owned land required for the project.

- ***Removes the need for Council consent to the acquisition***

Currently, the Minister cannot recommend land acquisition unless the proponent provides a report accompanied by written consent from Hobart City Council, or demonstrates that, despite efforts, it will not be possible to obtain this consent.

The Bill removes this requirement for the cable car project.



- ***Allows the Minister to grant access for planning activities***

Currently, permission from landowners (including Hobart City Council) would be required before the cable car proponent could enter land to undertake any work required to prepare a development application (for example, surveying work, biodiversity studies, Aboriginal heritage assessments, traffic surveys).

Under the Bill, the Minister can grant an authority to enter land, subject to any terms or conditions. Compliance with the terms of the authority will be sufficient to authorise entry, regardless of any other laws.

Ⓜ As drafted, this power is not limited to land within Wellington Park owned by Hobart City Council and could potentially be used to authorise entry onto private land to carry out preliminary assessments.

- ***Prohibits any acquired land being sold to the proponent***

Currently, an acquisition order can authorise sale of any specified land to the proponent.

The Bill prevents the Governor from including such an authorisation in any acquisition order relating to the cable car. Land acquired under the Bill will become Crown land and remain as part of Wellington Park.

Ⓜ Section 7G of the *Land Acquisition Act 1993* requires parliamentary approval for acquired land to be used for any purpose other than the proposed infrastructure. Unless specifically provided for in the acquisition order, this could prevent the land being used for public recreation while the acquisition order is in place.

What doesn't the draft Bill do?

- ***Authorise the cable car proposal***

The proponent will still need to obtain a planning permit before proceeding with the project

- ***Exempt the proposal from planning, heritage or environmental assessment requirements***

The project will be subject to standard assessment requirements under the *Land Use Planning and Approvals Act 1993* (other than the landowner consent provisions), *Environment Protection and Biodiversity Conservation Act 1999*, *Forest Practices Act 1985*, *Threatened Species Protection Act 1995* and the *Aboriginal Relics Act 1975*

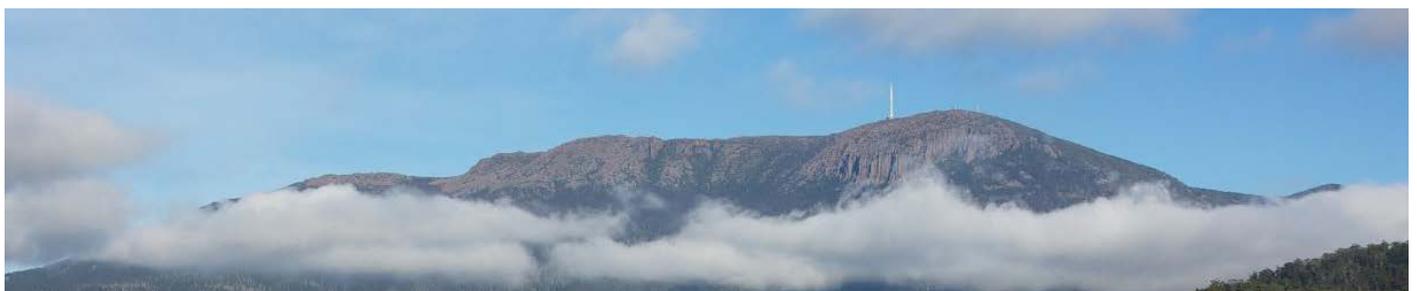
The proposal has not been accepted as a Project of State Significance, so will likely be assessed by Hobart City Council as a discretionary application under the *Land Use Planning and Approvals Act 1993*.¹ This will provide an opportunity for public comments, and a right to appeal to the Resource Management and Planning Appeal Tribunal.

- ***Acquire land within Wellington Park***

Approval of both Houses of Parliament, and sign-off by the Governor, will still be required before a land acquisition order can be made.

- ***Acquire any private land***

The proponent remains responsible for reaching agreement with any owner of private land required for the cable car project (other than for airspace easements).



¹ The cable car project may still apply for declaration as a Project of Regional Significance, or as a major project under new legislation expected to be introduced later in 2017. Each of these types of projects may be subject to different assessment processes, and offer differing levels of public participation.

How will land be acquired if the Bill is passed?

If the Bill is passed, the following steps will need to be taken before land within Wellington Park can be acquired:

1. Proponent submits a report to the Minister providing "a comprehensive description of the proposed infrastructure", including any information required by the regulations²
2. Minister is satisfied that acquisition is in the public interest³
3. Minister gives Hobart City Council (and any landowners affected by the acquisition of an airspace easement over their property) at least 14 days' notice of her or his intention to recommend acquisition
4. Minister makes a recommendation to the Governor that an acquisition order be made, including any terms of conditions of the acquisition
5. Governor makes the order, setting out the proponent, the land to be acquired, details of the infrastructure to be constructed on the land, and any conditions of acquisition
Conditions may include payment of the State government's costs relating to the acquisition, and depositing a security bond (which may be forfeited if acquisition conditions are not complied with, if no planning application is made within 2 years, or if a planning permit granted for the project has lapsed)
6. Notice of the acquisition order is published in the Gazette
7. The acquisition order is laid before both Houses of Parliament within 10 sitting days
8. The acquisition order is approved by both Houses of Parliament. "Approval" includes:
 - Each House formally resolves to approve the order, or
 - Within 15 sitting days, no member of either House has tabled a motion to disallow the order, or
 - A motion to disallow the order has been withdrawn or voted down⁴
9. Hobart City Council grants a planning permit for the proposal. An application for a planning permit will be assessed against the terms of the planning scheme and the Wellington Park Management Plan.
If no application has been made within 12 months of the acquisition order (or 24 months, if allowed by the Minister), the Minister may revoke the acquisition order.
10. Any appeal against Council's decision to grant, or to refuse, a planning permit is resolved
11. The Minister and Hobart City Council agree on terms of acquisition (including compensation to be paid) and register the acquisition with the Recorder of Titles.

***If you have any questions regarding the Bill,
please feel free to contact EDO Tasmania on 6223 2770.***

Any person can submit comments on the draft Bill until 4 August 2017.

² Currently there are no regulations setting out information requirements. The Governor can approve regulations under the *Land Acquisition Act 1993*, as well as under the Bill, so may prescribe information requirements in future.

³ There are currently no criteria in the Act to guide when acquisition will be "in the public interest".

⁴ Parliamentary approval is also required to revoke or significantly amend an acquisition order