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| Land purchase, acquisition and compensation  General information for property owners |

Introduction

The Department of Environment, Land, Water and Planning (DELWP) plays a key role in supporting the state government’s priority to manage our land and natural resources; protect our environment; and respond to fire, flood and biosecurity emergencies.

To carry out these activities it is sometimes necessary to acquire land.

This brochure outlines the processes involved with the negotiated purchase and compulsory acquisition of land and is intended as a general introduction only – you should refer to the relevant legislation for more specific information.

For more information or to raise issues directly related to your land, please contact 136 186 or customer.service@delwp.vic.gov.au

Project planning and early advice

The *Crown Land (Reserves) Act 1978* and the *Conservation, Forests and Lands Act 1987* authorise the Minister for Environment, Climate Change and Water or the Secretary of DELWP to purchase and compulsorily acquire land.

In most cases compulsory acquisition of your property can only happen after the land is reserved for a public purpose in the Municipal Planning Scheme. Before your land is reserved for a public purpose, you will be notified by the planning authority of the proposal and have an opportunity to express your views.

When the time comes to acquire land, our officers will contact landowners to discuss the proposals and provide any information required.

What is the acquisition process?

**Negotiated purchase** – DELWP conducts the purchase of land by agreement.

OR

**Compulsory acquisition** – DELWP conducts the acquisition of land by compulsory process in accordance with the *Land Acquisition and Compensation Act 1986*.

Negotiated purchases and compulsory acquisitions are conducted in accordance with legislative requirements, DELWP policies and procedures and the Government’s *Policy and Instructions for the Purchase, Compulsory Acquisition and Sale of Land*.

Negotiated purchase process

DELWP and landowners can agree to enter into voluntary negotiations for the purpose of purchasing land. Landowners have the opportunity to obtain their own valuation advice from a professionally qualified valuer before providing DELWP with an offer to sell based on that advice. DELWP will obtain a valuation of the land from the Valuer-General Victoria (VGV) and then respond to the offer to sell based on the VGV valuation.

If the offer to sell is acceptable, the matter can proceed to settlement, which involves payment of the purchase money and transfer of the title to the Crown.

DELWP will pay the (reasonable) fees associated with the purchase of the land, for professionally qualified advisors, such as a solicitor and/or land valuer, that you have chosen.

If negotiations are unsuccessful and the parties cannot reach purchase agreement DELWP may abandon the process.

Compulsory acquisition process

Notice of intention to acquire

As a first step in the formal process of compulsory acquisition you will receive a Notice of Intention to Acquire. The purpose of the notice is to let you know that DELWP intends to compulsorily acquire your land.

If you want to sell your land to us rather than waiting for us to take the next step in the compulsory acquisition process, you may be able to come to an agreement on price with us at this time. Your position will not be prejudiced by dealing with us under the Notice of Intention to Acquire because you are entitled to be paid exactly the same compensation as would apply under a compulsory acquisition process.

In some cases, agreement can be reached and the matter finalised without the need to proceed to the next stage.

Publishing Notice of acquisition

In the next stage DELWP will publish a Notice of Acquisition in the Victoria Government Gazette. This formalises the acquisition and vests the land in our name, meaning that you are no longer the legal owner of the land.

In most cases DELWP must wait for two months after serving a Notice of Intention to Acquire before publishing a Notice of Acquisition.

We will then work with you to get your agreement on the terms by which we will enter into possession of the land. If the land is your principal place of residence or business, we will not take possession of your land for at least three months without your agreement. To reduce the impact on you, we will endeavour to give you as much notice as possible before taking possession of your land.

Compensation

If we need to acquire your land, you will be compensated. Your compensation payment is assessed in line with the *Land Acquisition and Compensation Act 1986*. This outlines procedures to ensure that compensation is appropriately assessed. Compensation will be assessed on the basis of the market value of the land that is acquired, plus any additional amounts and allowances which may apply in your particular circumstances. Market value will be assessed on the unaffected value of the land (that is, it won’t take into account any effect of the project for which the land is being acquired). Where previous compensation has been paid under the *Planning and Environment Act 1987* (for circumstances as outlined in this brochure), compensation is adjusted in accordance with the terms of the Act.

If you receive a Notice of Intention to Acquire, you may wish to obtain advice in relation to the acquisition and/or your compensation negotiations. We will pay the (reasonable) fees of professionally qualified advisors such as a solicitor and/or land valuer that you have chosen.

Compensation may be increased by up to 10 per cent of the acquired land’s market value to compensate for any non-financial disadvantages resulting from the acquisition. In assessing the amount payable, we must respect the legal criteria set out in the *Land Acquisition and Compensation Act 1986* that apply to your circumstances. Some criteria include: the length of time you have occupied the land, the inconvenience likely to be suffered, and your age. Refer to the Act for full details.

**When is compensation paid?**

DELWP is required to make you an offer of compensation within 14 days of publishing a Notice of Acquisition. Upon receiving an offer of compensation, you can request that we pay an advance of the compensation offered. This payment will be made within 30 days of receiving the request and will not affect your entitlements to continue negotiating a final settlement.

Once agreement is reached on the amount of compensation payable, the balance of any compensation owing will be paid to you as soon as possible. Interest will be payable on the unpaid compensation from the date of receiving your agreement until we pay the amount to you.

**What happens if we cannot agree?**

If after publication of a Notice of Acquisition an agreement on compensation cannot be reached, the matter becomes a disputed claim and may be referred (by either you or DELWP) to the Victorian Civil and Administrative Tribunal or the Supreme Court for a resolution.

What if I want to sell or develop my land in the planning stages?

For personal reasons you may need to sell your property after the proposed plans for the property are known (e.g. it is reserved in a Planning Scheme). In these cases, prospective buyers are likely to know about future DELWP proposals. We recognise that this may affect the sale price of your property. In these circumstances, the following option may be available to you.

Loss on Sale Compensation

Loss on Sale Compensation may be available for any loss suffered on the sale of your property – for example if it is sold for less than it would have normally (if it were not reserved for a future project). If you are considering claiming Loss on Sale Compensation you must notify us at least 60 days before the proposed date of sale. In this time we can then check that you are eligible for this compensation and make arrangements to assess the loss.

Financial Loss Compensation

Compensation may also be payable if you apply for a planning permit to develop your land and it is refused on the basis that the land is required for a public purpose. Conditions apply and you should discuss any potential claims of this nature with us.

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Who should I contact?

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