

Land Acquisition and Compensation

General Information for Property Owners



SEPTEMBER 2013

Guide to land acquisition and compensation

VicRoads is responsible for providing a safe and efficient road transport system in Victoria. To continue to improve our transport system – update existing roads or construct new ones – it is often necessary to acquire land.

This brochure outlines the processes involved with land acquisition. It 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 call us on 13 11 71.

Planning for VicRoads proposals and early advice

The Road Management Act 2004 authorises VicRoads to 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 proposals and have an opportunity to express your views.

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

VicRoads is responsible for providing a safe and efficient road transport system in Victoria. To continue to improve our transport system.

What is the process of acquisition?

Notice of intention to acquire

As a first step in the formal process of acquisition you will receive a Notice of Intention to Acquire from VicRoads. The purpose of the notice is to let you know that we want to acquire your land for road works and that we intend to compulsorily acquire it from you.

If you want to sell your land to us rather than waiting for us to take the next step in the acquisition process, you may be able to come to an agreement on a 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 many cases, agreement is reached and the matter is finished without the need to proceed to the next stage.

Notice of acquisition

In some cases, we may need possession of land before negotiations are finished; in these circumstances we may publish a *Notice of Acquisition* in the Victorian 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 VicRoads must wait for two months after serving a *Notice of Intention to Acquire* before giving you a *Notice of Acquisition*.

We will then work with you to get your agreement on the terms by which we will possess 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 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 road project). 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 or make an allowance for 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.

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.

When is compensation paid?

Compensation is paid following an agreement on the amount and, if necessary, after the transfer of title arrangements. However, after publication of a *Notice of Acquisition* and upon receiving an offer, 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, a conference of consultants maybe arranged to resolve the matter or discuss any differences between the consultants. Should the matter not be resolved at a conference the matter may be referred (by either you or VicRoads) to the Victorian Civil and Administrative Appeals 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 (i.e. it is reserved in a Planning Scheme). In these cases, prospective buyers are likely to know about future road proposals, and 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 your land is sold for less than it would have normally (if it were not reserved for a future road). If you are considering claiming Loss on Sale Compensation you must contact us at least 60 days before the proposed date of sale. In this time we can 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.

Early purchase by us on hardship grounds

If you are finding it impossible to find a buyer for your property, we may be prepared to consider a request from you to purchase the property at its unaffected market value (ignoring any effect of the road project), as long as you can demonstrate that your inability to sell will cause you significant hardship and is a direct result of our proposal. Each case must be considered individually, so if you find yourself in this situation we suggest you discuss your circumstances in detail with us.

Who should I contact?

VicRoads

Land Acquisition Group

60 Denmark Street, Kew 3101

Phone 13 11 71

