

Compulsory land acquisition and compensation

Guide for landowners

To achieve the best health, wellbeing and safety outcomes for all Victorians, the Victorian Government sometimes needs to acquire privately owned land to deliver services or infrastructure in the right location.

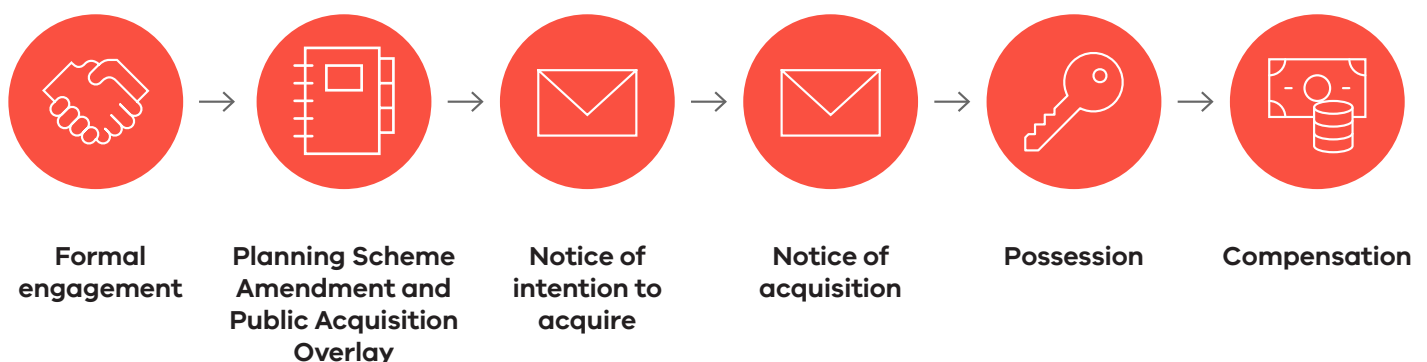
When land that is deemed to be an appropriate location for a public service, the Victorian Government and its agencies are empowered under the *Land Acquisition and Compensation Act 1986* (Act) to acquire the land under a “compulsory process”. This is commonly known as “compulsory land acquisition”. Under this process, a landowner will be paid “compensation” by the government or entity acquiring their land, in accordance with the Act.

This fact sheet outlines the general processes of compulsory land acquisition and how compensation is assessed and paid.

The Victorian Health Building Authority (VHBA) is committed to working with you to ensure you understand the specifics of the compulsory acquisition process and how it affects you.

However, you should seek independent advice regarding your rights and obligations.

About the process



1. Formal engagement

As a first step, we will speak to you about the project, its impact on your property, and how we can support you through the process of acquisition and compensation.

We will also provide our contact details, so you know who to contact if you have questions.

2. Planning Scheme Amendment and Public Acquisition Overlay

Unless land is the subject of a Ministerial exemption, land will be identified and reserved for a public purpose by applying a Public Acquisition Overlay (PAO) to the land in the Planning Scheme. This generally occurs through a Planning Scheme Amendment (PSA).

3. Notice of Intention to Acquire

Unless land is a subject of a Ministerial exemption, at least 2 months prior to the date of the proposed acquisition we will issue a Notice of Intention to Acquire your land. This notice provides formal notification that we intend to compulsorily acquire your land.

This notice will also be issued to any other parties who have an interest in the land including any mortgagees, lessees, or other beneficiaries.

We will also provide you with a statement of rights, which details your rights in relation to our acquisition of your property.

Once you receive a Notice of Intention to Acquire, you may wish to obtain advice on the acquisition and/or the compensation negotiations. We will pay the reasonable fees of a professionally qualified advisor (such as a solicitor and/or land valuer) you chose, in accordance with the Act.

4. Notice of Acquisition

A Notice of Acquisition will be issued to you and published in the Victorian Government Gazette. This notice formalises the acquisition and means you are no longer the legal owner of the land. This step can only occur two months or more after the Notice of Intention to Acquire was served.

5. Possession of Property

The Notice of Acquisition doesn't mean you must immediately vacate your land. We will work with you on the terms of possession and the time you have to vacate the land. To help reduce the impact on you, we will give you as much notice as possible before taking possession of the land.

6. Compensation

You will be financially compensated for the compulsory acquisition of your land. The Valuer-General Victoria (VGV) will determine compensation for the market value of the land based on individual circumstances and in accordance with the Act.

As well as the market value, you may also be entitled to other compensation depending on your individual circumstances. For example, this may include financial loss to a business on the land or any non-financial disadvantages resulting from the acquisition.

Once the necessary government approvals have been provided, we will issue an offer of compensation. Full compensation is paid once we come to an agreement with you on the compensation amount, however the Act does make provision for the early payment of compensation in certain circumstances.

Frequently asked questions

How was my land chosen for this project?

A site is selected through careful assessment against our site evaluation criteria which includes:

- location within the service catchment area to meet community needs
- size, shape and topography
- site access including private vehicle, pedestrian, public transport and utilities
- adjoining uses
- zoning and planning overlays
- proximity to related community services.

Your land was found to be the most suitable site for this project to ensure we can deliver the best services in the best location for the Victorian community.

How long does the compulsory acquisition process take?

This often depends on the type of property (commercial or residential) as well as the project's construction timeframes, however the Act specifies many of the timeframes that apply to a compulsory acquisition.

The VHBA is committed to working with landowners to provide them as much time as possible under the project's timeline to vacate a property and this will vary from site to site. Our Property Team will discuss your individual circumstances with you and will give you as much notice as possible at each step in the process.

Can I stop my property from being compulsorily acquired?

Generally, it is not possible to stop a compulsory acquisition as this process is only undertaken to enable provision of important infrastructure or services for our State. However, in some instances concerns raised about an acquisition have led to a different outcome. You may wish to seek the advice of a professional legal advisor should you have any concerns.

When will I need to vacate my property?

The Act specifies timeframes for a dispossessed landowner to vacate an acquired property, however we will work with you on the terms of possession and the time you have to vacate the land. To help reduce the impact on you, we will give you as much notice as possible of when you need to vacate.

What if the land is leased? What support is available for tenants?

The VHBA will work with the landowners and their tenants respectfully and sensitively to understand the impact to each party as a result of the compulsory acquisition process.

Compensation is available to tenants who can demonstrate a financial loss as a direct result of the compulsory acquisition process, which may include items such as costs associated with finding an alternative premises and removal and reinstatement expenses.

If you are a tenant affected by a compulsory acquisition, the VHBA recommends you engage with your landlord throughout the compulsory acquisition process. If required, a legal or other professional adviser can be engaged to assist with questions you may have around compensation, and provide independent advice on your particular situation. VHBA will reimburse the reasonable costs of you obtaining this advice, in accordance with the Act.

To ensure VHBA agrees that the professional advisory fees incurred by a tenant are compensable under the Act, the tenant may wish their advisers to submit fee proposals to us prior to undertaking work.

Will I be compensated?

If we need to compulsorily acquire your land for a project, you will be financially compensated in accordance with the Act.

The Valuer-General Victoria will assess your scenario to determine the amount of compensation on behalf of the Government. This will include the market value of the land, plus any additional allowances which may apply in your circumstances. This may include financial loss to a business on the land or any non-financial disadvantages resulting from the acquisition.

Under the Act you may seek your own advice on the amount that you wish to claim, if the offer of compensation is not acceptable to you.

How can I be sure I'm getting a fair deal?

The amount of compensation you will be offered for your land is determined by the Valuer-General Victoria in accordance with the Act. The Valuer-General Victoria makes assessments based on the scenarios relating to each parcel of land. However, the Act also makes provision for dispossessed landowners to dispute the amounts offered by an acquiring authority and sets out a process for resolution of such disputes.

We recommend you engage a legal or other professional adviser (such as a land-valuer) to assist you with questions you may have around compensation, and provide independent advice on your particular situation. We will reimburse the reasonable costs of you obtaining this advice.

To ensure VHBA agrees that the professional advisory fees incurred by you are compensable under the Act, you may wish your advisers to submit fee proposals to us prior to undertaking work.

When will I receive compensation?

Full compensation is paid following an agreement on the compensation amount. However, after receiving a Notice of Acquisition and a compensation offer, you can request that we pay an advance of the compensation. This payment will be made within 30 days of receiving the request and will not affect your entitlement to continue negotiating a final settlement.

Once agreement is reached on the amount of compensation, the balance will be paid to you as soon as possible.

What happens if we cannot agree on the compensation amount?

If an agreement on compensation cannot be reached between the parties, the Act makes provision for the matter to be referred to the Victorian Civil and Administrative Tribunal or the Supreme Court for a resolution.

Contact us

We understand you may have questions about this process or be distressed at having your land compulsorily acquired. We will endeavour to support you and provide you with as much assistance as possible throughout the process.

You can contact VHBA's Manager, Property with any questions about the process on vhba.property@health.vic.gov.au

You may also wish to learn more about the project requiring compulsory acquisition of your land. You can find this information on our website vhba.vic.gov.au