

LAND ACQUISITION

A Guide for Property Owners

Why property is needed

As part of the State's infrastructure we sometimes need land to improve existing roads or to provide new transport corridors. Land reserved for roads is also used for surface water drainage and to accommodate a wide range of public utility services including water, sewerage, electricity, gas and telecommunications.

Metropolitan Region Scheme (MRS)

In the metropolitan area, most of our long term projects are incorporated in the Metropolitan Region Scheme (MRS) which was adopted by the State Government in 1963. The MRS can be inspected at either the Department of Planning or at your local council office. There is also information available on the Department of Planning's website.

Owners of properties required for long term projects in the MRS, and who are experiencing hardship, should write to the Department for Planning (agents for the Western Australian Planning Commission) at Gordon Stephenson House, 140 William Street Perth.

Planning Control Area (PCA)

In some situations property owners may be affected by a Planning Control Area (PCA) which is an area being considered for inclusion in the MRS and protected from development in the short term by a gazettal notice under the Planning and Development Act 2005. PCAs apply only for a limited period – usually five years from the date of gazettal.

When will the land be required?

We will discuss our requirements with land owners and occupiers as early as possible prior to project construction. This is generally about two years prior to needing the land, but may vary due to project demands or the availability of funding. We will work with property owners to find ways to make the purchase of land as easy as possible.

Sometimes land owners and occupiers may be asked for their views on a project during the planning phase, even though construction is many years off. This is only a preliminary stage and has no legal status.

How will the land requirement be negotiated?

Land is acquired by negotiation or formal taking action under the powers contained in the Land Administration Act 1997.

Where road works are planned and programmed for a future date, we will initiate land purchases by voluntary negotiations when funding is available. In some cases, where construction is imminent, acquisition may take place by formal taking action. This does not affect your rights to compensation.

What is formal taking?

When land cannot be obtained through voluntary negotiation we can use the formal processes and provisions of the Land Administration Act 1997. However, before proceeding with a formal taking action, we will personally contact each property owner to advise them of the process, details of the project and its effect on their property.

Can I object?

If a Notice of Intention to Take has been lodged in accordance with the Land Administration Act 1997, property owners or other persons with an interest in the land will be given the opportunity to lodge a formal objection to the Minister for Transport. (Disagreement on the amount of compensation to be paid is not a valid grounds for objection.)

The Minister will consider the objection and decide whether the objection should be upheld or dismissed or the Notice of Intention to Take varied or cancelled.

Will I be paid compensation?

The Land Administration Act 1997 provides that where property is being acquired by negotiation or taken under the provisions of the Land Administration Act 1997, every person entitled will be compensated. Usually this compensation will be paid to the land owners although lessees may also be entitled to compensation in certain circumstances.

How do I claim compensation?

A claim form will be sent to all land owners and lessees when the Taking Order has been registered at Landgate. Owners and lessees will then have six (6) months from the date of registration of the Taking Order to lodge a claim for compensation.

How is compensation assessed?

Main Roads uses assessments provided by independent licenced valuers to help determine the amount of the offer made to owners. You may accept an offer made on these valuations or obtain your own independent valuation advice.

The principles upon which the valuation is made are set out in the Land Administration Act 1997 and have been interpreted at various times by Courts and Arbitration bodies. Compensation includes considering the value of the land to be taken and any improvements, and where appropriate, allowances for severance, injurious affection, business disturbance and other incidental expenses the owner or occupier may incur as a result of the proposed taking.

In certain cases we may also assist with the reasonable cost of obtaining independent valuation advice. This is subject to the valuation being conducted by a licensed valuer and obtaining two quotes. These quotes should be submitted to us. Written approval is required from us prior to engaging the valuation consultant. We will also need to be provided with a copy of the valuation report and you will have to be prepared to use the report as a basis for negotiations. We do not pay any negotiating fees and the valuer of the property cannot act as an advocate in property negotiations.

An allowance of up to 10 per cent for compulsory acquisition (solatium) may also be paid in certain circumstances.

Is GST payable?

Compensation payments made as a result of formal property taking do not attract GST

Is interest payable?

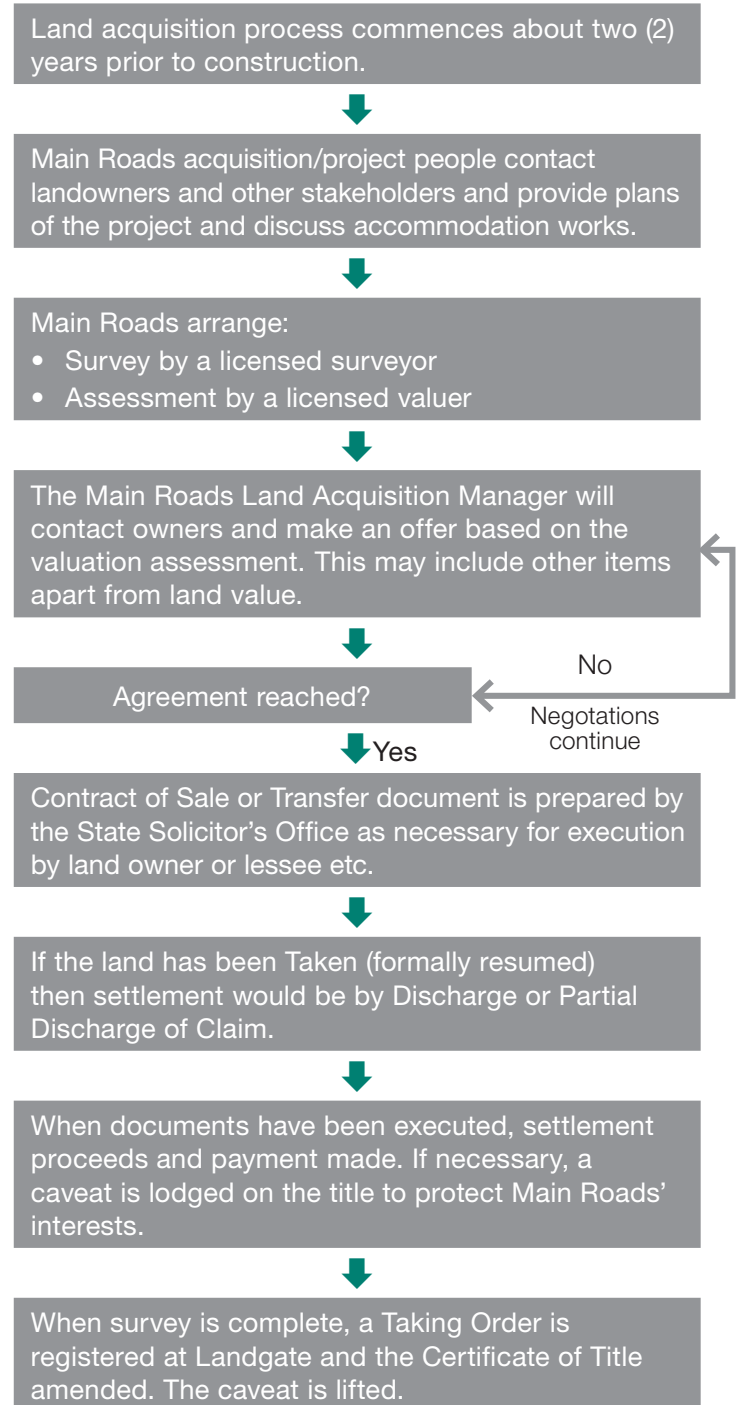
Where property is taken, or entered for road construction purposes before compensation is paid, interest is payable at the current rate set by the Supreme Court from the date of entry or date of receipt of the claim whichever happens first.

What if we can't agree on a purchase price?

A valuation report is an expression of opinion only. Assumptions are often made and differences between assessments can occur even between skilled professionals. In such circumstances, it cannot be said that either assessment is right or wrong. Where discussion and negotiation cannot reconcile these differences, options exist for arbitration or settlement by legal action through the Courts. In most cases this is not necessary.

Land Acquisition Process

Land requirements are determined through route planning process.



Further Information

For further information on the land acquisition process, please contact one of Main Roads' Land Acquisition Managers on (08) 9323 4346, (08) 9323 4454, (08) 9323 4463, (08) 9323 4627 or (08) 9323 4183 between 8.30am and 4.30pm, Monday to Friday.

This document can be provided in alternative formats upon request

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