



# Compulsory Acquisition of Land in Victoria: A Legal Minefield.

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Owners of land are sometimes faced with the prospect that their land may be forcefully taken from them. This process is commonly referred to as compulsory acquisition of land.

Compulsory acquisition of land involves a governmental authority or, in some circumstances, a private entity empowered by a governmental authority, compulsorily acquiring land and all interests attached to such land i.e. leasehold interests, rights of way etc.

The acquisition usually relates to a proposed use to which the governmental authority wishes to put the land, such as the construction or widening of roads, railways, parks, reservoirs, sewerage works, and drainage reserves.

The process under which privately held land can be compulsorily acquired in these circumstances is governed by the *Land Acquisition and Compensation Act (Vic.)* ("*Land Acquisition Act*").

Pursuant to the *Land Acquisition Act* an acquiring authority is required to serve upon all persons who have an interest in the land proposed to be acquired a notice confirming the acquiring authority's intention to compulsorily acquire the land. Subsequent to the service of such notice the acquiring authority must also serve upon all such persons a notice of acquisition. The effect of the notice of acquisition is crucial, since effectively from the date of such notice, the person's interest in the land is automatically transferred to the acquiring authority.

The acquiring authority is obliged under the *Land Acquisition Act* to make an initial offer of compensation to the persons having an interest in the land after the notice of acquisition has been published and served.

The offer must include the amount that the authority has assessed as being the reasonable estimate of the amount of compensation payable to the claimant and must be supported by a certificate of valuation from a government appointed valuer confirming the estimated compensation amount.

Persons having an interest in land being compulsorily acquired must respond to the acquiring authority's offer by either accepting the offer in full (or partially) or by rejecting the offer and making a claim. Both responses will need to be in the prescribed form and must be within the timeframe provided by the *Land Acquisition Act*.

If both parties do not agree on the compensation amount then the claim is deemed to be in dispute. In such circumstances the claimant may initiate legal proceedings to have the dispute heard in VCAT or in the Supreme Court of Victoria.

## **What we offer:**

At Septimus Jones and Lee we can help you deal with this complicated area of law by:

- Advising you of your rights and obligations;
- Negotiating on your behalf with the acquiring authority with respect to your compensation entitlements;

- Liaising and engaging valuers and other experts to prepare all necessary reports and provide you with all necessary advice;
- Preparing and lodging a claim for compensation on your behalf and, if required, instituting all necessary legal proceedings.

**Warning**

The above article is a general summary of the Compulsory Acquisition process and is provided only as a general overview. It does not constitute legal advice, and should not be relied upon. Septimus Jones & Lee strongly recommends that any person who is affected by a compulsory acquisition immediately obtain legal advice that will deal with their specific situation and needs.