

APPENDIX 15

OVERVIEW OF PLANNING APPROVAL AND LAND ACQUISITION PROCESS

Appendix 15 - Overview of planning approvals and land acquisition process

1. Planning and approvals process

1.1. Victorian approvals process

The *Environment Effects Act 1978* (EE Act) provides for assessment of proposed projects (works) which are capable of having a significant effect on the environment. An Environment Effects Statement (EES) is prepared under this Act and submitted to the Minister for Planning to make an assessment and determine if the environmental effects of the project are acceptable. A project which is assessed by an EES will still need to obtain approvals under all other relevant legislation such as the *Planning and Environment Act 1987*, *Heritage Act 1995* or *Water Act 1989*, and the relevant decision makers for the approvals should give consideration to the Minister's assessment.

The Minister for Planning has determined that an EES is required to be prepared for Melbourne Metro tunnel and stations. The broad steps for the EES process are:

- Establishment of a Technical Reference Group (TRG) to advise both the Department and the proponent on the preparation of the EES. The membership is drawn from bodies such as government agencies and municipal councils that have a statutory or policy interest.
- Preparation of Final Scoping Requirements by the Minister for Planning that provide the detailed scope of the EES investigations. The Scoping Requirements will be finalised following public submissions and input from the TRG.
- Appointment of an EES Inquiry Panel to oversee the public exhibition of the EES and public hearing process. The Inquiry Panel will invite the community and government agencies to provide submissions on the content of the EES. The public exhibition of the EES will be concurrent with the exhibition of the Planning Scheme Amendment. At the conclusion of the public hearing process, members of the Inquiry Panel will prepare and submit a report to the Minister for Planning to inform his decision on whether Melbourne Metro tunnel and stations:
 - Would have an acceptable level of environmental effects, having regard to the overall project outcomes; or
 - Would have an unacceptable level of environmental effects; or
 - Would need major modifications and/or further investigation in order to establish an acceptable level of environmental outcome, and consequently further assessment processes under the EE Act may be required.
- Assessment by the Minister for Planning and guidance for subsequent approvals, including Planning Scheme Amendment, designation of the Project Area under the *MTPF Act* and other key approvals.

1.2. Commonwealth

The Commonwealth Minister for Environment has determined Melbourne Metro tunnel and stations to be 'Not a Controlled Action if undertaken in a Particular Manner' under the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*. No further Commonwealth approval will be required under this Act however the specific requirements of the Commonwealth decision will be incorporated in the Environmental Project Requirements to ensure compliance with the decision.

1.3. Statutory approvals timing

An indicative timeframe for the statutory planning and environmental approvals process is as follows.

Table 1 – Statutory planning and environmental approvals

Statutory planning process steps	Timing
Finalisation of EES and PSA documentation for exhibition	Q2 2016
Public exhibition of EES and PSA	Q2 2016
Minister for Planning appoints EES Inquiry Panel	Q2 2016
Formal EES Inquiry Panel hearings	Q3 2016
EES Inquiry Panel recommendations submitted to Minister for Planning	Q4 2016
Minister for Planning assessment	Q1 2017
Minister for Planning approval of Planning Scheme Amendment and Project Area designation under MTPF Act	Q1 2017
Secondary approvals (e.g. Heritage Act 1995, Water Act 1989)	Q2 2017

2. Land acquisition process

2.1. Compulsory land acquisition process

There are a number of pre-requisites for compulsorily acquiring land under the *Land Acquisition and Compensation Act 1986*:

- Establishing that the relevant authority (Acquiring Authority) has land acquisition powers (under *Transport Integration Act 2010*, *Major Transport Projects Facilitation Act 2009* or other) and able to use *LAC Act*
- Public Acquisition Overlay or Designation of Project Area under *MTPF Act*
- Government and state approvals (sign off on land acquisition)
- Delegations for delivery established (execution of notices, payments, etc.).

Once the above pre-requisites have been established, the regulatory notification requirements and timing that applies to the compulsory acquisition process is outlined in Table 2.

Table 2 – Compulsory land acquisition process

Notice	Description	
Notice of Intention to Acquire (NOITA)	Valid for 6 months but can be extended	<ul style="list-style-type: none"> • In some cases requires Survey Plans showing area of acquisition (can take months to prepare once exact area is identified). Survey Plans not typically required for full acquisitions of titles at surface. • Early report on contamination, environment, and heritage issues (should already be done as part of land identification process). • Appropriate sign-off that property is required for the Project.
Notice of Acquisition (NOA)	Minimum 2 months after NOITA	<ul style="list-style-type: none"> • Property is deemed to be acquired, followed by transfer of title to the Acquiring Authority. • Valuer-General Victoria (VGV) valuation must have been completed in order to make offer within 2 weeks of the NOA. • Sufficient confidence in understanding any contamination, environment, and heritage issues which may affect valuation and suitability of property for the Project. • Reasonable understanding of occupants and interested parties (from contact and discussions with occupants once NOITA is served).
Offer of Compensation	2 weeks after NOA	<ul style="list-style-type: none"> • VGV valuation certificate. • Government Land Monitor approval.
Notice of Possession	Minimum 3 months + 7 days after NOA	<ul style="list-style-type: none"> • Acquiring Authority obtains vacant possession of the property. • 3 months is the minimum time required under the LAC Act if the property is a principal place of residence or business of the occupant. • In practical terms, the application of this timing is highly dependent on the occupant and should be considered on a case by case basis. The Acquiring Authority has an obligation to work diligently with owners / occupiers to arrange vacant possession. • Businesses may require up to 12-18 months to seek alternative premises • Owner-occupiers may require 12 months to seek alternative residence

2.2. Claim management and resolution

The claimant may agree to settle the claim at any point once an offer of compensation has been made. It is generally unlikely to settle for the initial offer and the matter may take a lengthy period to resolve depending on the complexities of the property.

2.3. Disposal of surplus land

At the completion of Melbourne Metro, any land surplus will be considered for disposal. If the land is to be sold, this will occur in accordance with the Government Land Monitor requirements. A preliminary identification of surplus land has already been undertaken to inform the revenue assessment and this will be updated based on the final design.