

METROLINK

Integrated Transport. Integrated Life.



Land Acquisition Strategy

September 2022



METROLINK LAND ACQUISITION STRATEGY

1. Introduction

- 1.1 This is the Strategy (also referred to herein as the "Strategy") which is intended to be implemented by the National Roads Authority operating as Transport Infrastructure Ireland (TII) as the acquiring authority in respect of the proposed delivery of MetroLink (the "Scheme").
- 1.2 MetroLink will require the acquisition of numerous land and property interests in both public and private ownership including a range of residential and commercial properties that are occupied.
- 1.3 Under the Transport (Railway Infrastructure) Act 2001 (as amended) (the "Act") upon commencement of the Railway Order ("RO"), TII will be authorised to acquire compulsorily any land or rights in, under or over land or any substratum of land specified in the RO, and, for that purpose, the RO shall have effect as if it were a compulsory purchase order¹ with modifications. Accordingly, TII is authorised to serve a notice to treat pursuant to the provisions of the Housing Act, 1966, including section 79 thereof. TII also has the right to enter onto other lands for the purposes of carrying out the works permitted under the RO in certain circumstances. The acquisition of the various specified rights and interests in land and property, is necessary in order to ensure the delivery of the MetroLink project in its entirety.
- 1.4 A key aspect of this Strategy, however, is the *early engagement* with affected persons *prior* to confirmation of the RO and service of a notice to treat in an effort to assess the full needs of affected persons, consider their individual circumstances and, if possible, reach a conditional pre-agreement. In this regard, TII understands and acknowledges the importance for residential property owners to be able to plan their affairs with as much notice and certainty as possible. To this end, as stated, TII is proposing to initiate discussions with affected property owners in advance of confirmation of the RO by An Bord Pleanála ("the Board") and service of a notice to treat.
- 1.5 The Strategy and pre-agreement will conditionally address and bring forward the process for seeking to reach agreement between TII and person(s) affected on the actual amount of compensation to be paid subject to the confirmation of the RO and service of a notice to treat. Following the service of notice to treat, if

¹ As referred to in section 10(1) of the Local Government (No.2) Act 1960 (as inserted by section 86 of the Housing Act, 1966) which has been duly made and confirmed.



agreement is not reached, then the amount of compensation can be determined by a property arbitrator.²

- 1.6 In exercising compulsory purchase powers, TII will need to have demonstrated to An Bord Pleanála that the extent of compulsory acquisition is proportionate to the public interest in the scheme, that the properties in question are necessary for delivering the project, and that alternatives to the acquisition of the properties in question have been considered. In accordance with the compulsory purchase code reasonable steps should be taken to acquire all rights and interests in land included in the Railway Order in a fair and equitable manner.

2. Communication

- 2.1 TII will use reasonable efforts to contact every party whose ownership or rights in property are required, whether in whole or in part, to provide details of the Scheme and the proposed RO. This will include information on the proposals and the impact on their respective property interests. All parties will be invited to discuss their concerns and enter into discussions with TII at the appropriate time.
- 2.2 TII will maintain a continuing dialogue, where practicable, with all parties holding an interest in properties within the land required to deliver the Scheme. They will also engage with those from whom rights need to be acquired and also parties who have existing rights which may be impacted during the lifecycle of the Scheme.
- 2.3 TII will ensure, where practicable, that affected parties are updated on progress and notified of any alterations to the Scheme, particularly where their legal rights or interests in properties may be impacted. TII and their advisers will seek to respond promptly to all enquiries received from affected parties and/or their representatives.
- 2.4 Such communications will be through a range of media, such as one to one meetings, electronic media (e-mail; and virtual forums), telephone conversations, or newsletter correspondence. TII will provide information in a format accessible to all those affected.
- 2.5 Engaging directly with stakeholders in parallel with preparing and making a RO application can help build a good working relationship with those whose interests are affected by the proposed Scheme. It also affords the opportunity to

² As nominated by the Reference Committee in accordance with the provisions of the Property Values (Arbitrations & Appeals) Act 1960.



understand affected parties' circumstances which will ultimately assist in managing the impacts of the Scheme.

- 2.6 For ease of reference please see [Compulsory Purchase Order \(CPO\) Guideline September 2022](#) for further information on the compulsory purchase order process and frequently asked questions.

3. Management of Railway Order Process

- 3.1 In accordance with section 37 of the Act a Railway Order application is required to be submitted to the Board (as the competent authority).
- 3.2 The documents which will be submitted include:
- A draft of the proposed RO;
 - A plan of the proposed railway works;
 - A Book of Reference to a plan (indicating the identity of the owners/reputed owners and of the occupiers/reputed occupiers of the lands described in the plan);
 - A Report on the likely effects on the environment of the proposed railway works (an Environmental Impact Assessment Report ("EIAR"));
 - A Natura Impact Statement ("NIS").
- 3.3 TII will publish notice of the application, serve relevant extracts on owners/reputed owners and occupiers/reputed occupiers who will then have an opportunity to make submissions and observations in relation to the project.
- 3.4 The Board considers the application and decides whether to make the Railway Order, refuse the Railway Order application or make a Railway Order in amended/different terms to the draft submitted.
- 3.5 Once decided the Board must publish a newspaper notice outlining that the Railway Order has been confirmed as respects all or part of the land to be acquired and outlining where a copy of the Railway Order and a map of the lands to be acquired may be accessed.
- 3.6 A copy of the Railway Order will be served upon any person who was originally served with the Railway Order application.



- 3.7 As referred to earlier it is when the approved RO is in place that TII can serve a notice to treat on landowners, occupiers and holders of any interest in the relevant land. A notice of temporary possession can also be served where, for example, lands are specified as being temporarily required for construction and/or maintenance of the Scheme works.
- 3.8 TII will seek to keep any delay to a minimum by completing the statutory process as efficiently as possible.
- 3.9 Diligent enquiries will be undertaken with all parties impacted by the Scheme in order to confirm legal interests and verify title / ownership information. In this regard TII would appreciate if landowners would make us aware of any change / update in the ownership of their property/lands which may be impacted by the scheme or any change in tenants/occupiers of same. Such information can be sent to the following email address: LandProperty@tii.ie / info@metrolink.ie

4. Management of Land Assembly Process

- 4.1 TII will use reasonable efforts to make direct contact with all affected parties having an interest in the land required to deliver the Scheme or whose existing rights may be affected and give them the opportunity to enter into negotiations.
- 4.2 TII, or their appointed agents, as the case may be, will seek to progress negotiations diligently and in a fair and equitable manner.
- 4.3 TII will use reasonable efforts to acquire all interests by agreement or, in appropriate circumstances, reach an agreement that establishes the basis upon which a future transaction will be undertaken. TII will adopt a flexible approach with regards to the structure of such agreements where necessary.
- 4.4 It is intended that a range of contractual mechanisms, will be used, where practicable, in order to reach agreement on land interests needed to deliver the Scheme as far as reasonably practicable.
- 4.5 In the case of MetroLink this may include early negotiations, and options and conditional contracts, as the case may be, subject to the necessary approvals. The range of potential proposals include (but are not restricted to) the mechanisms set out in [Reference A] MetroLink Information Paper Residential Property and [Reference B] MetroLink Information Paper Commercial Property.
- 4.6 As part of the process for seeking to reach agreement with affected parties, an Alternative Dispute Resolution (ADR) (including the option of mediation) can be availed of by affected parties. ADR is an independent process to be administered by the Chartered Institute of Arbitrators / Society of Chartered Surveyors Ireland



and will be subject to any necessary approvals required to establish and implement.

5. Public Land

- 5.1 TII will actively engage with owners and occupiers of Public Land such as local authorities, government departments and agencies and state bodies.
- 5.2 Public land will be dealt with through direct engagement with the relevant body / agency / authority and TII acknowledge that certain consents and provisions will be required and entered into at the appropriate time.
- 5.3 This may include entering into advanced engagements where mitigation measures can be agreed and, where appropriate, be introduced where this can be demonstrated to be in the public interest.

6. Alternative Dispute Resolution

- 6.1 As mentioned, as part of the process for seeking to reach agreement with affected parties, an Alternative Dispute Resolution (ADR) (including the option of mediation) can be availed of by affected parties. ADR is an independent process to be administered by the Chartered Institute of Arbitrators / Society of Chartered Surveyors Ireland and will be subject to any necessary approvals required to establish and implement.
- 6.2 After confirmation of the RO and service of a notice to treat the availability of an ADR process can be availed of as part of the process for seeking to reach agreement with affected parties.



[REF A]

METROLINK INFORMATION PAPER

RESIDENTIAL PROPERTY

This paper sets out the arrangements proposed for the provision of information and assistance to the residential owners / occupiers of land and property that may be subject to compulsory purchase for the delivery of MetroLink.

If you have any queries about this paper or about how these arrangements might apply to you, please contact TII Land & Property Services (LandProperty@tii.ie), who will be able to direct your query to the relevant person within the MetroLink project, or MetroLink Stakeholder Communications (info@metrolink.ie).

1. Overview

- 1.1 This paper sets out the arrangements proposed for the provision of information and assistance to owners and occupiers of residential properties required for the construction and / or operation of the MetroLink project.

2. Engagement

- 2.1 In addition to previous non statutory consultations and the statutory consultation process in compliance with the Transport (Railway Infrastructure) Act 2001 (as amended) (the "Act"), TII will be making all reasonable efforts to contact affected property owners and occupiers (where applicable) to give them the opportunity to provide feedback, with the aim to better understand their specific circumstances and identify if any assistance is required in respect of the MetroLink scheme.
- 2.2 When the project has reached an appropriate level of detailed design TII will as a minimum confirm the best estimate available of the date upon which the property is likely to be required for the project subject to confirmation of an enforceable RO.



- 2.3 The overall purpose of this ongoing engagement is to understand concerns that affected parties may have and seek to address them where practicable. It is intended that this process will be used to assist residential owners and occupiers in planning their affairs with as much advanced notice is possible.

3. Assistance to Residential Property Owners

- 3.1 Residential property owners whose property is the subject of compulsory acquisition powers will be compensated as per the provisions of the relevant compulsory purchase process set out in the Act.
- 3.2 TII understands and acknowledges the importance for residential property owners to be able to plan their affairs with as much notice and certainty as possible. To this end, TII is proposing to initiate discussions with affected property owners in advance of confirmation of the RO and service of a notice to treat.
- 3.3 The objective of this early engagement is to enable the parties to reach conditional agreement on both a baseline residential unit price and other matters of compensation that an owner would normally be entitled to under the compensation code. This will provide the parties with as much certainty as possible at an early stage.
- 3.4 The “pre-agreement” strategy outlined in this document is a discretionary, prospective and conditional scheme. It is not binding upon either party and is subject to a number of conditions including *inter alia* the approval of the MetroLink scheme in the form of a final enforceable Railway Order (‘ERO’), the approval and confirmation in writing of the necessary funding for the MetroLink scheme, the service of a notice to treat and the entering into an agreement between the parties.
- 3.5 With a view to assisting all affected and eligible property owners which come within the Scheme, TII will discharge the reasonable cost for the appointment of an independent Chartered Surveyor / professional representative, as instructed by the property owner, to provide support and advice. The purpose of the appointment is to agree terms (subject to contract) to dispose of the residential property owners’ interest, at the relevant time (the relevant time being post the issuing of the notice to treat).

TII and / or its agents will notify the property owner as to when the discretionary scheme will commence. All reasonable professional fees properly and necessarily incurred, in the negotiation and settlement of the case, and law agents costs in the preparation and execution of contract documents, will be discharged by TII



once the case has been agreed (subject to contract).³ Any agent / professional representative, that may be authorised to act on behalf of the property owner, should be notified in writing to TII and / or its agents. Following such notification and prior to commencement of engagement, the agent / professional representative must reach agreement with TII and / or its agents on the hourly rate on which their professional fee will be based. Following agreement, the engagement can commence.

- 3.6 TII recognises the importance for existing residential property owners of being able to plan their affairs / relocation as the case may be, with as much advance information as is reasonably practicable. Therefore, those who have a pre-agreement in place will be able to proceed following confirmation of the enforceable RO and service of a notice to treat, subject to authorised funding arrangements being in place.
- 3.7 For residential property owners who choose to enter into a pre-agreement with TII, a mechanism will be put in place to enable a review of the agreed baseline residential unit value. If residential prices increase between the date of pre-agreement and the completion date, then the baseline residential unit price will be adjusted to reflect the last published movement in the CSO's Residential Price Index relevant to the type of affected residential property e.g., house / apartment.
- 3.8 If the agreed value of the residential unit baseline price included in the pre-agreement falls, then no downward adjustment will be made to the baseline price on completion of the acquisition.
- 3.9 Once the Order has been confirmed, a notice to treat served and TII being authorised to do so, owner-occupiers can request and be provided with the services of a Buyer's Agent. The service can be made available to undertake searches for suitable alternative accommodation and guide residential property owners through the process with a view to assisting them in successfully sourcing a replacement property. Should this service be taken up, the Buyer's Agent will be engaged to act directly for the owner-occupier and reasonable professional fees will be discharged by TII on completion of purchase of a replacement property.
- 3.10 Where a pre-agreement is reached with an investment owner who has let their property and is acting in a landlord capacity, the pre-agreement will not interfere with any existing registered tenancy arrangements. The owner, as landlord, will remain entitled to collect all rental receipts in the normal way until such time as a formal contract for sale for the purchase of the residential unit owners' interest or equivalent is completed at the relevant time.

³ Further please note that this document shall not constitute a note or memorandum in writing for the purposes of Section 51 of the Land and Conveyancing Law Reform Act 2009.



- 3.11 Where a pre-agreement is reached with an owner, whether tenanted or otherwise, they will continue to be responsible for all obligations and outgoings in accordance with the terms of their property interest i.e., service charge; insurance; property tax; RTB registration where applicable, etc.
- 3.12 TII will use reasonable endeavours to make arrangements to provide residential property owners with as much time as possible in which to relocate than that which is provided for under the statutory process.
- 3.13 TII recognises that whilst awaiting confirmation of an enforceable RO and the service of a notice to treat, a residential property owners' circumstances may change such that hardship is experienced. Where this occurs TII will be available to engage directly with affected parties on a case-by-case basis and where practicable and authorised to do so, introduce measures to assist the affected party at the relevant time.
- 3.14 Following confirmation of the enforceable RO and appointment of a contractor to undertake the works, there may be instances where it is necessary to consider the relocation of residential occupiers on a temporary basis. TII will communicate closely with affected parties in order to clarify the nature of the intended works and to take on board any concerns raised directly with the parties on an ongoing basis. Arrangements for this eventuality will be made, on a case-by-case basis, in close consultation with the relevant parties.
- 3.15 In the absence of agreement between the parties as to the quantum of consideration to be made payable an Alternative Dispute Resolution (ADR) process can be availed of. This is an independent process to be administered by the Chartered Institute of Arbitrators / Society of Chartered Surveyors Ireland and will be subject to the necessary approvals. In the case of residential property's to be acquired by MetroLink this ADR process will be available once the Discretionary scheme has commenced and the necessary approvals are in place.

4. Assistance to Residential Tenants

- 4.1 TII will use reasonable endeavours to make arrangements to provide residential property occupiers with as much time as possible in which to relocate than that which is provided for under the statutory process.
- 4.2 In some instances, tenancy agreements will expire or terminate in accordance with the terms of the respective leases. In such circumstances, and where appropriate, consideration will be given by TII to supporting qualifying registered residential tenants in seeking to secure suitable alternative accommodation following confirmation of the Order and the service of a notice to treat.



- 4.3 To assist affected qualifying tenants, TII will engage the services of a Residential Lettings and Management Agency which can be made available to undertake a property search with the intention of identifying suitable alternative accommodation for those tenants displaced by the Scheme following confirmation of the Order.
- 4.4 The Agent is in place to guide tenants through the process allowing them the option of seeking to secure a new Registered Tenancy Agreement ["Tenancy"] and provide professional advice and assistance directly if required.
- 4.5 Once a property has been identified whether through this appointed agent or sourced by the tenant themselves directly, TII will consider meeting relevant and reasonable costs associated with securing the Tenancy such as discharging the rental payments of the new Tenancy for a period of up to one year, together with any reasonable disturbance costs necessary and attributable to their move.
- 4.6 Where suitable alternative accommodation is not available in close proximity to the residential property impacted by the Scheme, and / or at the preference of the qualifying tenant, the geographical search area can be extended to include similar type properties which will meet the residential tenants needs.
- 4.7 The appointment of a Residential Lettings and Management Agency is a discretionary service, the reasonable costs of which will be met by TII. To be eligible for this service, tenants will need to confirm their eligibility by way of the following:
 - 4.7.1 The tenancy is entered into before the RO application has been confirmed by An Bord Pleanála and an enforceable RO is in place.
 - 4.7.2 The property is fully required on a permanent basis for the Scheme.
 - 4.7.3 The individual tenants' names are included on the Tenancy Agreement.
 - 4.7.4 The named tenant(s) are in occupation of the Premises at the date which the Order is confirmed.



[REF B]
METROLINK INFORMATION PAPER
COMMERCIAL PROPERTY

This paper sets out the arrangements proposed for the provision of information and assistance to the commercial occupiers of land and property subject to compulsory purchase for the delivery of MetroLink.

If you have any queries about this paper or about how these arrangements might apply to you, please contact TII Land & Property Services (LandProperty@tii.ie), who will be able to direct your query to the relevant person within the MetroLink project, or MetroLink Stakeholder Communications (info@metrolink.ie).

1. Overview

- 1.1 This paper sets out the arrangements proposed for the provision of information and assistance to owners and occupiers of land which is required to be compulsorily acquired for the construction and/or operation of the MetroLink project. In this paper, "businesses" refers to commercial undertakings of lands and property which are compulsorily acquired.

2. Engagement

- 2.1 In addition to previous non statutory consultations and the statutory consultation process in compliance with the Act, TII will make all reasonable efforts to contact affected property owners and occupiers (where applicable) to give them the opportunity to provide feedback, with the aim to better understand their specific circumstances and identify if any assistance is required in respect of the MetroLink scheme.
- 2.2 When the project has reached an appropriate level of detailed design TII will as a minimum confirm the best estimate available of the date upon which the property, or part thereof, is likely to be required for the project.
- 2.3 The overall purpose of this consultation and ongoing engagement is to understand concerns that affected parties may have and seek to address them where



necessary and practicable, and to assist businesses in their future business planning through the provision of information and open dialogue.

3. Assistance to Businesses

- 3.1 Businesses which are the subject of compulsory acquisition powers will be compensated as per the provisions of the relevant compulsory purchase process set out in the Act.
- 3.2 TII understands and acknowledges the importance for businesses to be able to plan their affairs with as much notice and certainty as possible. Consequent upon confirmation of the MetroLink RO and service of a notice to treat TII will establish an agency service at its own expense to provide support for the affected businesses' search for suitable alternative accommodation.
- 3.3 The agency service will help businesses assess their property requirements and advise them on what suitable property might be available to meet their reasonable accommodation needs. Close contacts will be established with property agents, landowners, developers, local authorities, and other organisations to ensure that reliable and effective information is provided.
- 3.4 This agency service will not act as adviser or negotiator in formulating businesses' claims for compensation. The agency is a discretionary service provided by TII and use of the service is not to be construed as confirmation of eligibility to make a claim under the compensation code.
- 3.5 TII recognises the importance for existing businesses of being able to plan their relocations with as much advance information as is reasonably practicable in order to ensure a smooth transition of their operations from one location to another. Therefore, once TII has received approval to the Order, the necessary funding arrangements are in place and a notice to treat has been served, where practicable, TII will use reasonable endeavours to make arrangements to provide businesses with a longer period in which to relocate than the normal statutory process provides. In such cases, TII 's overall aim will be to provide as long a period as possible, commensurate with the co-ordinated progress of the MetroLink works.



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