



# Tunnel strata acquisition and compensation

## General information for landowners and tenants

The Western Distributor Authority (WDA) is the government body responsible for delivering the West Gate Tunnel Project for the Victorian Government.

### Introduction

Major infrastructure projects often require the unavoidable acquisition of some land. The West Gate Tunnel Project has been developed in a manner that minimises this by utilising existing road reserves where possible, and by tunnelling. While no houses need to be acquired for the West Gate Tunnel Project, some land owned by businesses or government authorities is needed.

With thousands of tunnels operating around the world, we know they can be built safely and without affecting homes above ground.

Using state-of-the-art tunnel boring machinery means large-scale construction can happen underground, with minimal disruption above.

With the utilisation of bored tunnels, land acquisition will generally only be required below ground level (in stratum) except at either ends of the tunnels where they meet ground level.

### Key legislation

Under the *Land Acquisition and Compensation Act 1986* and *Major Transport Projects Facilitation Act 2009*, underground strata acquisition occurs when an authority builds a tunnel underground and requires land which is under the surface and buildings.

### Different types of property acquisition

There is no intention for WDA to acquire any homes. Some land will be required for surface construction and the construction and road

The *Major Transport Projects Facilitation Act 2009* enables certain government authorities to compulsorily acquire land that is included in an area formally designated as the 'Project Area'.

The project has been declared under the *Major Transport Projects Facilitation Act 2009* for the purpose of applying delivery powers under the Act.

Where land is compulsorily acquired, the *Land Acquisition and Compensation Act 1986* guides how compensation is assessed.

Full versions of these acts are available at: [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au).

operation of the twin tunnels. Most of the land required for the tunnel will be underground strata.

### Property acquisition (underground strata)

WDA will acquire land below the surface where the twin tunnels pass under properties. Any properties or buildings above the ground at the surface level are not required in this type of acquisition.

### Property acquisition (at surface level)

Properties required for surface (above ground) construction and road operation at either end of the tunnels may be full or partial acquisition, meaning either all or just part of property may be required.

## Underground strata acquisition process

If the West Gate Tunnel Project is likely to pass under your property, the WDA will contact you to discuss the project and what this means for you and to provide you with information ahead of the formal underground strata acquisition process. The acquisition process will not commence until:

- planning approval is achieved, and
- a Project Area is designated.

If part of the land beneath the surface of your property is required for the twin tunnels, it will be acquired by way of an Order published in the Victorian Government Gazette in accordance with the provisions of the *Major Transport Projects Facilitation Act 2009*. Upon publication of the Order, you will no longer be the legal owner of the land beneath your property, the underground strata, and it will be land available to the project.

It is important to note that in most instances the extent of the acquisition will be limited to land depth greater than 15 metres. This will have the effect of aligning your property title to those properties with new grants and titles issued under the Land Act 1958, all of which have a 15 metre depth limitation.

The WDA will advise you when the Order is published, which is expected to be in 2018, subject to the above approval process.

### Compensation

If you believe you have suffered a financial loss because of the underground strata acquisition, you will have two years to submit a claim to the WDA. The time begins from the date the order is published in the Victorian Government Gazette.

If you submit a claim, the WDA must either accept, reject or respond with an alternative offer, in which case the process of negotiation is guided by the *Land Acquisition and Compensation Act 1986*. The WDA will respond to the claim following receipt of valuation advice from the Valuer General Victoria in accordance with the Victorian Government Land Transactions Policy and Guidelines.

It is worth noting that Melbourne now has a significant number of properties above the City Loop, CityLink and EastLink tunnels. The Valuer-General Victoria has examined property sales above these tunnels and others interstate. This exercise found there is generally little difference in the values of properties above tunnels compared to others in the same area.

Following publication of the Order, you may wish to obtain your own advice in relation to underground strata acquisition and/or your compensation negotiations. The WDA would reimburse the *reasonable fees* for professionally qualified advisors, such as lawyer and/or land valuer that you have chosen. It is important to be aware that when assessing whether fees are reasonable, the WDA would have regard to the level of compensation payable. To ensure that the WDA agrees with the reasonableness of these fees, you may wish to arrange for your advisors to submit fee proposals to the WDA prior to undertaking any work for you. Please note that any costs incurred prior to publication of the Order will not be reimbursed.

### Payment

If your claim is accepted, or an offer of compensation is made by the WDA, the process for payment is the same as that applying to surface acquisitions. For information on surface level acquisition, refer to the WDA's Land Acquisition and Compensation information fact sheet.

### Contact us

Do you have a question about the project? If you need more information or would like to provide feedback, please get contact us via:

-  [westgatetunnelproject.vic.gov.au](http://westgatetunnelproject.vic.gov.au)
-  [westgatetunnelproject@wda.vic.gov.au](mailto:westgatetunnelproject@wda.vic.gov.au)
-  1800 105 105
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**Interpreter service: 13 14 50**

If you are deaf, or have a hearing or speech impairment, contact us through the National Relay Service. For more information, visit: [www.relayservice.gov.au](http://www.relayservice.gov.au).