

## Fact Sheet

### **COMPULSORY PURCHASE ORDERS AND NATIONAL INFRASTRUCTURE PROJECTS**

The Dublin Core Bus Corridor Project is a recent example of a large infrastructure project which will require extensive public consultation before the publication of a detailed Compulsory Purchase Order (CPO).

Such an order allows certain statutory bodies acquire land without the consent of the individual property owner. Each CPO is preceded by an extremely involved and careful considered process in an effort to properly balance the competing interest of the individual land owners with the common benefit in allowing the project proceed to conclusion.

### **PUBLIC CONSULTATION PROCEDURE**

The first step in these types of projects once a CPO has been published is the public consultation process. At this stage the landowners and occupiers, other people and entities affected by the project are invited to express their views and lodge objections.

In the case of the Core Bus Corridor Project the public consultation is taking place on a phased basis. The aim of the Core Bus Corridor Project is to deliver 230km of dedicated bus lanes and 200km of cycle tracks along some of the busiest routes in Dublin. The public consultation for the final phase which primarily comprises the proposed city centre corridors due to close at the end of May 2019.

### **AN BORD PLEÁNALA APPLICATION**

After the public consultation process concludes the plans will be finalised and an application is prepared by the relevant local and/or national transport authorities for submission to An Bord Pleánala. The application to the Bord will include further detailed submissions such as Environmental Impact Assessments and other documents required by national and European legislation. For example, the application to An Bord Pleanala will also need to address the protection of structures with architectural and cultural significance. It is anticipated that the application in the case of the Dublin Core Bus Corridor Project will be made in 2020.

### **ORAL HEARINGS**

An Bord Pleanála has discretion over whether it will hold oral hearings. Oral hearings are usually held in the case of strategic infrastructure projects and CPOs.

At an oral hearings property owners are entitled to make observations which will be addressed by an appointed Inspector. The oral hearings are held in public but not all members

of the public will be entitled to participate. If a person has not made written submissions in advance of the formal oral hearing they will be required to apply to the Inspector for permission. Generally that party will need to demonstrate that the project will have a tangible effect on their property, business or some other interest.

After an oral hearing has concluded the Inspector will prepare a report for the Bord. The Bord will consider the Inspector's report and issue a decision before draw up a Compulsory Purchase Order. The Inspectors Report, Board Direction and final Order will be published and made available online. A confirmed Order becomes operative three weeks after publication.

### **SERVICE OF A NOTICE TO TREAT**

After the publication of the Order the acquiring authority is required to serve the relevant land owners with a document which puts them on notice of the proposed acquisition. This is a legal document known as a Notice to Treat and is the means of formally notifying the land owner that their land is to be acquired. On receipt of this notice the person whose interest is being acquired may submit a claim for compensation. The Notice to Treat will set out the specified period within which to submit the claim for compensation. This claim is usually carried out with the assistance of a professional surveyor or valuer. There is a relatively tight deadline to submit a claim and it should be done as soon as is possible.

If a compensation figure can be agreed between the parties on consent then the transfer of land will progress in the ordinary way and the acquiring authority will normally pay reasonable legal fees incurred on the transfer of the property interest.

### **APPOINTMENT OF A PROPERTY ARBITRATOR**

If compensation cannot be agreed then legislation sets out a mechanism to resolve the impasse. The dispute can be referred to arbitration before one of the State's property arbitrators who will determine the level of compensation. A formal application together with the requisite fees to appoint an arbitrator is made to the Land Values Reference Committee in the Four Courts.

Once the formal application is made the matter will be allocated a date for hearing before the property arbitrator.

The relevant date for assessing the value of lands acquired under a CPO is the date when the Notice of Treat issues.

There are a number of heads of claim which may be available to a claimant such as the diminution or reduction of the resultant lands, loss of profits or goodwill, severance (where the land retained is split as a result of the CPO), injurious affection and disturbance. Other types of claim may be available depending on the project. Generally the potential or perceived enhancement of the property by virtue of the scheme is discounted when arriving at the ultimate award for compensation.

It is advisable to engage professionals to obtain valuations as these professional fees will be recoverable by the landowner. The affected land owner is generally entitled to their reasonable professional costs as part of an arbitration process.

### **SERVICE OF A NOTICE OF ENTRY**

The determination of compensation payable to property owners does not ordinarily delay the commencement of the project. When the acquiring authority requires access to the land for the purpose of starting construction they issue and serve a Notice of Entry. The service of a Notice of Entry can only be done after the service of a Notice to Treat and with not less than 14 days notice in writing. This authorises the acquiring authority to enter the lands within a specified period and start the works.

### **CONVEYANCE OF THE PROPERTY**

When land is purchased as part of a Compulsory Purchase Order a solicitor will be required to prepare the conveyance of the property. It is advisable to have a solicitor involved as early as possible in the CPO process to ensure that the boundaries and legal title are reviewed and what is negotiated as part of the take includes the correct title and boundaries. Again, the fees incurred in the conveyance will normally be paid by the acquiring authority.

### **LEGAL NOTICE**

**This is a basic guide prepared by Reddy Charlton Solicitors and ACCA Technical Advisory Service for members and their clients. It should not be used as a definitive guide, since individual circumstances may vary. Specific advice should be obtained, where necessary.**

**Reddy Charlton advise and serve enterprising clients, on both professional and personal matters, with integrity, clarity and passion. To find out how Reddy Charlton can work with you see [www.reddycharlton.ie/](http://www.reddycharlton.ie/) telephone +353 1 661 9500 or e-mail [solutions@reddycharlton.ie](mailto:solutions@reddycharlton.ie)**