

**IN THE MATTER OF AN APPLICATION TO
AN BORD PLEANALA**

**For Approval of the Railway (Metrolink – Estuary to Charlemont via
Dublin Airport) Order [2022]**

ABP-314724-22

ORAL HEARING

STATEMENT OF EVIDENCE

on

**(i) Book of Reference and
(ii) the MetroLink Land Acquisition Strategy**

By

Michael Horan

19 February 2024

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Brief of Evidence of Michael Horan
(i) Book of Reference and (ii) the Metrolink Land Acquisition Strategy

1 Qualifications and Role on the MetroLink Project

- 1.1 My name is Michael Horan. I am employed by Transport Infrastructure Ireland (TII) as Head of Land & Property Services. I am a Chartered Surveyor with both the Society of Chartered Surveyors Ireland (SCSI) and Royal Institution of Chartered Surveyors (RICS) and I am a full member of the Chartered Institute of Arbitrators (CI Arb). I hold a Bachelor of Science (Surveying) in Property Economics from Technological University Dublin (TU) and a Post Graduate Diploma in International Commercial Arbitration from University College Dublin. I am a member of the SCSI CPO working group and I am a part time lecturer in TU (Applied Statutory Valuations Module).

In my role in TII I oversee and supervise the land acquisition processes for all new national road projects and national and regional greenway projects nationwide, where TII is typically the Approving Authority, and all new Light Rail and Metro projects where TII is the Sponsoring Agency. Since joining TII in 2017, I have been directly involved in Metrolink and other light rail projects at varying stages of design, planning and construction. Prior to joining TII I was a Divisional Director (Valuations and Advisory Services) in a large, Irish owned, real estate consultancy firm and worked on behalf of the Railway Procurement Agency (RPA) on Metrolink, Luas Cross City, the original Metro North Project and the Green and Red Luas lines. I also acted on behalf of various local authorities and the National Roads Authority on numerous national road projects nationwide.

- 1.2 My evidence is concerned with:

- 1.2.1 Updates to the Book of Reference;
- 1.2.2 the Metrolink Land Acquisition Strategy.

2 Executive Summary of key updates/changes and reason for these

- 2.1 By virtue of Section 37(2) of the Transport (Railway Infrastructure) Act, 2001 ("the 2001 Act"), as amended, an application by TII for a Railway Order was made in writing and accompanied by *inter alia*:

- 2.1.1 A draft of the proposed order;
- 2.1.2 A plan of the proposed railway works;
- 2.1.3 A book of reference to the plan indicating the identity of the owners and of the occupiers of the lands described in the plan;

- 2.2 A team of in-house Title Referencers compiled a Book of Reference to the plan indicating the identity of the owners and occupiers of the lands described in the plan. The title research activities and diligent inquiries were undertaken in the time before the date the application was submitted to An Bord Pleanála in September 2022. Since this time, there have been instances where ownership has changed, where new information has come to light and where other events have occurred which have warranted changes and updates in the Book of Reference. In consultation with property owners / occupiers, a number of amendments to the Book of Reference have been proposed. In this regard I have set out in **Appendix 1**, annexed to my evidence, a list of the requested amendments and seek to have these made to the Book of Reference. A substantial number of the proposed amendments are of a minor nature mostly relating to an alternative address for service of documents to that listed in the Book of Reference and change of address to a Registered Office whilst the largest category of amendments relates to changes in ownership.

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2.3 Updates to the Book of Reference

The Schedule of Proposed Amendments as set out in **Appendix 1** provides an update to 793 interests out of a total of 5,944 interests contained in the Book of Reference which comprises of a total of 1,985 unique tag references.

The Schedule is made up of six columns: 'Plan Number', 'Reference', 'Situation', 'To be deleted', 'To be added' and 'Reason'.

- Plan Number

There are 100 property plans for MetroLink. The Schedule is ordered with the first property plan located in Estuary, north of the Swords, and the last located at Charlemont, near Ranelagh.

- Reference

The reference indicates the unique tag number assigned to each plot. Each tag number ends with a letter and number, where:

"A" signifies permanent acquisition (e.g., ML1B-A10),

U" indicates substratum (e.g., ML5A-U21),

T" denotes temporary (e.g., ML317-T4),

"W" represents a wayleave (e.g., ML16-W1), and

"B" indicates a basement (e.g., ML5F-B2).

- Situation

This indicates the general address of the property where the unique tag reference is situated.

- To be deleted

This signifies that an interest is to be removed from the reference. If "N/A" is indicated, it means there is nothing to be deleted on this line, but there is something to be added to the 'To be added' column.

- To be added

This signifies that an interest is to be included in the reference. If "N/A" is indicated, it means there is nothing to be added on this line, but there is something to be deleted from the 'To be deleted' column.

- Reason

This column serves as a concise heading explaining why the proposed amendment is occurring. Please refer to the breakdown below for further details on the reasons along with the corresponding totals.

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Reason	Description	No's
		Total - 793
Amend Name	The name recorded in the Book of Reference required amendment.	4
Owner Deceased	New information indicates that the owner has passed away. The deceased owner's name is then either removed or rephrased to "Estate of [Deceased Person's Name]."	24
Change In Ownership	This indicates that parties are being either removed, added, or both, from the Book of Reference due to a transfer of ownership of the property.	381
No Longer Possesses an Interest In Property	This indicates that a legal party is to be removed from the tag, as the individual or entity no longer holds an interest in the property. This change may result from e.g. new information or individuals acquiring the Fee Simple interest.	20
Change In Registered Office	Recent information indicates that a company has relocated its registered office. This information is typically sourced from the Companies Registration Office (CRO).	187
Registered Company Name Change	Recent information indicates that the company has undergone a name change. This information is typically discovered through searches conducted with the Companies Registration Office (CRO).	8
Amend Registered Company Name	Company name amended following Cross-Checking of Companies Registration Office (CRO).	9
Request For Service at Alternative Address	We have received a request from the owners to have correspondence sent to an alternative address.	81
Amend Address	We have either discovered new information indicating that the interested parties reside at a different address or the address was updated, following external verification.	64
Amend Situation	Amend Situation	2
Request For Service at Alternative Address/Change In Ownership	There has been both a change in ownership and the owner has nominated a different address for service.	5
Request For Service at Alternative Address/Amend Name	The owner has nominated a different address for service and provided updated contact details.	1
Agreement to Notify	Agreement with owner to Notify an additional party.	1
Apartment Does Not Exist	An identified Apartment Unit in a multi-unit development does not exist	2
Retail Unit Does Not Exist	An identified Retail Unit in a multi-unit development does not exist	2
Amend Registered Company Name & Change in Registered Office	Both a registered Company name & its Registered Office have changed.	1
Request To Remove Deceased Persons Name	Requested To Remove Deceased Persons Name.	1

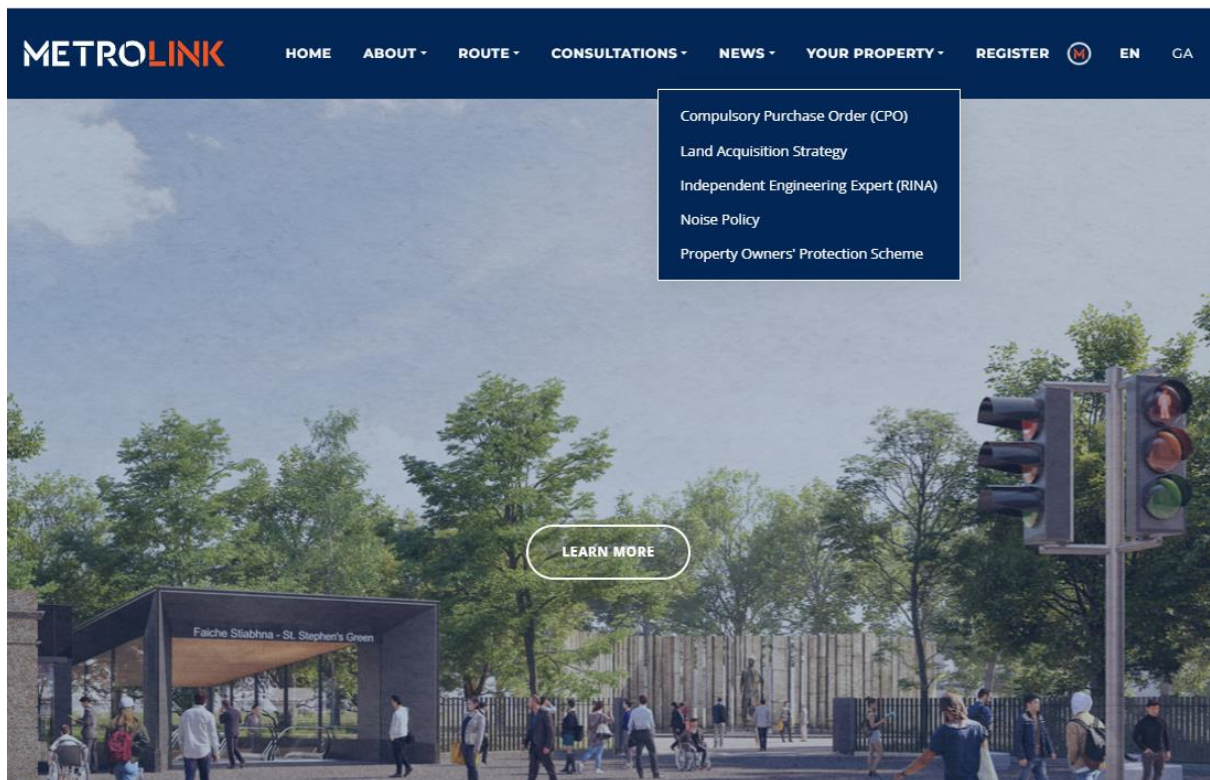
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3 The Metrolink Land Acquisition Strategy

3.1 The following paragraphs provide a synopsis of the Land Acquisition Strategy as contained in **Appendix 2**.

The Land Acquisition Strategy ('Strategy') sets out the arrangements proposed for the provision of information and assistance to residential and commercial property interests that will be subject to a Compulsory Purchase Order together with land and other interests, including public bodies, that may be directly impacted by the delivery of MetroLink. It is a public facing document that can be updated from time to time, and can be found on the home page of the main Metrolink Website under the Your Property Tab which includes:

- Land Acquisition Strategy
- Compulsory Purchase Order (CPO) Guideline September 2022 for further information on the compulsory purchase order process and frequently asked questions.
- Independent Engineering Expert
- Airborne Noise and Groundborne Noise Mitigation Policy
- Property Owners' Protection Scheme (POPS)



MetroLink will require the acquisition of a substantial number of residential and commercial properties together with numerous land and property interests in both public and private ownership, in some cases permanently and in some cases temporarily during the construction phase. Following previous non-statutory public consultation events in 2018 and 2019, MetroLink committed to engage with property owners at the earliest opportunity and confirmed that all acquisitions will be managed in a fair and equitable manner. The Strategy outlines how this can be achieved and more specifically looks at opportunities to place greater focus on collaborative stakeholder engagement initiatives.

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Prior to the development of the Strategy, and in order to assist the parties whose property interests may be impacted by Metrolink, the Compulsory Purchase Order (CPO) Guideline document was introduced a copy of which is included in **Appendix 3**. This was prepared as part of the non-statutory consultation, with the objective of providing parties with an understanding of the compulsory purchase order process and frequently asked questions. This was initially published and available on the Metrolink website in 2020.

Under the 2001 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 order 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. I understand that An Bord Pleanála is required to be satisfied that the scheme meets a legitimate object in the public interest and that the extent of compulsory acquisition is both necessary to deliver the scheme and proportionate having regard to the public interest and importance of the scheme as well as the reasonable alternatives to the acquisition of the properties in question. The acquisition of the various specified rights and interests in land and property, is necessary to ensure the delivery of the MetroLink project in its entirety and proportionate to that objective.

A key aspect of this Strategy, 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's policy has and will be to initiate discussions with affected property owners even in advance of confirmation of the RO by An Bord Pleanála ("the Board") and service of a notice to treat.

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, in my experience, in most cases involving transport infrastructure, agreement is reached with regard to compensation afforded to landowners before and without the need for determination by a property arbitrator.

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.

The Strategy includes the discretionary scheme which is aimed to support residential property owners and commercial businesses. Key terms from the scheme include:

3.2 Residential Property

The Strategy allows for a pre-agreement to be made with residential property owners which is not binding on them but allows them to fix certain components of the sale agreement which TII will not seek to renegotiate. For example, a price may be agreed based on current values which will be index-linked pending the sale being effected. 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.

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)

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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 an alternative 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.

In the case of residential tenants, TII will engage the services of a Residential Lettings and Management Agency to support qualifying tenants seeking to identify alternative accommodation at the relevant time. Once identified, TII will assist in meeting relevant and reasonable costs.

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.

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.

3.3 Commercial Property

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.

TII will establish an agency service to support affected businesses in their search for suitable alternative accommodation and to assist businesses in their future business planning through the provision of information and open dialogue.

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.

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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APPENDIX 1

Updates to the Book of Reference

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APPENDIX 2

Metrolink Land Acquisition Strategy

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APPENDIX 3

Compulsory Purchase Order (CPO) Guideline September 2020