

METROLINK

Integrated Transport. Integrated Life.



Compulsory Purchase Order (CPO) Guideline

September 2022



Rialtas
na hÉireann
Government
of Ireland

Tionscadal Éireann
Project Ireland
2040



MetroLink and the Compulsory Purchase Order Process

Introduction

MetroLink is the proposed high-capacity, high-frequency rail line running from Swords to Charlemont, linking Dublin Airport, Irish Rail, DART, Dublin Bus and Luas services, creating fully integrated public transport in the Greater Dublin Area.

As well as linking major transport hubs, MetroLink will connect key destinations including Ballymun, the Mater Hospital, the Rotunda Hospital, Dublin City University and Trinity College Dublin.

MetroLink will carry up to 53 million passengers annually, cutting journey times from Swords to the city centre to 25 minutes. It will change the way we travel – and how we live.

Much of the 18.8 kilometre route is underground. There will be two single bore tunnels; a short one under Dublin Airport, and a longer one from Northwood to Charlemont. Each tunnel will contain both north and south running rail lines. Each will be constructed using a Tunnel Boring Machine.

The biggest impact of MetroLink's construction and operation will be:

1. Where the route is above ground, either "at grade" (ground level) or in "cutting" (below ground level but not in tunnel). This will be the case from Estuary to the north side of Dublin Airport and from the south side of Dublin Airport to Northwood.
2. At station locations whether underground or at street level.

At these locations, a requirement will arise for MetroLink to purchase land and property either permanently or temporarily. MetroLink will be the single biggest investment in transport infrastructure in the history of the state and will deliver significant

benefits to the thousands of passengers who will use the service, and through reduction in vehicular traffic and carbon emissions, to wider society and the economy. However, for property owners/occupiers who are the subject of a compulsory purchase order, it can pose challenges and uncertainty.

To give effect to this, a Railway Order ('RO') is required and it is intended that this guide will provide an overview of the various stages involved in the application for such a RO, including the land acquisition process.

The purpose of this document is to explain that process to those affected and provide information and clarity around the steps involved.

The content of this guide is provided for general information purposes only and does not constitute legal or other advice.

Overview

MetroLink Railway Order Application to An Bord Pleanála

Transport Infrastructure Ireland (TII) will publish notices in suitable newspapers outlining the intention to lodge a RO application prior to the lodgement.

This application itself follows the notice and includes:

- Draft RO
- Plan of the proposed works
- Book of Reference indicating the identity of the owners and occupiers of lands described in the plans
- Environmental Impact Assessment Report
- Appropriate Assessment Screening Report and Natura Impact Statement

The identification of the extent of lands required and reputed ownership/occupier details are indicated in the Books of Reference.

A copy of the newspaper notice and relevant extracts from the draft RO and supporting documents is served on all owners/occupiers of land referred to in the draft RO.

An Bord Pleanála Consideration of the Application

Interested parties may make submissions to An Bord Pleanála ('ABP') within a specified time period (six weeks at a minimum) as set out in the newspaper notice in relation to the proposed RO or its likely effects on the environment.

ABP may, at its absolute discretion, hold an oral hearing into the RO application. Given the scale and extent of the MetroLink project it is highly likely that an oral hearing will be held similar to past RO applications such as the Metro North and Dart Underground applications.

An Bord Pleanála Decision/Making of a Railway Order

ABP considers the application and decides whether to make the RO, refuse the RO application or make a RO in amended/different terms to the draft submitted. The RO may include provisions such as details of any land or substratum of land, the acquisition of which is necessary for giving effect to the RO and details of any rights in, under or over land, water or any public road, the acquisition of which is necessary for giving effect to the RO.

ABP issue a decision to make the RO and must, as soon as possible after making the RO, publish newspaper notices regarding the making of the RO.

The RO comes into operation after eight weeks if no application for leave to apply for judicial review has been lodged or upon the final determination of any judicial review proceedings, or following the withdrawal of any judicial review proceedings.

Compulsory Acquisition Process

Following the commencement of the RO, TII may initiate the compulsory acquisition process. Given the scale of the project, there are a number of public and privately owned properties that will be impacted where the acquisition, whether in whole or in part, will be necessary.

TII is authorised to acquire any rights in, under or over land or any substratum of land specified in the RO.

TII must publish a newspaper notice outlining that the RO has been confirmed in respect of all or part of the land to be acquired, and outlining where a copy of the RO and a map of the land to be acquired may be accessed.

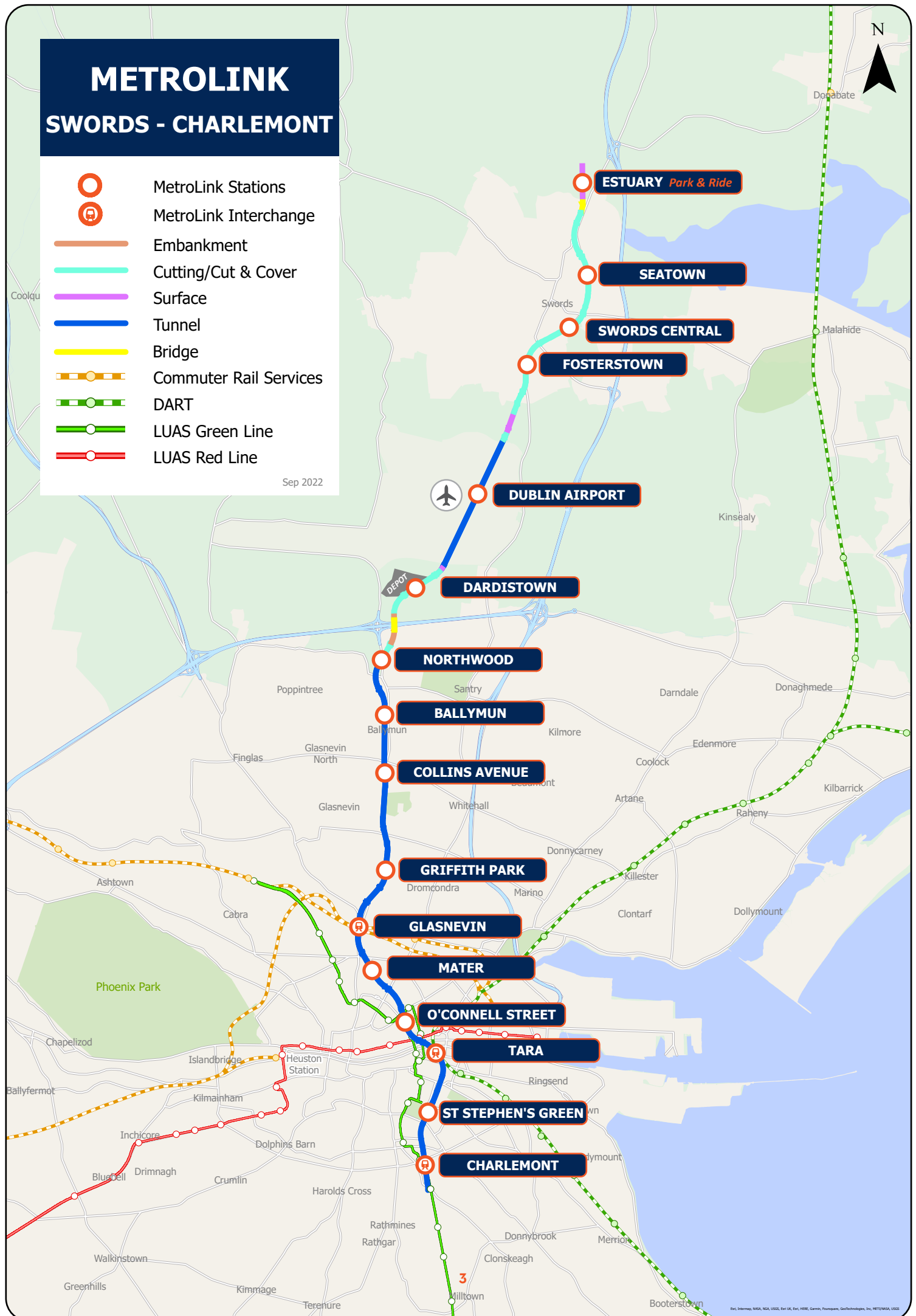
TII must serve a 'Notice to Treat' on landowners, occupiers and holders of any interest in the relevant land, including the following:

- A statement that TII is willing to treat for the purchase of the relevant interest(s);
- A requirement for the recipient(s) to state within a specified period (minimum one month) the exact nature of the interest in respect of which the recipient will claim compensation; and
- If required by TII, distinguishing separate amounts of compensation in such a manner as may be specified in the Notice to Treat, and showing how each amount is calculated.

Following service of the applicable Notice(s) to Treat, and after giving 14 days' notice in writing to the relevant landowners/occupiers, TII is authorised, subject to service of a 'Notice of Entry', to enter onto and take possession and use of the relevant land.

	MetroLink Stations
	MetroLink Interchange
	Embankment
	Cutting/Cut & Cover
	Surface
	Tunnel
	Bridge
	Commuter Rail Services
	DART
	LUAS Green Line
	LUAS Red Line

Sep 2022



Frequently Asked Questions in relation to Compulsory Purchase and Compensation

Q. What is a Compulsory Purchase Order (CPO)?

A. A CPO is a legal function which allows certain statutory bodies to acquire land and property for large projects such as road and railway schemes where a compelling case in the public interest can be demonstrated. Compulsory purchase powers are provided to enable the acquiring authority to acquire land, property and other interests (including new rights) compulsorily to carry out their public function.

Q. Who authorises a CPO?

A. Any statutory body with specific powers to do so. For transport projects, these include local authorities, TII, Iarnród Éireann and the National Transport Authority (NTA). CPO powers cannot be exercised until after the order has been confirmed.

Q. When does the CPO process commence?

A. Land, property and other interests (including new rights) can only be acquired once the RO has been confirmed by ABP. The process leading up to confirmation can allow the opportunity for negotiations to take place where appropriate.

The acquiring authority has 18 months following the date of confirmation to implement their powers. The authority can do this by service of notice to treat and notice of entry. Compensation will be paid, in accordance with the statutory compensation code, to parties from whom land, property and interests are acquired.

Q. Can I object to the making of a CPO?

A. Yes. Once a RO application is made to the relevant planning authority there is a statutory consultation process during which time submissions and objections to the RO can be made to the decision making authority. In most instances for large transport projects, the decision making authority is ABP. In general, valid objections can be made on planning and legal grounds only.

Submission and objections relating to compensation may be disregarded since there is a separate procedure for resolving disputes regarding compensation.

Q. What is the purpose of Compulsory Purchase and Compensation?

A. MetroLink must demonstrate that the taking of land is justified and that there is a compelling case in the common good for land which has been identified for the scheme.

The principle of compulsory purchase compensation is generally to seek to place the affected party in no better or worse position than prior to the compulsory purchase. Compensation is assessed and paid in accordance with the statutory compensation code which applies to the compulsory acquisition of land, property and other interests.

The nature and amount of compensation payable will depend on the specific circumstances. Typical heads of claims may include: market value of property, disturbance costs, professional fees and cost of reinvestment where relevant and appropriate.

In addition, you may also claim reasonable costs incurred in consequence of the transaction, including surveyors or agent's fees for negotiating compensation and legal costs properly incurred in consequence of the purchase by the acquiring authority.

Q. How do I know when a Railway Order/ Compulsory Purchase Order application has been made?

A. If your property is to be the subject of a RO/CPO you will receive a letter notifying you that an application has been made and of the timeframe available to you to make submissions (representations) to the relevant planning authority.

Q. What is a Notice to Treat?

A. A Notice to Treat is a formal request served by the acquiring authority to agree a price for the portion of land or property identified. It states that the acquiring authority is willing to treat for the purchase of the owner, lessee and occupiers interest in the land and invites affected parties to submit details of their claim. The Notice to Treat is not considered a binding contract and does not in itself have the effect of passing any interest or estate in land to the acquiring authority. The transfer of legal interest(s) in lands occurs at a later stage.

Q. What is a Notice of Entry?

A. A Notice of Entry is a formal legal notice which is served by the acquiring authority either at the same time or following the service of a Notice to Treat and gives the acquiring authority power to enter on and take possession of the relevant lands to be acquired. The affected party/ interest is given a minimum of 14 days' prior notice and typically access is arranged between liaison officers and the parties by agreement.

Q. How can I prepare a compensation claim?

A. Upon receipt of a Notice to Treat, a claimant may wish to obtain independent professional advice and representation in preparing and negotiating a claim for compensation.

MetroLink will in all usual circumstances be responsible for the payment of your professional costs arising from the compulsory acquisition and negotiation of compensation, including reasonable and properly incurred surveyors or agent's fees and legal costs.

If compensation is not agreed, it may be determined by an arbitrator who may make an award of costs in favour of the claimant or the acquiring authority. MetroLink would not be responsible for your costs in objecting to the Compulsory Purchase Order.

Q. What are the main headings to a claim for compensation?

A. Where the entitlement to statutory compensation exists, each case is assessed on its own merits. The assessment of compensation and those items that can be

considered in that assessment are governed by legislation. The claimant must take all reasonable steps to mitigate their loss and cannot claim any avoidable losses. There needs to be causal connection between the loss and the acquisition due to the scheme. A claimant's legal duty to mitigate starts upon confirmation of the CPO. A suitably qualified and experienced professional should be able to advise on the elements to be included. The main heads of claim are:

- Value of Legal Interest in land to be acquired such as freehold interest in land
- Severance or other Injurious Affection which relates to devaluation to retained lands, if any, caused as direct consequence of the acquisition.
- Disturbance and any other matters such as professional fees and the loss sustained or expenses incurred by an owner as a result of the acquisition of land, apart from the value of the land taken and the reduction in value to retained lands, if any.

Q. What can I claim if my land is required temporarily?

A. In a situation where land or property is required on a temporary basis the affected party can claim for any loss or damage caused by MetroLink as a direct consequence of their occupation.

Q. What are the main elements to a claim for compensation if my residential property is acquired?

A. Whilst every effort is made to avoid impacting on residential properties, in certain circumstances the full acquisition of a residential property is necessary. The format of a claim for compensation is informed by the circumstances of the claimants and the characteristics of the property.

If your dwelling house/residential unit is identified in the RO an owner may be entitled to receive compensation for the following –

Value of Interest Acquired

Market Value of the private residential dwelling unit and all associated structures and buildings, such as garage, storage buildings and underground car park space held with an apartment.

The market value of your dwelling/residential unit is assessed ignoring the fact that the acquisition is compulsory.

Disturbance and any other matters

- This can include recovery of the **costs of seeking and acquiring alternative comparable premises** such as stamp duty, where applicable; legal costs of conveyance; auctioneer/valuer fees; and other associated professional fees that may reasonably arise.
- **Cost of adapting new premises** in order to make the new premises convenient and suitable once the works required are such that their cost is not reflected in the value of the house e.g. wheelchair access ramps
- **Removal Expenses** including disconnecting and refitting household equipment such as white goods, adapting curtains and carpets to make them suitable or the value in situ where unsuitable.
- **Double overheads** such as interest on bridging finance, costs of running two premises, electricity and gas bills and bin charges.
- **Increased overheads** including increased running costs which is not offset by any consequent benefit to the owner.
- **Claimant's time and trouble** for spending your own time finding and acquiring new premises, making arrangements for removal, arranging reconnection of utilities, and travelling and out of pocket expenses.

Q. When will I receive my compensation?

A. Once the negotiations process is complete and a proposed settlement is reached between the parties, or following an Award from the property arbitrator, the matter is referred to each side's respective legal representatives to undertake the conveyance (transfer of ownership) process. It is always advisable to request your solicitor to ensure that your legal title documentation is in order as only good and marketable title is acceptable. Difficulties in payment of compensation may arise if clear title or ownership details cannot be confirmed.

Q. How long do I have to relocate?

A. If the whole of the premises is affected by the Compulsory Purchase Order, it may be necessary for owners, lessees, tenants and occupiers to relocate to other premises. MetroLink will notify parties, at the earliest opportunity, if relocation is considered necessary and inform them of the timescales for achieving relocation where every effort is made for this to be an orderly process.

MetroLink will also endeavour to provide assistance to affected parties wishing to relocate, if assistance is required.



Q. What is a substratum acquisition?

A. In certain projects it may be necessary to acquire land and property that is below the surface without the need to acquire the lands directly overhead. In situations where only substratum land is to be acquired, Rule 17, recited below, and introduced by section 48 of the Planning and Development (Strategic Infrastructure) Act 2006, will apply:

"The value of any land lying 10 metres or more below the surface of that land shall be taken to be nil, unless it is shown to be of a greater value by the claimant."

Q. How deep will the tunnel be?

A. The depth of tunnel will vary along the route but it is expected that the average depth will be approximately 24m from ground level to track level.

Q. What is the diameter of the tunnel?

A. The Metrolink tunnel is described as a 'single bore tunnel with twin rail tracks'. It is anticipated that it will have an outer diameter of 9.2 metres.

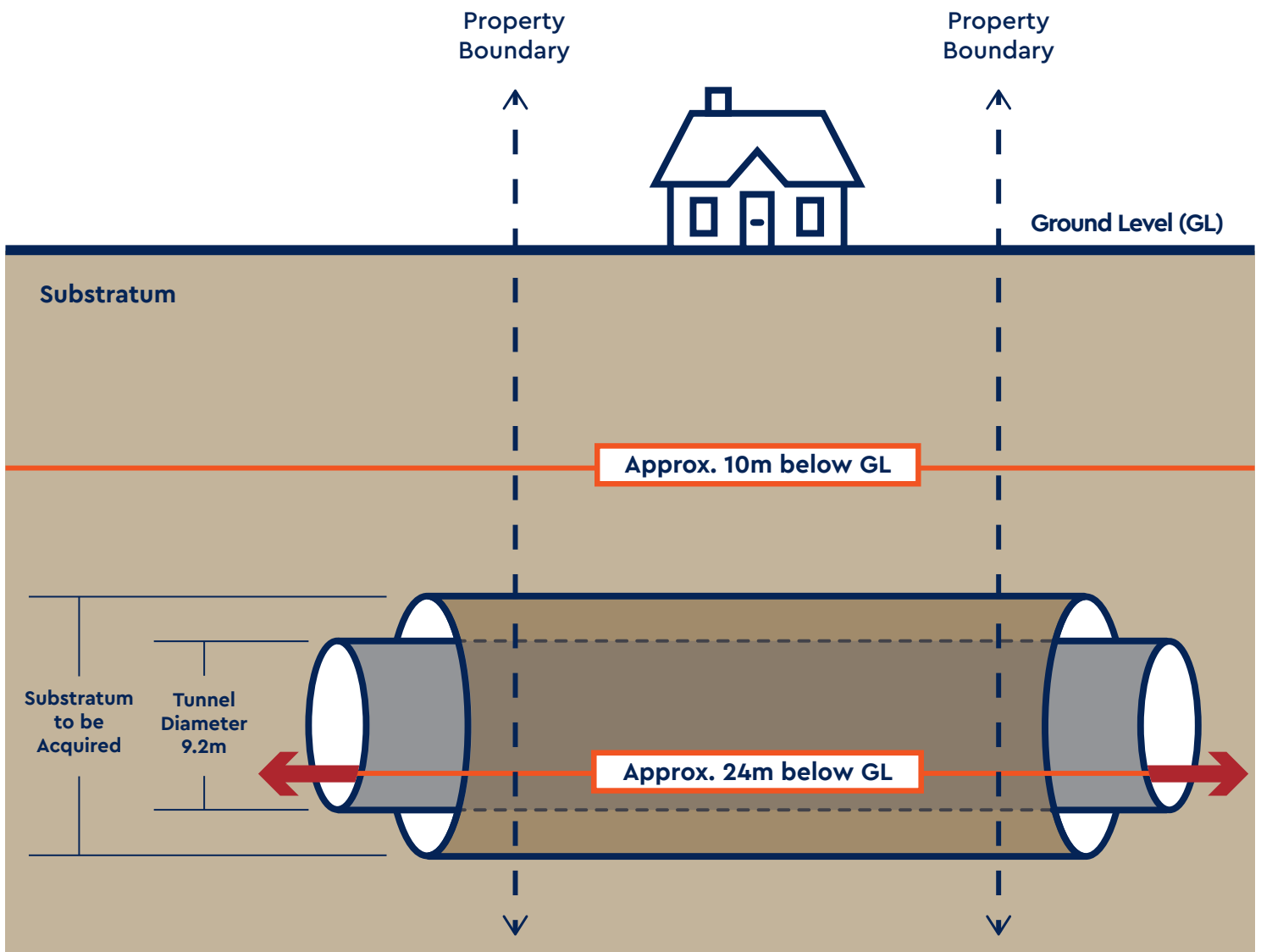


Image: Substratum Acquisition

For illustration purposes only.

Q. How will my property be affected by the acquisition of substratum?

A. In the vast majority of cases the subsoil can be acquired without affecting the above ground property.

Q. Who can I contact to prepare my claim?

A. There are several professional representative bodies where some of their members practice in the area of compulsory purchase and compensation. These include the Society of Chartered Surveyors Ireland (SCSI); Institute of Professional Auctioneers & Valuers (IPAV); Royal Institution of Chartered Surveyors (RICS); Agricultural Consultants Association (ACA); and the Law Society.

Q. Can you send the Notice to Treat, or a copy of the Notice to Treat, to my solicitor?

A. The original Notice to Treat must be served on the named person. A copy can be sent to a representative where requested.

Q. What happens if I agree compensation and subsequently sell my property before the project is built?

A. Any compensation payment to you will be in full and in final settlement under all heads of claim and the ownership in the relevant land/property will be transferred accordingly.

Q. Can I sell my property once I have been notified of a potential CPO?

A. Yes. Any future purchaser of your property should be advised of the fact that the property may be the subject of a CPO.

Q. Can I apply for planning permission to extend/alter my property?

A. There is no barrier to you making a planning application. All planning applications submitted along the proposed alignment will be referred to the acquiring authority to ensure such development does not adversely impact on the construction/operation or structural integrity of the proposed works.

Q. Do you have an independent guide for occupiers/owners for the CPO process?

A. Further information can be found on the SCSI website: SCSI guide to CPOs and Compensation.
www.scsi.ie/advice/consumer_guides





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