

Roads and Maritime Services may need to acquire privately owned land as part of developing or upgrading infrastructure. This fact sheet sets out general information about the process and does not constitute legal advice.

## Background

A property is described as being 'directly affected' by a project when Roads and Maritime needs to acquire part or all of it in order to deliver the project. Roads and Maritime will, at the relevant time, contact owners of affected properties.

If private property is directly affected, Roads and Maritime has the authority to acquire it under the *NSW Roads Act (1993)* either by negotiation and agreed sale or through a compulsory acquisition process.

An owner's entitlement to compensation for their land being acquired is provided by the *Land Acquisition (Just Terms Compensation) Act 1991*.

The Roads and Maritime Land Acquisition Information Guide sets out in detail the processes relating to land acquisition. Further information is available on the Roads and Maritime website at [rms.nsw.gov.au/roadprojects/community\\_environment/land\\_acquisition.html](http://rms.nsw.gov.au/roadprojects/community_environment/land_acquisition.html)

During the planning and design phases of a Roads and Maritime project, plans are prepared to show if private property will need to be acquired should the project be approved.

Throughout the project development process, Roads and Maritime communicates with residents, including distributing letters or newsletters, arranging information sessions to display the proposed route or other available design options and placing advertisements in local media to advise the times of information sessions or to invite feedback.

Draft road project plans may also be made available at [rms.nsw.gov.au/roadprojects/index.html](http://rms.nsw.gov.au/roadprojects/index.html)

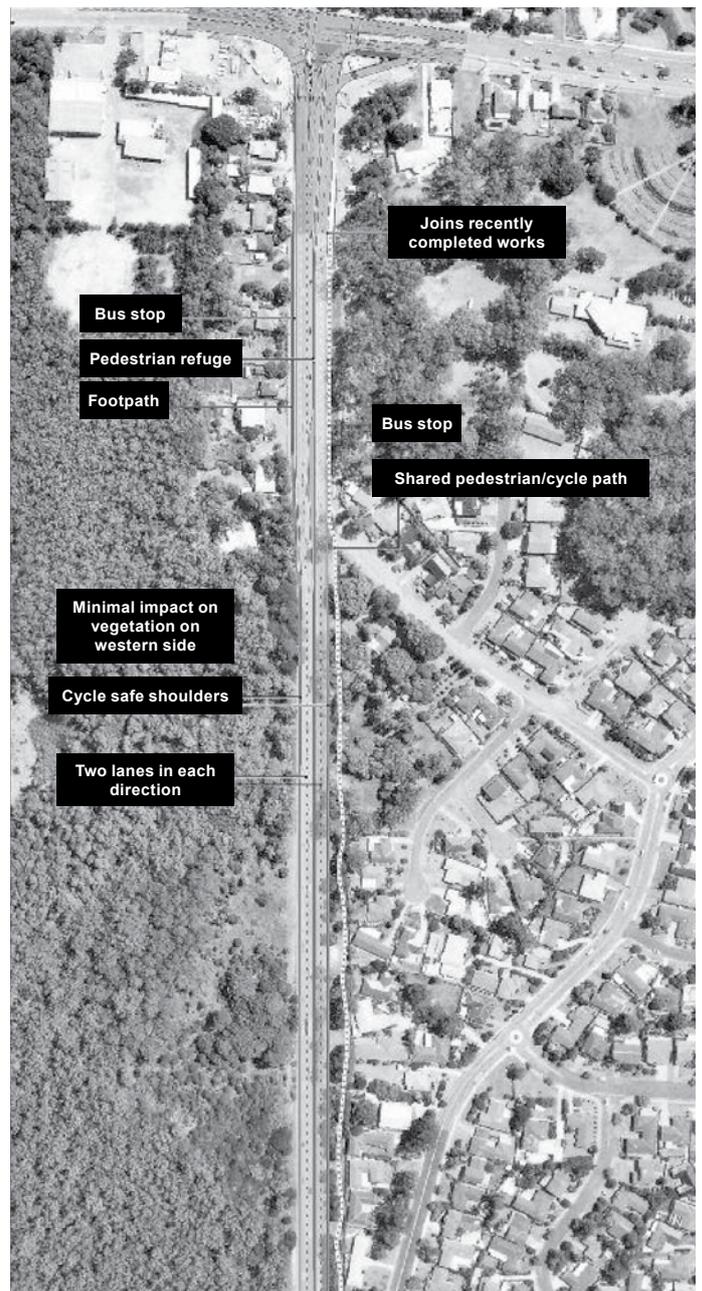


Figure 1. Example of a Roads and Maritime display of a preferred option

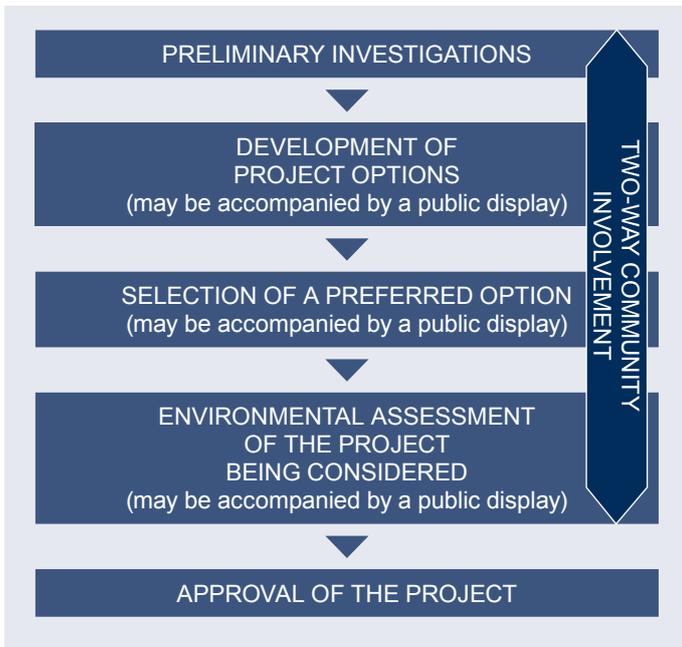


Figure 2. Project proposal approval process



Community information sessions often display project designs showing where private property may need to be acquired if the project is approved

## Assessing property value

Roads and Maritime aims to negotiate with a property owner to establish a mutually agreed market value of the property. The payment for land acquired by negotiation (or through compulsory acquisition) must be in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*. It is based on the assessment of the market value, unaffected by the road proposal.

When a land purchase is initiated by Roads and Maritime, the owner of each property affected will be contacted by letter advising that:

- Their property is 'directly affected' by a road proposal and Roads and Maritime wants to start the acquisition process
- A valuer representing Roads and Maritime will contact them to make an appointment to inspect their property for the purpose of carrying out a property valuation
- A valuation will be carried out before Roads and Maritime makes a formal offer to the landowner.

The owner may also choose to engage their own registered valuer to carry out a valuation of the property. Please refer to 'Valuation fee reimbursement below'.

The valuations are discussed between the parties, including the respective valuers, with the aim of negotiating agreement on the market value of the property.

## Sale by negotiation

Once agreement on the market value of the property is reached, it is confirmed in writing between the owner and Roads and Maritime. Roads and Maritime will arrange for contracts of sale to be prepared by its consultant solicitors and sent to the owner's solicitor. This will start the conveyancing process which is similar to that in the open market. When signed contracts are exchanged, a settlement date is agreed.

Property owners must vacate a property on settlement of the contract. Following the exchange of contracts, the owner may wish to request a settlement date that lines up with the purchase date for the replacement property they are buying.

See the [Roads and Maritime Land Acquisition Information Guide](#) for more information.

## Compulsory acquisition

For Roads and Maritime the property acquisition starting point is always to attempt to negotiate an agreement. If the value of the property cannot be agreed between the parties, Roads and Maritime will need to initiate steps to acquire the land under the compulsory acquisition process while continuing negotiations. This ensures Roads and Maritime can start proposed road work when required.

Where the land is acquired by a compulsory acquisition process, the compensation is determined by the Valuer General. The landowner may disagree with the amount of compensation determined by the Valuer General and appeal the amount of compensation to the Land and Environment Court.

More information is available from the [Roads and Maritime Land Acquisition Information Guide](#).

### Valuation fee reimbursement

Roads and Maritime initiates the negotiation process to acquire property by writing to the owner. At this point, the owner may obtain a valuation report from a registered valuer and reasonable fees for the valuer can be reimbursed by Roads and Maritime on settlement. Roads and Maritime will, in its letter to the owner, provide a guide as to appropriate fees for a registered valuer.

However, should an owner who wants to sell their property before Roads and Maritime needs to acquire it, approach the agency to initiate the sale, valuation fees are not reimbursed.

### Compensation and relocation costs

When the acquisition of an entire property is initiated by Roads and Maritime the total purchase price may include reasonable costs arising from the need to relocate such as:

- Legal costs including conveyance fees
- Valuation fees
- Removalist costs
- Pest and building inspection costs
- Stamp duty costs in connection with the purchase of another property of equal value
- Mortgage costs and other payments
- Solatium (an amount of money to compensate the owner for the inconvenience of having to move their primary residence).

Please refer to the [Roads and Maritime Land Acquisition Information Guide](#) for more detailed information on these costs noting you may wish to seek your own legal advice.

### Business premises

If Roads and Maritime acquires a business property, compensation for reasonable disturbance costs likely to arise will be considered.

Roads and Maritime does not buy the business, only the property upon which it is operated.

Roads and Maritime property staff can provide information about specific business issues and property acquisition.



This urban area road was being widened following property acquisition

## Assessing the value of part of a property

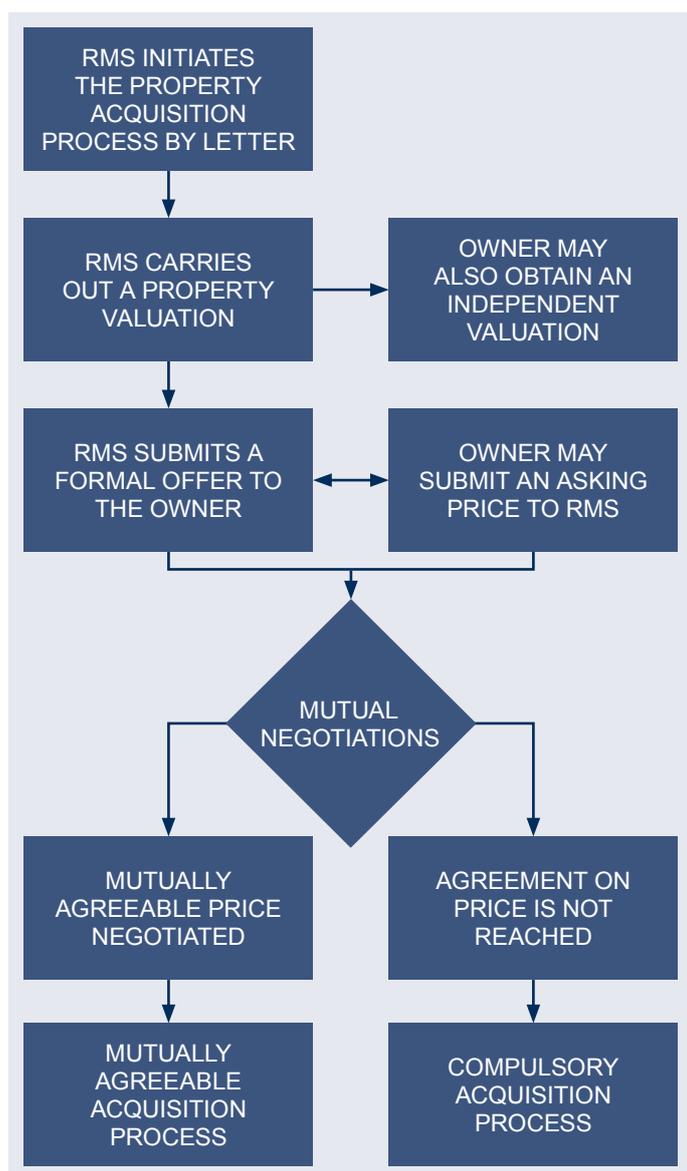
If Roads and Maritime only needs a part of a property to build or upgrade a road, the compensation payable for partial acquisition is generally assessed using a 'before and after' valuation method.

This involves two separate valuations which are done at the same time:

- The first valuation is of the whole property as unaffected by the road proposal
- The second valuation is of the remaining land, on the basis the new road has been built and is in use

The difference between the two valuations then becomes the payment for the partial acquisition.

When a partial acquisition is necessary, Roads and Maritime will also, at its cost, adjust services or public utilities, relocate fences and complete other property adjustments.



## Hardship provisions

Owners who believe they may suffer hardship ahead of an official approach from Roads and Maritime may request their property be acquired early.

More information is available in the Roads and Maritime Land Acquisition Information Guide.

## Future road project information

To find out whether any part of a property is currently required for a Roads and Maritime project, land owners can first make contact with their regional office and discuss the matter with Infrastructure Property staff or, for a fee, make a 'Property Inquiry' to Roads and Maritime Services.

A written response will indicate if the property is directly affected by an approved project or if there are road proposals at an early stage of development which could, if approved, require the acquisition of the property.

An approved project is one for which approval has been granted by the relevant authority such as the NSW Department of Planning.

Local council environmental or other planning documents may also identify land zoned or reserved for future roads. Road proposals are not always shown on council plans. A prospective buyer can contact a relevant council to seek information about any road proposals which may affect a property. This is called a Section 149 certificate and is made available for a fee. In this way, a prospective buyer may see if Council has an existing zoning which indicates a property may be required for future road development.

## To contact Roads and Maritime

- Call the project contact number listed in the letter or newsletter if one has been delivered recently
- Call **132 213** to speak to the Infrastructure Property staff at your nearest regional office (Parramatta, Wollongong, Newcastle, Wagga Wagga, Grafton and Parkes)
- Make a 'Property Inquiry' online at **rms.nsw.gov.au**. Click on Online Services/ Business Partners/Online Property Inquiry System