

Public Acquisition Overlay

Planning scheme amendment C143

Why is the amendment proposed?

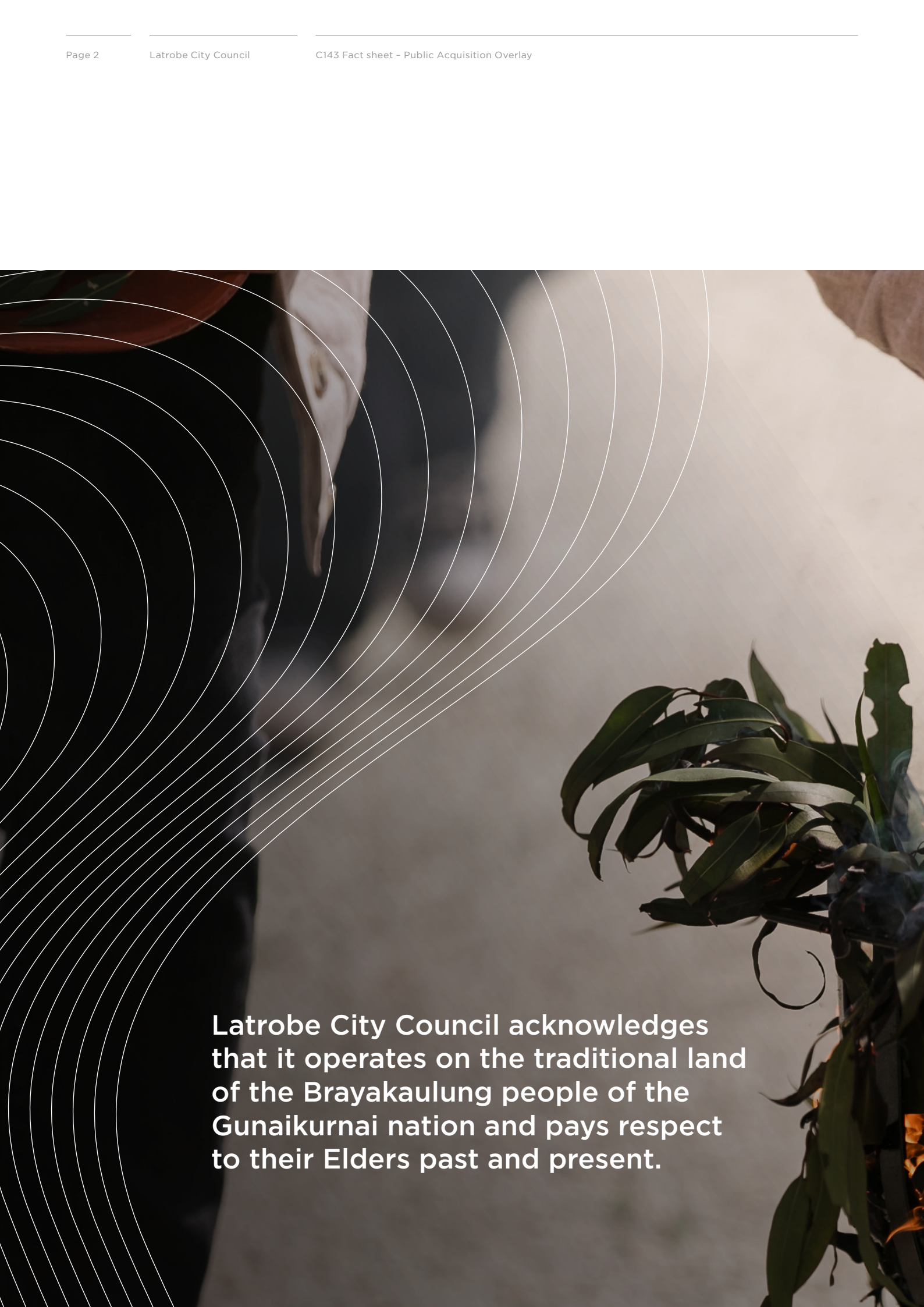
Latrobe City's population is growing and most of this growth is being accommodated in new housing estates in the designated residential growth areas around Churchill, Moe-Newborough, Morwell and Traralgon. In some of these growth areas, Council collects cash contributions from developers to deliver infrastructure for the growth area including: land for wetlands to manage stormwater, road widenings, intersection upgrades, land for sport and community centres.

Development Contribution Plans (DCPs) are used by Latrobe City Council to plan and coordinate the delivery of major infrastructure projects which are critical to the delivery of our residential growth areas. These plans outline the infrastructure required by a precinct, an indicative cost and how that cost is to be spread fairly. DCPs are usually accompanied by either a Development Plan (DP) or Precinct Structure Plan (PSP). DPs and PSPs are design documents which identify where different land uses and types of development will be in a growth area.

Due to the order in which development has occurred, Council Officers have determined that certain infrastructure projects may need to be built before the land they are located on is ready to develop. Officers have identified that, given the large number of land parcels required across the municipality, applying the PAO to the identified land is the only viable option to ensure the infrastructure projects can be delivered when they are required.

Council Officers have proposed this amendment to apply the PAO to the 23 identified properties in Newborough, Morwell and Traralgon. Applying the PAO will facilitate residential development by ensuring the supporting infrastructure can be provided.





Latrobe City Council acknowledges that it operates on the traditional land of the Brayakaulung people of the Gunaikurnai nation and pays respect to their Elders past and present.



Properties affected by this amendment

Street address	Title reference	Overlay to be applied
1 Thompsons Road, Newborough	Lot 1 LP142353	PAO2
3 Thompsons Road, Newborough	Lot 2 LP142353	PAO2
10 Thompsons Road, Newborough	Lot 6 LP157245	PAO2
5 Hayes Road, Newborough	Lot 1 LP126050	PAO2
Links Road, Newborough	Lot 2 PS636142	PAO2
18 Thompsons Road, Newborough	Lot 1 TP594736	PAO2
18 Thompsons Road, Newborough	Lot 1 TP248759	PAO2
20 Thompsons Road, Newborough	Lot 3E PP3273	PAO2
22 Thompsons Road, Newborough	Lot 3H PP3273	PAO2
25 Thompsons Road, Newborough	Lot 1 TP582048	PAO2
25A Thompsons Road, Newborough	Lot 2 TP582048	PAO2
710 John Field Drive, Newborough	Lot 34 LP121048	PAO2 & PAO3
130 Latrobe Road, Morwell	Lot 70E PP3072	PAO3
140 Latrobe Road, Morwell	Lot 70D PP3072	PAO3
150 Latrobe Road, Morwell	Lot 70C PP3072	PAO3
160 Latrobe Road, Morwell	Lot 70B PP3072	PAO3
25 English Street, Morwell	Lot 70L PP3072	PAO3
40 English Street, Morwell	Lot 1 TP211967	PAO3
55 English Street, Morwell	Lot 14 LP11865	PAO3
65 English Street, Morwell	Lot 70H PP3072	PAO3
23 Jason Street, Morwell	Lot 1 PS404523	PAO3
77 Ashley Avenue, Morwell,	Lot 19 LP111605	PAO3
Heritage Boulevard, Morwell	Lot H PS739559	PAO3
50 Glendale Road, Traralgon	Lot 1 PS329021	PAO3

Planning scheme amendment process

What will Amendment C143 do?

The amendment proposes to apply the Public Acquisition Overlay (PAO) to part of 11 properties in Newborough, part of 11 properties in Morwell and part of 1 property in Traralgon.

The Amendment also makes minor changes to Clause 72.03 (What does this scheme consist of?) to include updated map references and Clause 74.01 (Application of zones, overlays and provisions) to outline how the Public Acquisition Overlay implements the Municipal Planning Strategy.

Applying the PAO to the identified properties will in the long term allow Latrobe City Council to compulsorily acquire the reserved land to deliver infrastructure to support Latrobe's growing towns.



Exhibition details

View the details

The proposed maps, changes to the planning scheme ordinance, and supporting documentation can be viewed online at:

www.latrobe.vic.gov.au/c143 or
www.planning.vic.gov.au/public-inspection

Hard copies can be viewed at our service centres during business hours at:

- 34-38 Kay Street, Traralgon
- 141 Commercial Road, Morwell
- 1/29 George Street, Moe
- 9-11 Phillip Parade, Churchill

You can view the extent of the proposed overlays at:

Council's Neighbourhood Navigator (GIS):

www.latrobe.vic.gov.au/City/The_Region/Moving_to_Latrobe_City

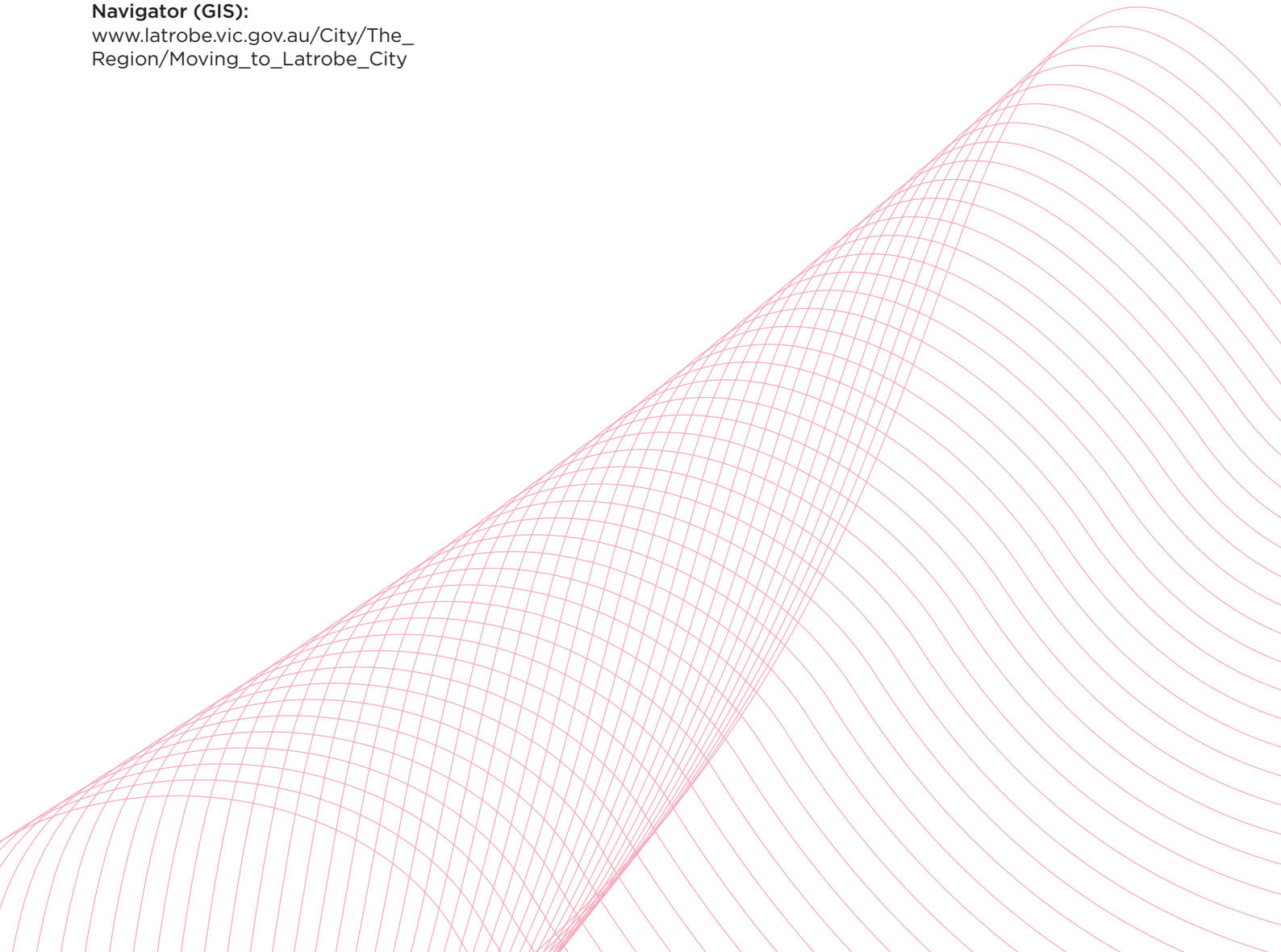
Come and see us

You can drop-in at any time between the times specified below and speak to a council officer about the amendment.

Yallourn Golf Club Golf Links Road, Newborough	3 December 1pm to 7pm
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Nambur Wariga Room, Latrobe City Council Headquarters 141 Commercial Road, Morwell	5 December 10am to 6pm
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If these times are not suitable for you, please phone us to discuss alternate options or drop into Latrobe City Council Headquarters in Morwell.



Have Your Say

We're looking for your feedback on proposed Amendment C143, here's how you can have your say:

Post

Latrobe City Council
Attention: Strategic Planning Department
PO Box 264 Morwell VIC 3840

Email

latrobe@latrobe.vic.gov.au
Attention: Strategic Planning

Online

www.yoursay.latrobe.vic.gov.au

We appreciate and value your contribution and look forward to receiving your input.

Privacy collection notice

Please note that all submissions must include your name and address to be considered.

Please note that in accordance with the Planning and Environment Act 1987, Council must make available for inspection, a copy of any submissions made to Amendment C143.

Submissions close Monday 23 December 2024, 5pm.

Meaning of key terms

Public acquisition overlay

The Public Acquisition Overlay (PAO) is a tool Victorian planning schemes can use to identify and reserve land which is required for a public purpose in the future. The schedule to the PAO designates who has reserved the land - known as the 'acquiring authority' - and what public purpose the land will be used for in the future i.e., road, stormwater drainage, community centre etc. An acquiring authority can be a Minister, public authority or municipal council. The PAO can be applied to all or part of a property.

The PAO will trigger a planning permit for the use and/or development of land which is within a PAO. These planning permit triggers override many exemptions contained within the planning scheme and are intended to ensure any proposed new land use, works or development on the reserved land are referred to the acquiring authority for their consent.

Land to which the PAO is applied, can be compulsorily acquired by the designated acquiring authority, this includes having an easement applied compulsorily. Any compulsory acquisition in Victoria must be undertaken in accordance with the requirements and processes set out in the Land Acquisition and Compensation Act 1986. This Act sets out a process which ensures claimants (landowners) will be appropriately compensated for any acquisition of their land.

Development Plan

A Development Plan (DP) is a document which sets out a vision and land use strategy for the development of a site - often a residential growth area. They provide an additional layer of strategic policy, tailored to the development of the site, which a planning application within the site must address.

A DP will take into account the attributes, character and context of the site, the site's relationship with the surrounding land, the type of development proposed, and what upgrades are required to facilitate and manage the development. A DP should also identify potential conflicts with adjacent land and identify options to resolve the conflict.

A Development Plan can only be enforced if the Development Plan Overlay has been applied to the land in a planning scheme.

Precinct Structure Plan

Precinct Structure Plans (PSP) perform a similar function to DPs but on a larger scale. They are usually accompanied by a Development Contribution Plan and Native Vegetation Precinct Plan.

The PSP sets out a vision and land use strategy for the development of a growth area to guide the transition from greenfield (a rural state) to urban. They provide an additional layer of strategic policy, tailored to the development of the site, which a planning application within the area must address.

A PSP will take into account the attributes, character and context of the site, the site's relationship with the surrounding land, the type of development proposed, and what upgrades are required to facilitate and manage the development. A PSP should also identify potential conflicts with adjacent land and identify options to resolve the conflict.

A PSP can only be enforced if the Urban Growth Zone has been applied to the land in a planning scheme.

Development Contribution Plan

A Development Contribution Plan (DCP) is a document which identifies and costs a range of infrastructure projects required by a growth area. Based on the costs, the DCP also calculates the levy required to be collected when development occurs to fund the infrastructure projects.

Common infrastructure projects funded through a DCP are: widening of major roads, wetlands for stormwater treatment, community centres and sports fields etc.

A formal DCP is only enforceable when the Development Contribution Plan Overlay (DCPO) has been applied to the land in a planning scheme. Where the overlay is applied, developments triggered under the planning scheme are required to pay the levy as part of their approvals.

Some DPs contain DCPs. These are considered 'informal' as they have no DCPO to collect the levy. Instead, a Section 173 agreement will be entered into as part of a planning permit to collect the contributions.

Claimant

A person or business who makes or is entitled to make a claim for compensation under the Land Acquisition and Compensation Act 1986. This is usually the owner of the land that is subject to a PAO for all or part of their land.

Schedule

Victorian planning schemes work on the idea that all planning schemes use the same zones and overlays. Certain components of zones and overlays can be altered to allow area specific aims. These alterations are contained in schedules. Schedules act as a planning scheme specific variation to the main zone or overlay.

Acquiring authority

The body who is named in the schedule to the PAO in the planning scheme as needing to take ownership of the land to deliver public infrastructure.

Government Gazette

The Victorian Government publication which provides official notice of decisions or actions undertaken by, or information from, the Governor of Victoria, Government authorities, Government Departments, local councils, companies or individuals.

Compensation

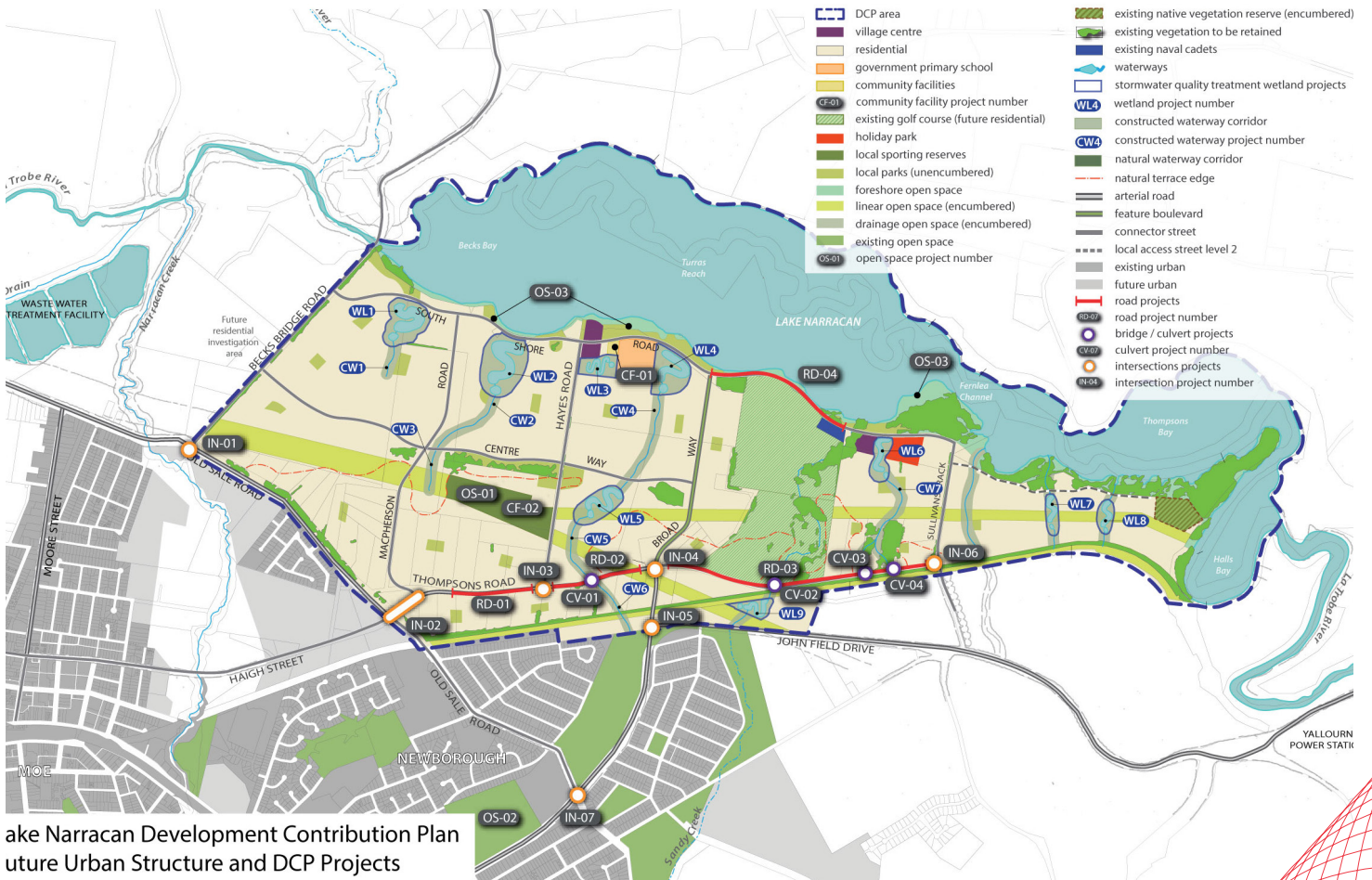
Compensation is an entitlement under the Land Acquisition and Compensation Act 1986, which is usually the payment of money for an acquisition, and includes payment for land acquired by agreement.

Compulsory acquisition

A process whereby an approved acquiring authority can take ownership of private land without a contract of sale. Must be undertaken in accordance with the Land Acquisition and Compensation Act 1986.

Acronym reference

DCP:	Development Contribution Plan
DCPO:	Development Contribution Plan Overlay
DP:	Development Plan
MPA:	Metropolitan Planning Authority
NOA:	Notice of Acquisition
NOITA:	Notice of Intention to Acquire
PAO:	Public Acquisition Overlay
PSP:	Precinct Structure Plan



Lake Narracan Development Contribution Plan
 Future Urban Structure and DCP Projects

Proposed changes in Newborough

Development of the Lake Narracan growth area is guided by the Lake Narracan PSP and the Lake Narracan DCP. The Lake Narracan DCP contains 47 projects (see image top left) worth over \$83 million (2023 dollars).

The DCP allows Latrobe City Council to collect contributions to fund the DCP projects. Council will then use the money collected to deliver the projects when they are required. Land identified in the DCP can only be acquired by Council through the subdivision process, direct negotiation of a sales contract, or by compulsory land acquisition.

The DCP has three types of infrastructure projects:

- Road widenings and intersection upgrades;
- New stormwater infrastructure and culvert upgrades;
- New community facilities and open space improvements.

Yearly, Council Officers review development intentions in the growth area to help us understand where development is occurring and what projects are likely to be delivered or required to be delivered, in the next 10 years.

The 2023 review identified 6 DCP projects which will likely be needed in the next 10 years but which are currently located on private land with no development intentions. The location of these projects and the land area required are depicted in the top left image and align with the locations identified in the Lake Narracan PSP and DCP.

As these properties do not have any intention to develop at this time, Latrobe will not be able to acquire the identified land via the subdivision process.

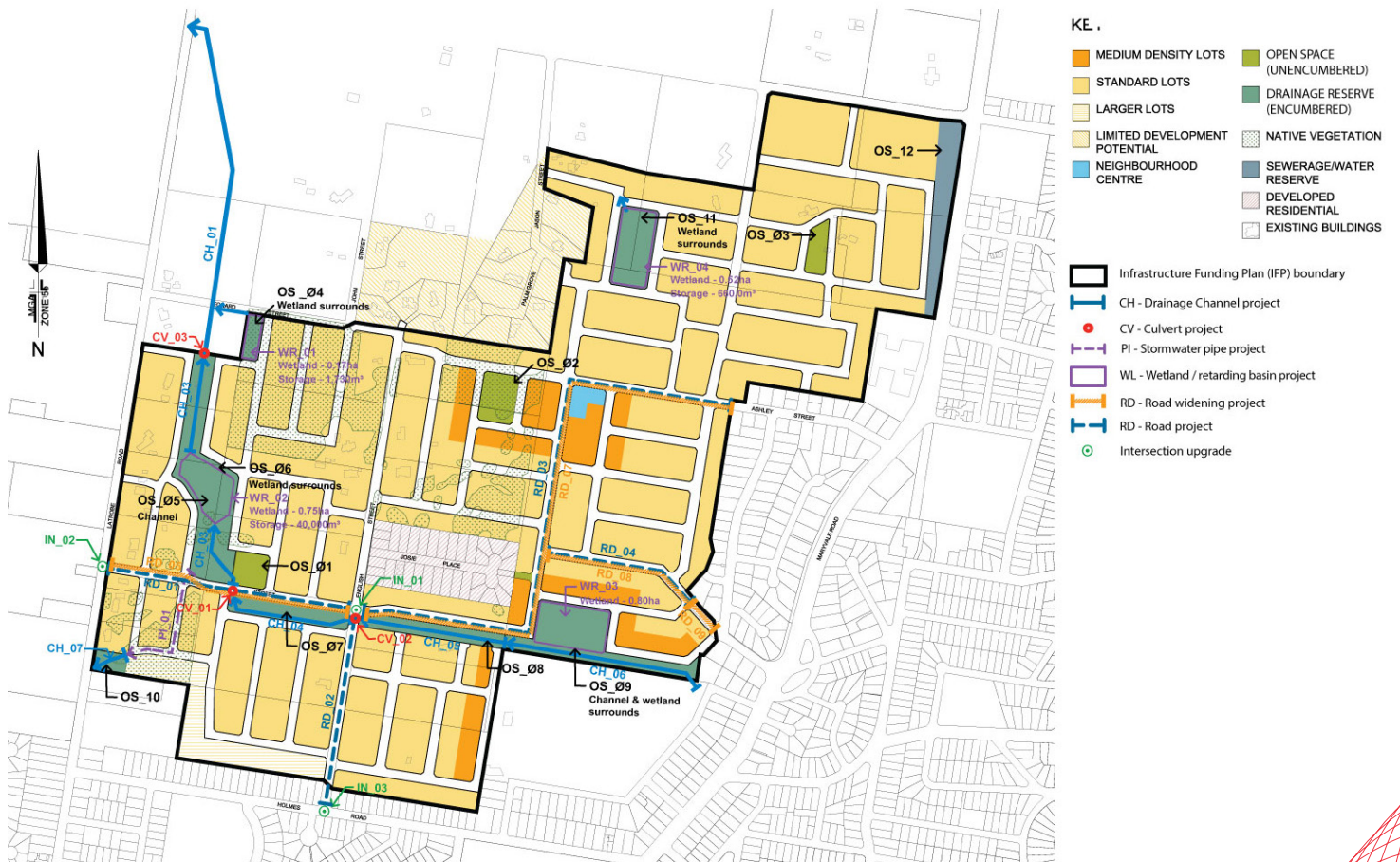
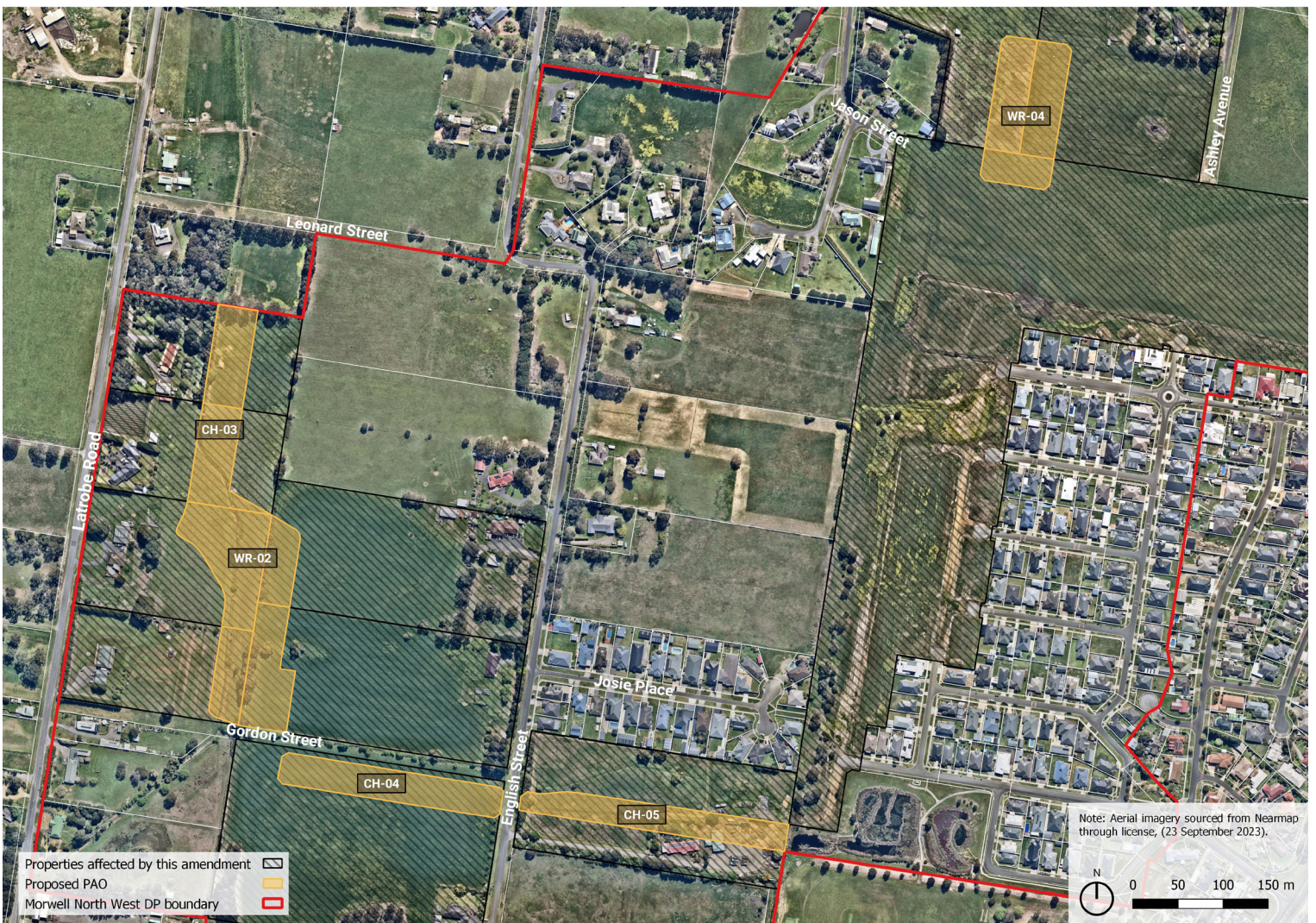
Latrobe could directly negotiate with landowners to acquire land. This can become complicated where multiple parcels are required. Direct negotiation also lacks the legal protections that the Land Acquisition and Compensation Act 1986 gives claimants and the acquiring authority when undertaking compulsory acquisition.

For these reasons Council Officers consider it appropriate and good practice to apply the Public Acquisition Overlay to the identified land highlighted in orange in the top left image.

Lake Narracan PSP and DCP

- **1 August 2014 – 29 August 2014**, Latrobe City Council and the MPA undertook consultation on draft PSP, and DCP.
- **15 December 2014**, Latrobe City Council adopted the Lake Narracan PSP and DCP and requested the documents be incorporated into the Latrobe Planning Scheme.
- **17 December 2015**, Lake Narracan PSP and DCP adopted into the Latrobe Planning Scheme.





Proposed changes in Morwell

Development of the Morwell North West growth area is guided by the Morwell North West DP and DCP. The Morwell North West DCP contains 42 projects (see image top left) worth over \$20 million (2023 dollars).

The DCP allows Latrobe City Council to collect contributions to fund the DCP projects. Council will then use the money collected to deliver the projects when they are required. Land identified in the DCP can only be acquired by Council through the subdivision process, direct negotiation of a sales contract, or by compulsory land acquisition.

The DCP has three types of infrastructure projects:

- Road widenings and intersection upgrades;
- New stormwater infrastructure and culvert upgrades;
- Open space improvements.

Yearly, Council Officers review development intentions in the growth area to help us understand where development is occurring and what projects are likely to be delivered or required to be delivered in the next 10 years.

The 2023 review identified 8 DCP projects which will likely be needed in the next 10 years. 6 of these projects are currently located on private land and will require land acquisition from 11 properties. Currently 3 properties are actively looking to subdivide. The location of these projects and the land area required are depicted in the top left image and align with the location identified in the Morwell North West DP and DCP.

As, at this time, 8 of the 11 properties do not have any intention to develop, Latrobe will not be able to acquire the identified land via the subdivision process.

Latrobe could directly negotiate with landowners to acquire land. This can become complicated where multiple parcels are required. Direct negotiation also lacks the legal protections that the Land Acquisition and Compensation Act 1986 gives claimants and the acquiring authority when undertaking compulsory acquisition.

For these reasons Council Officers consider it appropriate and good practice to apply the Public Acquisition Overlay to the identified land highlighted in orange in the top left image.

Morwell North West DP and DCP

- **April 2007 - May 2007**, Latrobe City Council exhibited draft DP and DCP.
- **November 2008**, one-on-one consultation sessions with affected landowners
- **4 October 2010**, Morwell North West DP and DCP adopted by Council.





FIGURE 8: INFRASTRUCTURE CONTRIBUTIONS MAP
 (Development Contributions Items V6)



Note: Details of additional infrastructure items are provided on the Movement & Access Plan (Figure 7)

Proposed changes in Traralgon

Development of the Traralgon North growth area is guided by the Traralgon North DP and DCP. The Traralgon North DCP contains 30 projects (see image top left) worth over \$27 million (2023 dollars).

The DCP allows Latrobe City Council to collect contributions to fund the DCP projects. Council will then use the money collected to deliver the projects when they are required. Land identified in the DCP can only be acquired by Council through the subdivision process, direct negotiation of a sales contract, or by compulsory land acquisition.

The DCP has three types of infrastructure projects:

- Road widenings and intersection upgrades;
- New stormwater infrastructure;
- New community facilities and open space improvements.

Yearly, Council Officers review development intentions in the growth area to help us understand where development is occurring and what projects are likely to be delivered or required to be delivered in the next 10 years.

The 2023 review identified one DCP project which will likely be needed in the next 10 years. This property does have an approved subdivision permit but it has not been acted on.

The project identified is the acquisition of land for an active open space reserve, see image top left. Council's Recreation and Open Space Team have determined that this active open space reserve should be delivered as soon as possible.

An approved subdivision permit (planning permit) has been issued for this property which does include the transfer of the identified land. However this permit is yet to be acted on and Latrobe has no ability to acquire the land until the owner acts on the planning permit.

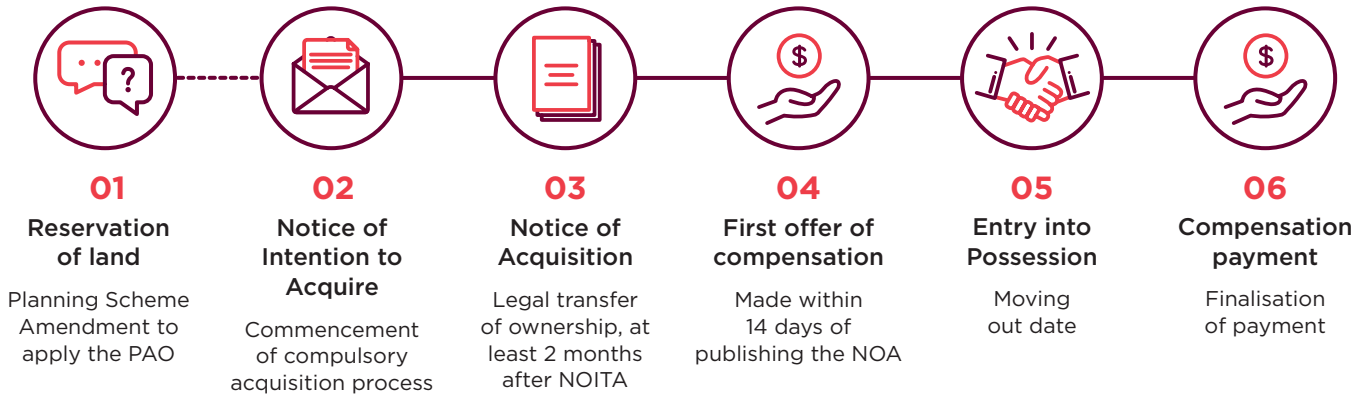
Council's preferred option to acquire the land is via the subdivision process. However, Latrobe also needs to deliver the infrastructure in the DCP. Therefore Council Officers consider it appropriate and good practice to apply the Public Acquisition Overlay to ensure Latrobe always has the ability to acquire the identified land.

Traralgon North DP and DCP

- **5 November 2012 - 17 December 2012**, Latrobe City Council exhibited draft DP and DCP.
- **29 November 2013**, Traralgon North DP and DCP adopted by Council under delegation. Delegation was issued at the 7 October 2013 Council Meeting.



Compulsory acquisition process



Step 01: Reservation of land

Timeframe: 12 to 18 months

Before land can be compulsorily acquired, the land must first be reserved in a planning scheme. This is normally achieved by applying the Public Acquisition Overlay and identifying who will acquire the land and for what purpose.

There are some occasions where the reservation of land is not required. These are listed in the Act and in the Land Acquisition and Compensation Regulations 2021.



Step 02: Notice of Intention to Acquire

Timeframe: NOITA is valid for six months

Latrobe City Council (as the acquiring authority) will formally start the compulsory acquisition process by serving you with a Notice of Intention to Acquire (NOITA). This notice is given to you as the landowner and to any other interested parties (for example, parties managing mortgages or easements)

The notice will ask you to give Latrobe City Council information regarding the land so we can work out who is to be compensated and how much compensation should be paid.



Step 03: Notice of Acquisition

Timeframe: NOA published two months after NOITA but before NOITA expires

A Notice of Acquisition (NOA) will be published in the Victoria Government Gazette a minimum of 2 months after issuing the NOITA.

The act of publishing the NOA in the Government Gazette declares Latrobe City Council as the legal owner of the identified land.



Step 04: First offer of compensation

Timeframe: Within 14 days of publishing the NOA

The legislation requires an initial offer of compensation and a statement of rights and obligations to be made to any identified claimant within 14 days of publishing the Notice of Acquisition. This offer does not have to be accepted, it can be countered.



Step 05: Entry into possession of the land

Timeframe: No earlier than three months after the NOA

Entry into possession is the point in time where the land must be vacated by the previous owners and Latrobe City Council can freely access the land. For land used for a business or primary residence this date must be at least 3 months after the publishing of the NOA.

Compensation does not have to be finalised for entry to occur. Latrobe City Council will try to negotiate the date of entry into possessions.



Step 06: Finalisation and payment of compensation

Timeframe: To be agreed with each claimant

Latrobe City Council will work with landowners and claimants to finalise the value of their compensation and to agree to timeframes for payment.

If we cannot agree on the value of your compensation, the claim will be referred to the Victorian Civil and Administrative Tribunal (VCAT) or the Supreme Court of Victoria (depending on the compensation value) who will determine the compensation to be paid.

Common questions

Can I stop my property from being compulsorily acquired?

Generally, it is not possible to stop compulsory acquisition once the Public Acquisition Overlay has been applied to the land. Applying a PAO requires a Planning Scheme Amendment. Should you be against compulsory acquisition on your property, Council Officers recommend making a submission on the planning scheme amendment once it is on exhibition.

All compulsory acquisition must be undertaken in accordance with the requirements and processes set by the Land Acquisition and Compensation Act 1986. You may wish to seek the advice of a professional legal advisor should you wish to understand the Act better or have any concerns about the legal requirements under the Act.

How can I be sure I'm getting a fair deal?

The compensation Latrobe City Council offers will be calculated in accordance with the requirements of the Land Acquisition and Compensation Act 1986. Compensation can consider:

- the market value of the land acquired;
- any losses attributable to severance (ending your connection through our acquisition) or as a result of disturbance;
- any enhancement or depreciation in value of the interest of the claimant and in other land adjoining or severed from the acquired land;
- legal, valuation or other professional expenses incurred;
- any special value to the claimant;
- any previous payment for loss on sale compensation or other forms of financial loss compensation payments;
- the use to which the property was put at the date it was compulsorily acquired; and
- the payment of compensation for any intangible and non-monetary disadvantages resulting from the acquisition.

We recommend you engage a legal or other professional adviser (such as a land-valuer) to assist you with questions you may have around compensation, and provide independent advice on your particular situation.

When will I need to vacate my property?

Currently it is too early in the process to determine when Latrobe City Council will need to acquire the land identified in the Amendment. The process of applying the PAO does not commit Latrobe City Council, as the nominated acquiring authority, to any timeframes to begin the acquisitions outlined in Amendment C143.

The Act specifies timeframes for a dispossessed landowner to vacate an acquired property, however we will work with you on the terms of possession and the time you have to vacate the land. To help reduce the impact on you, we will give you as much notice as possible of when you need to vacate

Once the acquisition process begins, how long does it take?

Latrobe City Council generally advises that a planning scheme amendment takes 12 to 18 months to complete, however various stages of the amendment process are outside Council's control.

The minimum timeframes for compulsory acquisition are defined in the Land Acquisition and Compensation Act 1986.

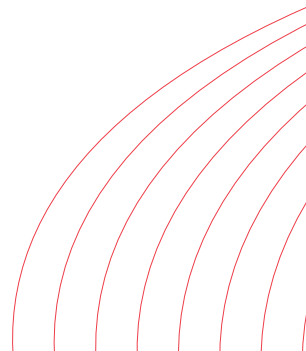
When will I receive a compensation offer?

An initial offer of compensation must be made within 14 days of the date of the NOA being published unless a longer period has been agreed in writing. Council is required to obtain valuation advice which allows compensation offers to be prepared and made as soon as possible after the NOA is published. If owners choose to negotiate following receipt of a NOITA, a compensation offer may be made earlier.

Do I have to accept the compensation offer?

No, an owner may obtain their own valuation advice, or other consultant advice, when weighing up Latrobe's offer. The cost of any independent advice you seek can be claimed as part of your compensation.

Claimants have the right to respond to an offer and claim a different amount of compensation.



What happens if we cannot agree on the compensation value?

In the event compensation cannot be agreed, the matter will need to be referred, by either you or Latrobe City Council, to the Victorian Civil and Administrative Tribunal (VCAT) or the Supreme Court of Victoria. VCAT or the Supreme Court will then determine the compensation required.

I have been planning to renovate/redevelop - should I go ahead?

Once the PAO is applied, any works or development within this area will likely trigger a planning permit. This permit may not be granted if the proposed works or development will negatively impact the long term delivery of the proposed community use.

Works and development on areas outside the PAO, but on the same property, will not trigger a planning permit under the PAO but may under other requirements of the scheme.

I operate a business from my property, what are my rights?

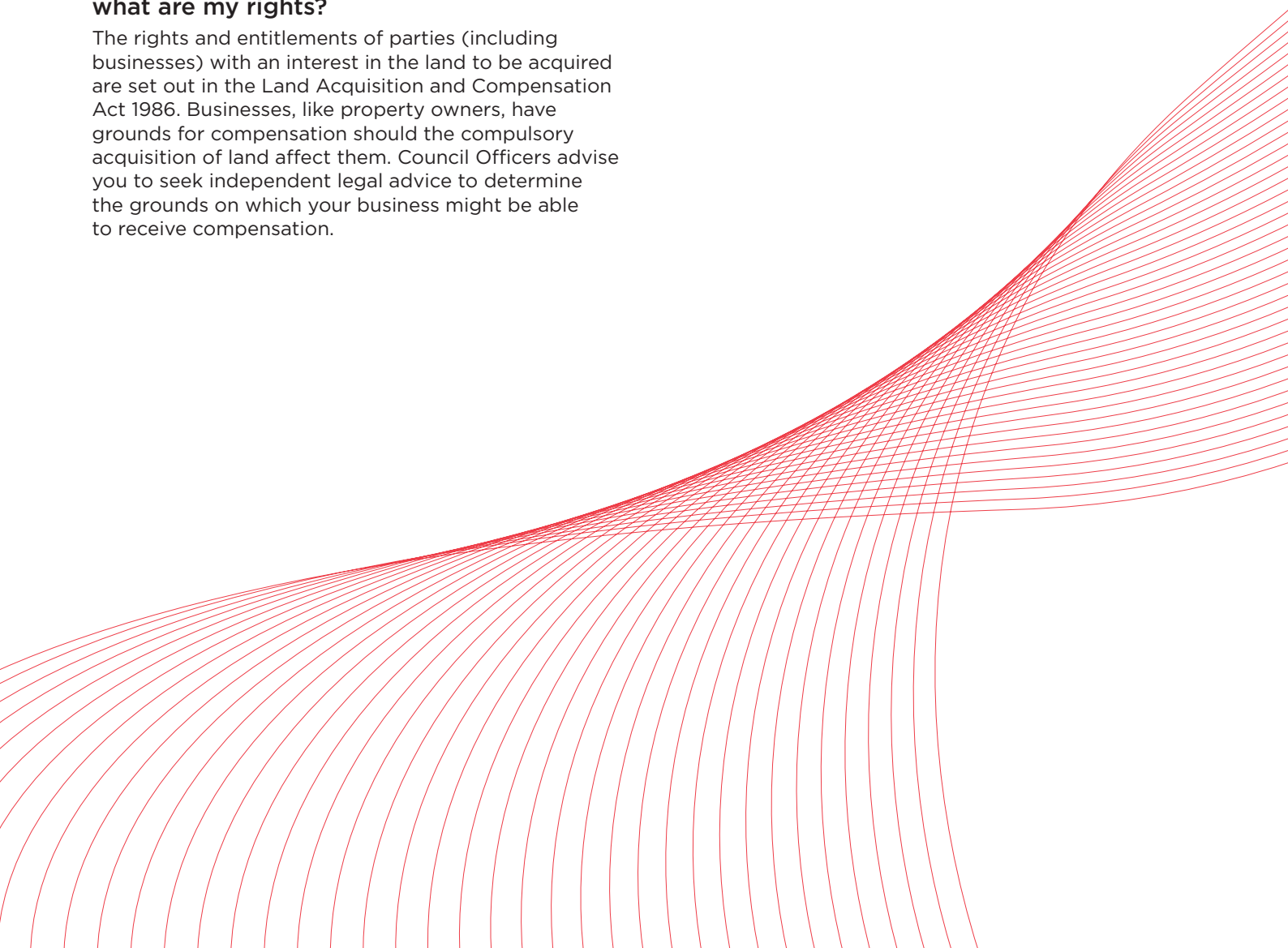
The rights and entitlements of parties (including businesses) with an interest in the land to be acquired are set out in the Land Acquisition and Compensation Act 1986. Businesses, like property owners, have grounds for compensation should the compulsory acquisition of land affect them. Council Officers advise you to seek independent legal advice to determine the grounds on which your business might be able to receive compensation.

What if I want to sell my property or am selling?

The Amendment process will not affect your property if you are selling, or are intending to sell. This is because compulsory acquisition is a separate process which happens at a future time should the Amendment be successful. As the DCPs are already enforced through the current planning scheme, any potential buyer should be aware of the proposed infrastructure.

Compensation for 'planning blight', by way of the PAO being applied to your land, may be available under the Planning and Environment Act 1987 if the land is sold after the PAO is applied but before any acquisition is commenced.

If your property is on the market, when Latrobe starts a compulsory acquisition process, legally we are required to attempt to acquire the property through your sale process. If we are unsuccessful, we can then start the compulsory acquisition process with the new owners.





Phone 1300 367 700

Post PO Box 264, Morwell 3840

Email latrobe@latrobe.vic.gov.au

www.latrobe.vic.gov.au

Service Centres & Libraries

Morwell

Corporate Headquarters
141 Commercial Road, Morwell

Morwell Library
63-65 Elgin Street, Morwell

Moe

Moe Service Centre and Library
1-29 George Street, Moe

Traralgon

Traralgon Service Centre and Library
34-38 Kay Street, Traralgon

Churchill

Churchill Community Hub
9-11 Philip Parade, Churchill

For more information

Strategic Planning

1300 367 700

latrobe@latrobe.vic.gov.au

To obtain this information in languages other than English, or in other formats, please contact Latrobe City Council on 1300 367 700.

This information in this document is correct as at the date of publication but is subject to change. Please check the Latrobe City Council website www.latrobe.vic.gov.au to make sure this is the latest version.

Date of publication: November 2024