

Compulsory land acquisition

Frequently asked questions

The Coordinator-General facilitates many of the infrastructure projects that underpin Queensland's economic development. Sometimes that means the Coordinator-General will need to compulsorily acquire (resume) the land on which these projects are to be constructed. The Coordinator-General has the power to resume land or an interest in land under the *State Development and Public Works Organisation Act 1971* (SDPWO Act). This does not always involve the entirety of the land and can be for part of the land or a specific form of tenure, such as an easement.

The process stated in the *Acquisition of Land Act 1967* (ALA) for the taking of land and payment of compensation applies to land resumed by the Coordinator-General under the SDPWO Act. These frequently asked questions (FAQs) are a guide to the process for the compulsory acquisition (resumption) of land or interest in land by the Coordinator-General and outlines rights and entitlements as set out in the ALA.

Notice of intention to resume

How will I know my land has been identified for resumption?

If you are the landowner or have a legal interest in the land proposed to be resumed by the Coordinator-General, you will be issued with a Notice of Intention to Resume (NIR). The NIR is the first step in the compulsory acquisition process. It describes the land or interest in land proposed to be acquired, the purpose for the acquisition and information about the objection process.

Process

What is the process for resumption?

- The landowner/interest holder is contacted and advised of the possible impact of a project on the land
- A NIR is issued to the landowner/interest holder
- An objection may be made in accordance with the process outlined in the ALA
- In response to an objection, the Coordinator-General will consider all relevant information and

determine whether to discontinue, amend or proceed with the resumption

- If the Coordinator-General determines the resumption should still proceed, they will make an application to the Minister to take the land
- A resumption notice will be published in the Queensland Government Gazette
- The land or interest in land will be assessed by a valuer
- Managing the compensation process as set out in the ALA (including claim, advance payment, negotiations, settlement)
- The title to the affected land is updated in the Land Titles Registry

Objections

Can I object to the resumption?

Yes. You can object to the resumption of land/an interest in land. The NIR will outline the procedure to follow if you wish to object.

Your objection must:

- be in writing
- be made within the time specified in the NIR (not less than 30 days from the date of issue)

- state your grounds of objection, with supporting details (note that any matter relating to the amount or payment of compensation is not a valid ground of objection)
- state whether you wish to be heard in support of your written objection. In the event you wish to be heard, an objection hearing time and place will be specified in the NIR.

Costs incurred by an objector in preparation of a written objection or attendance at a hearing are not compensable.

How will my objection be managed?

A delegate of the Coordinator-General will observe the written objection—and any matters put forward in support of the written objection if you elect to attend an objection hearing—and prepare a report (objection report) for consideration by the Coordinator-General.

The Coordinator-General will consider all the relevant information (including the objection report) and decide whether to:

- proceed with the resumption in its current form
- amend the NIR
- discontinue the resumption.

What if I agree to the resumption and don't want to object?

The Coordinator-General's preference is to negotiate with you to acquire the land by agreement. If you agree to the resumption of your land, a resumption agreement (in accordance with section 15 of the ALA) can be reached. Signing a resumption agreement shortens the acquisition timeframe by removing the objection process and does not affect your right to claim compensation.

If you do not choose to enter a resumption agreement, but also do not object to the resumption, the acquisition process will proceed following expiration of the date for objecting stated in the NIR.

Compulsory acquisition

What happens if the Coordinator-General decides to proceed with the resumption?

If the Coordinator-General decides to proceed with the resumption, the Coordinator-General applies to the Minister administering the SDPWO Act, for the land or interest in land to be resumed. The application to the Minister must be made within 12 months from the issuing of the NIR, otherwise the compulsory acquisition process ceases.

After considering the Coordinator-General's application, the Minister may recommend to the Governor in Council that the land or interest in land be resumed. If the resumption is approved, a resumption notice is published in the Queensland Government Gazette and a copy of the notice will be provided to you. The taking of land is effective on the day the notice is published in the gazette and your interest in the land is extinguished and converted into a right to claim compensation.

Can the Coordinator-General enter my land prior to resumption?

In certain circumstances, the Coordinator-General or any persons authorised by the Coordinator-General, can enter your property to inspect, value, survey, conduct soil tests and other such activities.

A Notice to Enter will be sent to you and where practicable, you will be given seven days' notice. If your property is damaged resulting from activities undertaken during the authorised entry, you may lodge a claim for compensation.

What happens to my property title?

If your land is partially resumed based on an approximate area, it will be surveyed at a later date. An amending resumption notice with an exact description of the area resumed (as per the survey plan) will then be published. You will be provided with a copy of the amending notice and survey plan.

The Coordinator-General will arrange for the title of your balance land to be updated to reflect the survey plan, at no cost to you.

Compensation

Can I claim compensation?

If your land or interest in land is resumed by the Coordinator-General, you are entitled to claim compensation following the publication of the resumption notice in the Queensland Government Gazette.

How do I make a compensation claim?

If your land or interest in land is resumed by the Coordinator-General, along with a copy of the resumption notice—following its publication in the gazette—you will be provided with a compensation claim form. You can complete and return the claim form to the Coordinator-General.

You may wish to engage a registered valuer and/or solicitor to help you prepare and lodge your claim. Reasonable fees incurred in the preparation and lodgement of your claim for compensation will be reimbursed as part of the compensation payment.

When choosing a solicitor or valuer, you should ensure they have sufficient experience in dealing with compensation claims for compulsory acquisition of land. For more information, contact the Queensland Law Society and the Valuers Registration Board of Queensland.

Claimants must lodge their claims within three years of the publication of the resumption notice in the Queensland Government Gazette. It is at the Coordinator-General's discretion, whether to accept a claim received after that deadline.

What evidence is required to support my compensation claim?

Examples of the evidence to support your compensation claim include invoices for disturbance costs being claimed (e.g. professional fees) and expert reports (e.g. valuation).

How is compensation assessed?

Following the publication of the resumption notice in the gazette, an officer of the Coordinator-General will contact you to arrange a valuation of your property.

Compensation is assessed based on the value of your land at the date the resumption notice was published in the gazette as well as disturbance costs caused by the resumption.

Disturbance costs are defined in the ALA to mean:

- legal costs and valuation or other professional fees (reasonably incurred in relation to preparation and lodgement of a claim)
- costs relating to the purchase of a replacement property
- removal and storage costs reasonably incurred in relocating from the resumed land
- costs reasonably incurred to connect to services or utilities upon relocating from the resumed land
- loss of profit or other economic losses resulting from the interruption to a business that is directly attributable to resumption of the land
- other financial costs reasonably incurred that are a direct and natural consequence of the resumption of the land.

When assessing disturbance costs, compensation will only be paid for costs that have been reasonably incurred.

When can I receive compensation?

Once your submitted claim and supporting evidence has been reviewed, an offer of compensation will be made. The offer amount is based on the information available, including valuation obtained by the Coordinator-General. If the offer is accepted, payment will be arranged as quickly as possible.

If the offer is not accepted, an officer of the Coordinator-General will contact you to arrange a conference with a view to resolving the differences between the parties. If agreement cannot be reached, either party can refer the claim to the Land Court for determination.

Can I get an advance payment against compensation?

Yes. You may apply to the Coordinator-General for payment of an advance against compensation at any time after lodging a valid claim for compensation.

The amount of an advance is the Coordinator-General's estimate of the amount of compensation payable based on the information available at the time. Payment of an advance does not affect your right to negotiate additional compensation or to have the compensation amount determined by the Land Court of Queensland.

What if I have a mortgage?

The mortgagee is entitled to be paid compensation to the extent of any amount owing unless otherwise advised by the mortgagee. A clearance from the mortgagee will be required before any compensation payment (including any advance) can be made to you.

What about goods and services tax?

Compensation payments received as a result of compulsory acquisition of land do not attract goods and services tax (GST). However, claimants should always obtain their own financial advice about tax liability. For further information, visit the Australian Taxation Office website.

Who pays any taxes, rates, and charges outstanding?

Any taxes, rates, and charges due and unpaid as at the date the land is resumed are the responsibility of the former landowner and may be deducted from the compensation payout.

What happens if agreement on the compensation amount cannot be reached?

The Coordinator-General settles the majority of compensation claims through negotiation, which is a more cost-effective way of resolving compensation for both parties.

If agreement on the compensation amount cannot be reached through negotiations, either party can refer the matter to the Land Court of Queensland for a decision. The Land Court is viewed as a last resort, due to its very high financial costs to both parties and lengthy processes.

Further information

For further information please contact the Office of the Coordinator-General on 1800 001 048 or via acquisition@coordinatorgeneral.qld.gov.au.

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Disclaimer: This fact sheet is intended to give general information about the resumption process. You may wish to seek professional legal advice in your particular case.