

Your guide to the Valuer General's role

in compulsory acquisition



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Disclaimer

Valuer General NSW has prepared this document for general information. You may wish to seek independent advice before making a decision based on this information.

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Contact us

-  1800 110 038
8:30am - 5:00pm Mon - Fri
-  Valuer General NSW
PO Box 745
Bathurst NSW 2795
-  valuationenquiry@property.nsw.gov.au

Feedback



We want to be sure that:

- you are satisfied with our service
- our information meets your needs.

When the determination of compensation is complete, the Valuer General will ask you to do a survey about the service you received.

We would appreciate your feedback.

You can also write to the Valuer General at:

-  PO Box 745
BATHURST NSW 2795
-  valuergeneral@ovg.nsw.gov.au

Interpreter

If you need an interpreter, please call TIS National on 131 450 and ask them to call Valuer General NSW on **1800 110 038**.



131 450



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What is compulsory acquisition?

In NSW, all levels of government (including state-owned corporations) can acquire privately owned land for a public purpose. They can acquire:

- all or part of a property
- an interest in a property, including easements for power lines, sewer or water.

The [Land Acquisition \(Just Terms Compensation\) Act 1991](#) (the Land Acquisition Act) sets out the process for acquiring land. It directs acquiring authorities to negotiate with landowners for at least six months to acquire land by agreement.

In these cases, the Valuer General is not involved. Most land acquisitions happen this way.

If you cannot reach an agreement with the acquiring authority through negotiation, the Governor of NSW can approve compulsory acquisition of your land. The Valuer General will then determine the amount of compensation the acquiring authority must offer you for the land.

More information

For more about how determination of compensation works, see:

- Valuer General's policy on [Compensation following compulsory acquisition](#)
- www.valuergeneral.nsw.gov.au
- www.propertyacquisition.nsw.gov.au

Roles and responsibilities

The acquiring authority

A government authority that acquires land is called an acquiring authority.

The acquiring authority manages the acquisition process, including all negotiations with the landowner.

The acquiring authority will cover your reasonable costs. You can find more information on page 10.

The Valuer General

The Valuer General is an independent statutory officer appointed by the Governor of NSW to oversee the state's land valuation system. This includes setting the standards and policies for determining compensation.

The Valuer General is responsible for:

- ensuring landowners get fair compensation when land is compulsorily acquired
- setting an independent, fair and transparent process to decide compensation.

When a compulsory acquisition takes place, the Valuer General determines how much the acquiring authority must offer the landowner.

This amount must be no less than the market value of the land unaffected by the proposed acquisition.

The Valuer General does not act for either the landowner or the acquiring authority. This separates the government's decision to acquire land from the decision on compensation.

Our commitment

Our approach to determining compensation is based on openness and fairness.

We will consider information provided by landowners and acquiring authorities when determining compensation.

We encourage you to ask questions and clarify any concerns as needed throughout the process.

How does it work?

The following pages will guide you through each stage of the compulsory acquisition process:

- Stage 1: Proposed acquisition
- Stage 2: Claim for compensation
- Stage 3: Compulsory acquisition
- Stage 4: Valuation
- Stage 5: Determination of compensation
- Stage 6: Disputes

Stage 1: Proposed acquisition

Proposed acquisition notice

The first formal step in the compulsory acquisition process is for the acquiring authority to send you a proposed acquisition notice.

This includes:

- a description of the land
- the acquiring authority
- the timeframe for the compulsory acquisition.

The acquiring authority will send this to all parties with an interest in the land, including those lawfully occupying the land or registered on the land title. It must also tell the Valuer General.

An acquiring authority cannot compulsorily acquire your land without first giving you a proposed acquisition notice.

Negotiation

You can continue to negotiate with the acquiring authority after you have received the proposed acquisition notice.

If you reach an agreement, you can finalise the acquisition by a contract and transfer or formal agreement.

Section 55 of the Land Acquisition Act sets out the things you can claim, called heads of compensation. These are the same for agreement and compulsory acquisition but do not apply in cases of hardship. Page 10 has more information on heads of compensation. Page 11 has more information on hardship.

If you and the acquiring authority agree, the Land Acquisition Act also allows compensation in the form of land or carrying out works.

Our first contact

At this stage, we will write to you to:

- explain the Valuer General's role
- remind you to complete your claim for compensation and provide it to us
- introduce your coordinator, who will help you and answer questions
- advise you on how to access professional help.

In some cases, we will start work on the determination of compensation as soon as we receive a proposed acquisition notice, before your land is compulsorily acquired.

We may reach out to discuss this with you. But we will not share any valuation information at this time, as you still might reach an agreement with the acquiring authority.

Stage 2: Claim for compensation

Your claim

Once the acquiring authority has issued a proposed acquisition notice, the landowner and anyone else with an interest in the land should complete a section 39 claim for compensation form.

You can get this form from:

- the acquiring authority
- www.valuergeneral.nsw.gov.au.

You should include the full details of your claim. The valuers who assess your compensation will consider only the information in this form so it is important that you complete this form carefully. You can request a conference to explain your claim to us.

Send your completed form to:

- @ Just_Terms@property.nsw.gov.au
- ✉ Compensation Valuations
Valuer General NSW
Level 5, 12 Darcy Street
Parramatta Square
Parramatta NSW 2150

You can also send your form to the acquiring authority.

Page 10 has more information on the things you can claim under the Land Acquisition Act.

Stage 3: Compulsory acquisition

Land ownership transfer

If you do not reach an agreement to sell your land through negotiation, the acquiring authority may compulsorily acquire it.

To do this, the acquiring authority must publish an acquisition notice in the [Government Gazette](#). This normally occurs after 90 days (and up to 120 days) from when it issues the proposed acquisition notice.

When this acquisition notice is published, it means:

- the Governor of NSW has approved the land acquisition
- land ownership transfers to the acquiring authority
- the Valuer General must determine compensation.

The acquiring authority must then give you a compensation notice, including the Valuer General's determination of compensation, within 45 days.

If the land was your main residence or business, you can generally stay there for three months unless the acquiring authority's responsible minister approves a shorter timeframe.

To ask about occupying the land after the acquisition, contact the acquiring authority.

Our next contact

After your land has been compulsorily acquired, we will write to you:

- about determining compensation
- to explain how we will share information between you and the acquiring authority
- to give you copies of any information we hold to check for factual accuracy.

Stage 4: Valuation

Our valuer

A qualified, experienced and independent valuer with no conflict of interest will assess your land to work out the amount of compensation.

To do this, the valuer will consider all information that both you and the acquiring authority provide, as well as independently requested reports.

The valuer may contact you or your representative to arrange an inspection of the property. They can also give you information on the process. You can:

- attend the inspection or send a representative
- ask questions

The valuer will also contact the acquiring authority to discuss issues it would like considered.

Your own valuer

As a landowner or person with an interest in the acquired land, you can also hire your own valuer during negotiation or compulsory acquisition.

The valuer must:

- be an independent expert who is qualified to perform the valuation
- act as an expert, not an advocate
- comply with professional standards in their valuation.

Valuation fees that you reasonably incur will be refunded as part of your compensation.

For a list of qualified valuers, contact professional membership associations such as:

- [Australian Property Institute](#)
- [Australian Valuers Institute](#)
- [Royal Institution of Chartered Surveyors](#).

The valuer's report and issues response

The valuer's report and issues response will:

- show what the valuer has considered
- explain how the compensation was determined
- address the concerns you raised in your claim for compensation form
- address issues raised by the acquiring authority

Valuers must consider the heads of compensation listed in section 55 of the Land Acquisition Act and discussed in more detail on page 10:

- the market value of the land on the acquisition date
- any special value to the landowner
- any loss due to severance
- any loss due to disturbance
- the disadvantage from relocation
- any change to the value of other land that adjoins or is severed from the acquired land, if this change is due to the acquisition.

Senior valuers will do quality assurance on the Valuer General's behalf. They will review the valuation report and check all aspects of the determination, including the valuer's assessment of the land's market value and supporting sales evidence.

For more information on the factors a valuer considers and the methods they use, see the Valuer General's policy on compulsory acquisition.

Stage 5: Determination of compensation

Your review

We will send a preliminary valuation report and issues response to you and the acquiring authority to review. This will outline the compensation amount and how it was determined.

You have 10 working days to correct any errors of fact before we finalise the determination.

You may request another conference if you wish to explain any errors of fact only. The conference is not for discussion of the amount of compensation.

The Valuer General's decision

When the preliminary valuation report and issues response are finalised, we will give you and the acquiring authority the determination of compensation, the final report and final issues response.

This is the Valuer General's decision on how much compensation you will receive. It is the final part of the Valuer General's formal role in this process.

Compensation notice

The acquiring authority must give you a notice that includes the determination of compensation. This usually happens within 45 days of the acquisition notice's publication.

The compensation notice:

- officially notifies you that your land has been compulsorily acquired
- offers to pay the amount that the Valuer General has determined
- informs you of your right to object to the amount offered.

Agreement

Once you agree to the determination of compensation by signing a deed of release, the acquiring authority must pay you:

- the compensation amount in full within 28 days of receiving a deed of release

- interest on that amount from the acquisition date until it makes the payment.

Stage 6: Disputes





Land and Environment Court

If you are not satisfied with the compensation the acquiring authority offers you based on the Valuer General's determination, you can lodge an objection with the Land and Environment Court.

Court proceedings involving claims for compensation are between you and the acquiring authority. If there is a dispute over the amount, the acquiring authority must pay you 90% in advance.

You must lodge your objection within 90 days of receiving the acquiring authority's compensation notice. If you do not lodge your objection within 90 days, the offer is deemed accepted. However, the Court may still consider your objection if you have a good reason for lodging late.

You can contact the Land and Environment Court at:

-  www.lec.nsw.gov.au
-  02 9113 8200
-  lecourt@justice.nsw.gov.au
-  Level 4, Windeyer Chambers
225 Macquarie Street, Sydney.

More information

Heads of compensation

These are the things you can claim under section 55 of the Land Acquisition Act.

[Market value of land](#) is the amount you would have received if you sold when both the seller and the buyer were willing but not anxious.

It does not include changes in land value due to:

- the purpose the acquiring authority acquired it for
- improvements the State makes for that purpose
- illegal use of the land.

[Special value of the land](#) is the financial value of any advantage you receive incidental to your use of the land.

This is in addition to market value.

[Loss due to severance](#) is any loss in value of land you own if it is severed from other land you own, if this change is due to the acquisition.

[Loss due to disturbance](#) can include your reasonably incurred costs related to the acquisition, including:

- legal costs and valuation fees
- costs from relocation (including legal costs, but not transfer of land or business duty or mortgage costs)
- stamp duty costs for land you buy to relocate to (but no more than what you would incur for buying land of equal value to the compulsorily acquired land)

- costs related to discharging a mortgage or executing a new mortgage (but no more than what you would incur if the new mortgage repaid the balance owing on the discharged mortgage)
- costs from actual use of the land, directly and naturally due to acquisition.

[Disadvantage from relocation](#) (once called solatium) is compensation for any non-financial disadvantage when you must relocate your home due to the acquisition. The maximum amount is set out in Section 60 of the Act and automatically indexed in line with inflation. In assessing this, the valuer who assessed your compensation will consider all relevant circumstances, including:

- your interest in the land
- the time you lived there and whether your residence was temporary or indefinite
- the time you can keep using the land after acquisition.

[Any increase or decrease in the value of adjoining land](#) is a change to the value of other land that adjoins or is severed from the acquired land, if the change is due to the acquisition.

Reasonable costs

The acquiring authority will cover your reasonable costs, including professional valuation and legal advice. These costs are included in the compensation determined.

Costs should be:

- incurred, or likely to be incurred, as a direct result of the acquisition
- within a reasonable price range for similar matters
- supported by your evidence.

Your costs claim may be subject to review.

Hardship

Before an acquiring authority buys private land, an environmental planning instrument may reserve it exclusively for a public purpose. This means that the government intends to acquire the land in the future.

There can be a long wait between reserving the land and acquiring it. For example, the acquiring authority may need to wait for development approvals or funding.

If the delay in acquisition will cause you to suffer hardship, you can ask the responsible authority to acquire your land now. To do this, you need to show that you:

- must sell the land for pressing personal, domestic or social reasons, or to avoid losing income
- have not been able to sell it because of the future acquisition.

If the acquiring authority is satisfied a delay will cause you hardship, it will acquire your land.

If it decides not to acquire your land, you have 28 days to apply to the Secretary of the Department of Planning, Industry and Environment to have the decision reviewed.

The reviewer will be a qualified person, not associated with either you or the acquiring authority. The Minister for Water, Property and Housing chooses this person.

The reviewer's decision is final.

Land under the surface

The Land Acquisition Act and the Transport Administration Act 1988 give the Valuer General a framework to determine compensation for land under the surface. This includes compensation for acquiring:

- land under the surface for tunnels or underground rail facilities
- an easement or right to use the land under the surface for constructing and maintaining works.

If the land under the surface is acquired for a tunnel or underground rail facility, you are not owed compensation unless either:

- the surface of the overlying soil is disturbed
- construction destroys or damages the support for that surface
- any mines or underground work on or next to the land become unworkable or damaged.

If an easement or right to use land under the surface is acquired for constructing and maintaining works, you are not owed compensation unless:

- the construction of the works does damage
- the work causes damage.



