

# Know Your Acquisition Rights

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All levels of government - federal, state and local - have powers to compulsorily acquire land for government purposes.

In Queensland, compulsory acquisition is primarily administered by the *Acquisition of Land Act 1967* (Qld). Under the *Acquisition of Land Act 1967* (Qld), the purposes for which land may be taken are varied and include roads, railways, soil conservation, dams, drainage and even "experimental farms". Other legislation also authorises the taking of land including the *Electricity Act 1994* (Qld) and the *Petroleum and Gas (Production and Safety) Act 2004* (Qld).

If land is proposed to be acquired, the constructing authority must serve the landowner with a Notice of Intention to Resume. The Notice of Intention to Resume will specify the date by which the landowner may object to the resumption. Following a hearing and consideration of any objections, a final decision will be made by the constructing authority. If the compulsory acquisition is approved, a formal proclamation is published in the Government Gazette.

Unlike compulsory acquisitions by the Commonwealth, the entitlement to compensation on just terms provided for in the Constitution does not apply in Queensland. Instead, the *Acquisition of Land Act 1967* (Qld) generally entitles a person having an interest in the land resumed to compensation and identifies the principles to be taken into account when calculating the compensation payable.

In determining the compensation payable, regard will be had to the "highest and best use" of the property and not necessarily its current use. Compensation may also be available for "disturbance costs" incurred as a result of the resumption. Disturbance costs may include legal costs, the cost of purchasing a replacement property, removal and storage costs and loss of profit or other economic losses due to the interruption of business. If the amount of compensation cannot be agreed upon, the landowner can apply to the Land Court for an assessment.

If your land is affected, or potentially affected, by a compulsory acquisition, you will often be invited to a meeting with the authority intending to resume the land. It is critical that before you agree to such a meeting that you understand your rights and obligations under the *Acquisition of Land Act 1967* (Qld) and obtain appropriate advice.

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