

Are you affected by a resumption of land?

All levels of government – Federal, State and Local have powers to *compulsorily acquire* land for government purposes. If it is for a project that falls within the guidelines of the legislation (sometimes this is not the case), the land can be compulsorily taken. The land owners rights then become converted into a right to claim compensation.

There is a difference between rights under the Federal legislation and the legislation applying to the state and local governments. You might recall in the movie *The Castle* the reference to “just terms”. That is, land owners are entitled to compensation on just terms in the event of a resumption of their property. This right is mandated by the Constitution of Australia and applies to all resumptions by Federal Government bodies.

However, the same does not apply under the Queensland Acquisition of Land Act.

Even though the just terms requirement does not apply under the State Legislation, if you are affected by a proposal to resume land or you have received a notice of intention to resume, there are a number of areas that might entitle you to a higher than normal compensation payment.

Firstly, where there are any doubts about the amount of compensation payable to the owner, those doubts have to be resolved in favour of more liberal estimate. The compensation also has to be “fair and adequate”.

The unique characteristics of the land must also be taken into account and the compensation must be assessed having regard to the highest and best use of the land (which is not necessarily the current use of the land).

If your land is affected or potentially affected by any government project or a proposal for resumption, or if you have received a notice of intention to resume, you should seek legal advice at the earliest possible date.

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