

This article examines two options that should be considered if your property is impacted by a resumption or proposed resumption.

Hardship Acquisition Policy

A number of state government departments, including the Department of Transport and Main Roads, have the power in some cases to acquire land if hardship is being caused to a land owner. This can sometimes occur well in advance of the actual project.

To be able to take advantage of this policy there must have been advice to the land owner that part or all of their land is going to be required for a future project. Planning for the project must also have advanced to a stage where, for example, the road alignment has been identified and of course, the land owner must be experiencing hardship as a consequence of the proposal.

Should you qualify under the criteria, the process involves negotiation to arrive at a fair and reasonable value of the property. If agreement can be reached, the property is purchased at that value. **Importantly, the impact of the project in question must be ignored for the purposes of arriving at the valuation.**

Resumption Agreement

The *Acquisition of Land Act* allows a Resumption Agreement to be entered into between the government authority and an affected person – that is, an owner or mortgagee of the land in question. It can cover the whole or part of the land and will usually include agreement on the amount of compensation to be paid to the affected party. In some cases the agreement can be on the basis that there is an initial payment with the ultimate payment to be the subject of further negotiation or court proceedings.

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