

Property  
Acquisition

# A guide for commercial property and business owners



## About this guide

This guide provides information about the property acquisition process in NSW, including general guidance about the rights and responsibilities of acquiring authorities and property and business owners, and the role of the NSW Valuer General.

This guide provides general guidance on the property acquisition process in NSW and it should be recognised that for certain acquisitions, a different process may apply.

More information about the property acquisition process can be found at [nsw.gov.au/property-acquisition](https://nsw.gov.au/property-acquisition)

Affected property and business owners should seek further assistance and information on the property acquisition process from the relevant acquiring authority.

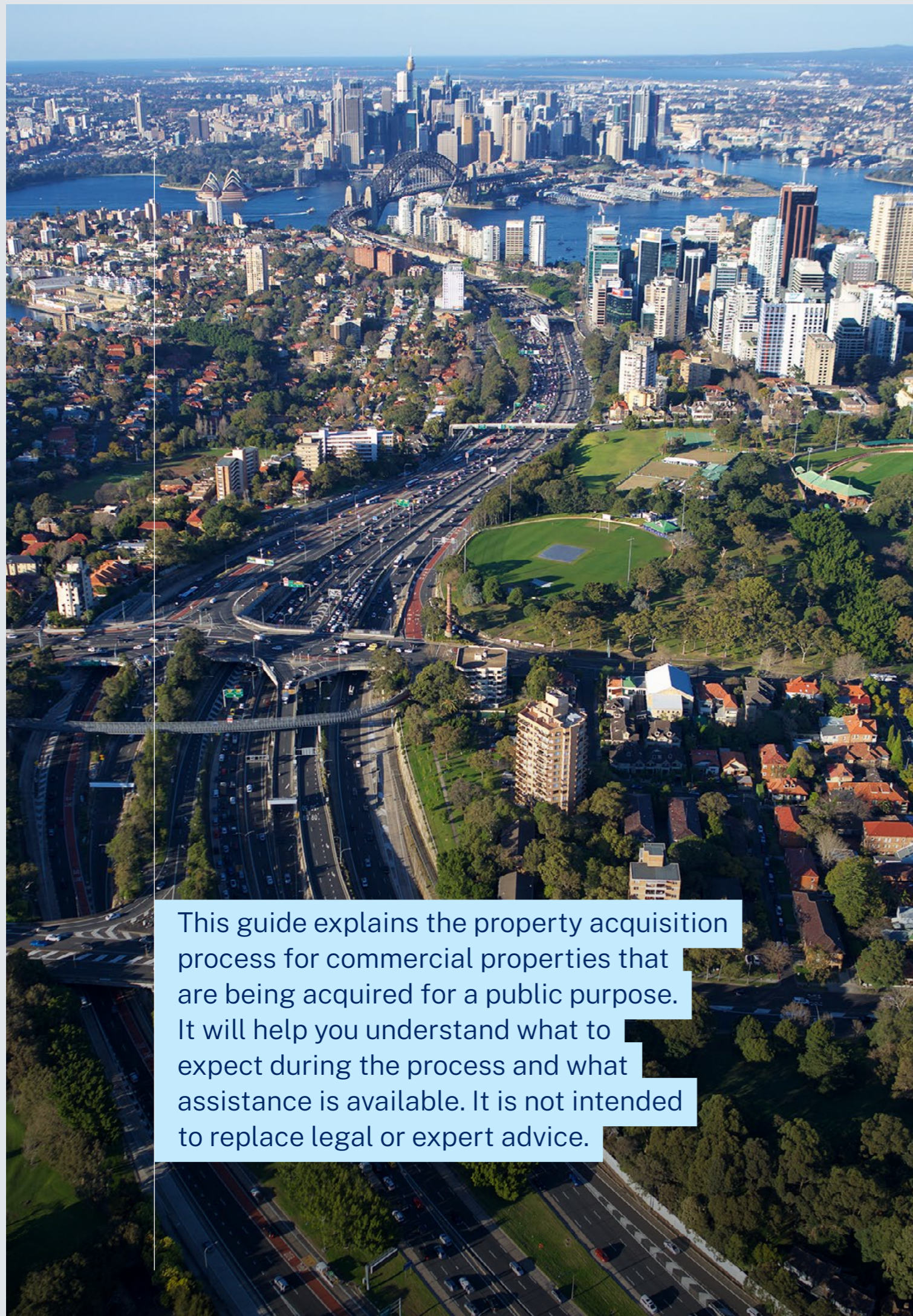
The guide is not intended to provide legal advice. Property owners affected by a potential property acquisition should still obtain their own legal advice if they feel this would assist them.



## Property Acquisition

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This guide explains the property acquisition process for commercial properties that are being acquired for a public purpose. It will help you understand what to expect during the process and what assistance is available. It is not intended to replace legal or expert advice.

# Property acquisition in NSW

NSW is home to many thriving communities in a range of busy cities and diverse regional areas. We also have the fastest growing population in Australia, which is forecast to increase to more than 10.6 million people by 2041.

## Investing in infrastructure

A growing population means we need more schools, hospitals, roads and public transport to meet the needs of our local communities. That's why billions of dollars are being invested in infrastructure to provide people with access to quality services.

When the government decides to deliver a new project such as a road or hospital, it instructs the relevant authority to investigate the best route or location.

In NSW, acquiring authorities — including government agencies, some state-owned corporations, and local councils — have the power to acquire privately owned property for public purposes. This may be all or part of a property or an interest in a property, for example easements for power lines, sewer or water.

The powers of acquiring authorities to acquire property are contained in legislation specific to those authorities.

## The property acquisition framework

Unless the property is available for public sale, the acquisition process is governed by the *Land Acquisition (Just Terms Compensation) Act 1991* (the Just Terms Act).

The NSW Government provides support for impacted owners and tenants to make it easier for them to understand the property acquisition process. The process is governed by the Just Terms Act and the **Property Acquisition Standards**, the five guiding principles that must be observed by agencies when acquiring property. The Standards centre around outcomes that are focussed on fairness, access to information and assistance, consistency and transparency.

The Standards state that:

1. Property owners will be treated fairly and with empathy and respect
2. Property owners will be provided with clear information about their rights
3. Property owners will be supported throughout the acquisition process with assistance tailored to meet individual circumstances
4. The acquisition process will be consistent across projects and acquiring authorities
5. The NSW Government will monitor and report publicly on the effectiveness of the property acquisition process.

The Standards can be found at [nsw.gov.au/property-acquisition](https://nsw.gov.au/property-acquisition)

## Deciding which properties need to be acquired

Consultation is usually carried out with the community as part of the development of a major project.

In formulating a preferred design, route or location for a project, the agency responsible — the acquiring authority — may identify properties that need to be acquired to deliver the project.

When a property is identified as being required for the project, the acquiring authority will pay compensation to each person who has an interest in the property. The owner of any business operating on a property is only entitled to compensation where they have a legal interest in the property being acquired.

If only part of a property is required for a project, the acquiring authority will provide details of the part to be acquired to anyone with a legal interest in the property, such as an owner, landlord, tenant, subtenant, or mortgagee.

## What happens if you are affected by property acquisition?

The acquiring agency will conduct a door knock, visiting all affected properties. If your property, or the property in which you hold a legal interest, needs to be acquired, the acquiring authority will contact you to arrange a face-to-face meeting. Where that is not possible or practical — such as if you are overseas for an extended period of time — the acquiring authority will meet with your nominated representative or by video link, at your choosing.

At the initial meeting, your Acquisition Manager will discuss each step in the acquisition process and answer any questions you may have.

You may also receive a Commencement Letter, also known as the Opening Letter, as part of this process, which confirms that your property needs to be acquired for a public purpose. This letter will also include information about the acquisition process.

## Your acquisition support team

To help you through this process, the acquiring authority will provide you with an acquisition support team who will provide practical advice to suit your individual circumstances.

The acquiring authority provides an acquisition support team to help property owners and tenants understand their rights and obligations, and any other aspect of the acquisition process.

The team may include:

- an **Acquisition Manager**, who initiates and manages the process of acquiring the property needed for a project,
- a **Personal Manager**, who will assist you and provide you with support throughout the acquisition and relocation process, and
- on some projects, a **Community Place Manager**, who manages relationships between the project team and the community.

The acquiring authority provides this support team free of charge.

## Getting the support you need

The property acquisition process can sometimes be complicated and stressful.

To better support you, the NSW Government offers free and confidential mental and emotional support through the Property Acquisition Support Line. This service is available to all property owners, their families, tenants, commercial property and business owners, and employees affected by property acquisition. Counselling sessions are strictly confidential, and provided by qualified psychologists and social workers, independently of the project team or acquiring agency.

You do not need a referral to use the Property Acquisition Support Line. Simply call 1300 089 551 and speak with a team member 24 hours a day, 7 days a week.

To find out more about the features of the service and how you can make an appointment, call 1300 029 146 or visit [nsw.gov.au/property-acquisition](https://nsw.gov.au/property-acquisition) to download a copy of the Property Acquisition Support Line fact sheet.

Your acquisition support team will help you through the process.



## How the formal acquisition process starts

You will receive a **Commencement Letter** that generally marks the start of the negotiation period. You will normally have at least six months to reach an agreement on compensation with the acquiring authority before the compulsory acquisition process begins (and negotiations can continue alongside that process).

This minimum period of negotiation can be shortened under the Just Terms Act, either by agreement, or with the approval of the appropriate Ministers under certain circumstances.

The **Commencement Letter**, also known as the **Opening Letter**:

- provides you with the name and contact details of the acquiring authority and your acquisition support team

- explains that the acquiring authority will arrange for an independent valuer to inspect your property (or the property in which you have an interest) and carry out a valuation at a time that's convenient for you
- recommends that you engage your own independent valuer and informs you that fees reasonably incurred for this service will form part of your compensation payment at settlement
- explains that the acquiring authority will submit a formal offer to acquire your interest in the property based on the valuation and discussions with you

You will generally have at least six months to reach an agreement with the acquiring authority on compensation.



### Seeking your own independent advice

For most acquisitions, it is recommended that property owners engage their own independent valuer and lawyer. It is important that you remain informed and in control of your own decisions during the process.

The acquiring authority will reimburse costs reasonably incurred by you for the purpose of engaging professional advice. In addition to legal and valuation advice, you may be able to engage other experts to help as well, on the same basis. We recommend you discuss this with the acquiring authority before incurring these costs.

A lawyer can help you understand your legal rights and reach an agreement with the acquiring authority on any compensation you may be entitled to.

You can talk to your acquisition support team at any time, including while your lawyer is representing you.

For advice on finding a lawyer contact the NSW Law Society on **02 9926 0333** or visit **lawsociety.com.au**

For advice on independent valuers and their professional practice contact one of these organisations:

Australian Property Institute on **02 9299 1811** or visit **api.org.au**

Australian Valuers Institute on **1300 748 506** or visit **valuersinstitute.com.au**

Royal Institution of Chartered Surveyors on **1300 737 657** or visit **rics.org/oceania**



## Valuation and compensation

During the acquisition process, the acquiring authority will instruct an independent valuer to inspect your property and your business.

### How your property is valued

If your business is found to have a compensable interest in the property, the acquiring authority will instruct an independent valuer to inspect the property and prepare a valuation report which sets out the valuer's assessment of your entitlement to compensation under the Just Terms Act. Sometimes the valuer will need assistance from experts in other fields, such as business relocation costs. In that case, those experts will likely also visit the property, and prepare their own reports. Your acquisition support team will try to co-ordinate the inspections, so they minimise impacts on you.

The valuation report is a comprehensive document used to form the basis of an offer of compensation from the acquiring authority.

The valuation report will assess your entitlement to compensation in line with Section 55 of the Just Terms Act. Section 55 provides for compensation to be assessed having regard to:

- the market value of your interest, if any
- any special value to you
- any loss attributable to severance
- any loss attributable to disturbance

- any increase or decrease in the value of any other land of the person at the date of acquisition which adjoins or is severed from the acquired land by reason of the carrying out of or the proposal to carry out the public purpose for which the land was acquired.

### How your business compensation is valued

Calculating compensation for the acquisition of land on which your business operates can be a complex matter. Compensation must be assessed on a case by case basis that takes into account matters such as whether you have a legal interest in the property, the nature of the interest, the feasibility and cost of relocating the business, and possibly the value of the business itself. Out of pocket costs arising from the acquisition may also be compensable, if reasonably incurred. Any information requested about the operation of your business is kept in the strictest confidence.

Your lawyer and valuer will be able to advise you on your compensation rights and the information you will need to provide to complete this assessment. We recommend you ensure they have the necessary expertise to properly advise you.

Further general information about determining compensation for the acquisition of a business interest can be found at [nsw.gov.au/property-acquisition](https://nsw.gov.au/property-acquisition)



Getting an independent valuation early means negotiations can begin straight away

**Getting your own valuation**

Parties with a legal interest in the property to be acquired are encouraged to obtain their own advice from an independent valuer and a lawyer.

When the acquisition is settled, the compensation payment will include a component for valuation fees that you have reasonably incurred as long as the valuer is appropriately qualified.

If you need to engage other services such as accountants, town planners, or quantity surveyors, it may be worthwhile to first discuss with your Acquisition Manager whether the costs are likely to be included in the compensation payment.

Speak to your Acquisition Manager for more information.

**Valuer qualifications**

An appropriately qualified valuer must have one of the following qualifications:

- full membership of the Australian Valuers Institute (not an associate or student membership), or
- full membership of the Australian Property Institute (not a student or provisional membership) acquired because of their occupation as a valuer, or
- full membership of the Royal Institution of Chartered Surveyors as a chartered valuer.

Your appointed legal and valuation professionals will advise you on the areas in which you may have a legal right to claim compensation



# Reaching an agreement

## Your Letter of Offer

Once the acquiring authority's valuation and any other enquiries about your business have been completed, the acquiring authority will prepare a **Letter of Offer** for your consideration.

The Letter of Offer will set out the compensation offered to you by the acquiring authority for the acquisition.

The offer will be based on the acquiring authority's independent valuation report, and any other expert advice received in relation to issues connected with your business.

You should take some time to consider the offer alongside the advice of your independent valuer and lawyer.

## Negotiation and agreement on your compensation

Once your own valuation report is complete, the acquiring authority will arrange a meeting with you to discuss aspects of the compensation package to which you would be entitled, such as out of pocket costs that you incur or intend to or might incur. These meetings can take place with or without lawyers at your choosing.

Your Acquisition Manager can arrange a meeting with you and the valuers to exchange completed valuation reports and to discuss the valuations with a view to try and reach an agreement on your compensation or at least the valuation components of it.

This may involve one or more meetings where each valuer will present the evidence on which they based their valuation. The meetings can be informal and may be held in person or by phone or video conference. They can be held at your property or another location convenient for you if you are comfortable with this.

## Where an agreement is reached

If you accept the offer, you and the acquiring authority will start the process to acquire your interest in the land. This will be similar to a property sale in the open market except that the acquiring authority's lawyers prepares the contracts.

If you have any timing requirements for the payment of compensation, you can discuss this with the acquiring authority.

The acquiring authority may consider a request for an advance payment of compensation to you to help with your deposit on a new property. Discuss this with the acquiring authority before legally committing to a new property.

## Relocation support

Please speak to your acquisition support team if you need support and guidance to help you relocate.



## Vacating the property after agreement

Where you are required to vacate the property, your agreement will include an agreed date by which to do so.

All items such as fixtures, stock, and equipment, must be removed from the property by the agreed date, unless otherwise agreed as part of the negotiation reached.

The acquiring authority will inspect the property on the date of vacant possession to ensure it has been left in an acceptable condition.

Once your own valuation report is complete the acquiring authority can arrange for the valuers to exchange reports.



# If an agreement can't be reached

If you and the acquiring authority are unable to reach an agreement on compensation, the property may be acquired compulsorily under the Just Terms Act. Compensation is then determined by the Valuer General although, should you not accept the final determination, you have a right to object to the determination in the Land and Environment Court.

## Compulsory acquisition

Following a period of negotiation (generally a minimum of six months from the Commencement Letter), the first official step in the **compulsory acquisition** process is for the acquiring authority to issue a **Proposed Acquisition Notice (PAN)** to the property owner.

The PAN states the acquiring authority's intention to compulsorily acquire the property or an interest in the property after a certain time, usually 90 days. This timeframe can be shortened in certain circumstances in accordance with the Just Terms Act.

You should complete a Section 39 **Claim for Compensation** form within the time stated in the Proposed Acquisition Notice (PAN), including all information you would like the Valuer General to consider when determining your compensation. You will have at least 60 days from the PAN to complete the Claim for Compensation form. You can send the completed form to either the Valuer General or the acquiring authority. It is important that you fully explain and justify your claim and include all the issues that you wish the Valuer General to consider.

We recommend that you submit your completed Claim for Compensation as early as you can to assist the Valuer General with assessing your claim.

You can still continue negotiations and agree any compensation payable with the acquiring authority after a PAN has been issued.

## What happens next?

If an agreed acquisition is not concluded within the required PAN period, the acquiring authority will arrange for an Acquisition Notice to be published in the NSW Government Gazette. This is often referred to as the Gazettal.

The Gazettal happens as soon as practicable after the end of the PAN period and within 120 days of the PAN being issued.

The acquiring authority takes ownership of the property from the date the Acquisition Notice is published in the NSW Government Gazette.

Your interest in the property is converted to an entitlement to compensation.

You will be entitled to remain in occupation of the property (if you were occupying it before the acquisition) for three months after it is compulsorily acquired, unless the Minister responsible determines that immediate vacant possession is required.

Talk to your Acquisition Manager for further details.

You should complete a Claim for Compensation form within the time stated in the Proposed Acquisition Notice.

## Who determines the compensation payable?

The Valuer General determines the amount of compensation following Gazettal. The Valuer General is a statutory official that acts independently of both the acquiring authority and the interest holder. An interest holder can appeal this determination by the Valuer General to the **NSW Land and Environment Court**.

The Office of the Valuer General will:

- carry out their own independent valuation in line with the Just Terms Act
- speak with you and the acquiring authority, and may seek further information from you
- meet with you or your representative to discuss the valuation

- share all information being considered for the valuation report with the parties involved – this includes information provided to the Valuer General by the interest holder and the acquiring authority.
- issue you with a **Preliminary Determination** showing the draft amount of compensation proposed to be determined as being payable, and how it was determined, generally allowing you 10 working days to provide feedback before the Valuer General finalises the determination.
- issue a determination of compensation including a property report explaining the determination to you and the acquiring authority.

The acquiring authority will issue you with a **compensation notice** which must offer you the amount determined by the Valuer General.

For more information about the Valuer General's role, including the steps involved in responding to a Preliminary Determination, visit [valuergeneral.nsw.gov.au](http://valuergeneral.nsw.gov.au)

## Agreeing with the compensation notice

If you agree with the compensation notice, you must complete a **Deed of Release and Indemnity** and return it to the acquiring authority.

The acquiring authority will pay your compensation within 28 days of receiving the Deed of Release and Indemnity and any other required documents.

## Disagreeing with the compensation

If you disagree with the compensation notice, you are entitled to lodge an objection with the **NSW Land and Environment Court**. You are strongly recommended to seek legal advice.

The objection must be lodged within 90 days of the compensation notice being issued to ensure the Court will hear the objection and determine the amount of compensation to be paid. As the applicant, you must also give the acquiring authority notice that you have begun proceedings in the NSW Land and Environment Court by serving a copy of the application on the agency.



### Advance payments while the Court proceedings are under way

If you disagree with the Valuer General's compensation determination and have commenced Court proceedings, you will be entitled to receive 90 per cent of the Valuer General's determination of compensation within 28 days of the commencement of Court proceedings (this is called the advance). Accepting the advance will not affect your objection to the Valuer General's determination — that is, you are not deemed to have accepted the Valuer General's compensation determination by accepting the advance.

The acquiring authority will also pay interest on the advance for the period from the date the Acquisition Notice was published in the NSW Government Gazette to the date the advance is paid.

If you don't accept the advance, the advance and interest will be deposited into a statutory trust account pending the Court's decision.

### The NSW Land and Environment Court

Former interest holders not satisfied with the amount of compensation determined by the Valuer General and offered to them by the acquiring authority can lodge an objection with the Land and Environment Court.

The Just Terms Act provides that a person who has not been given a compensation notice and whose claim for compensation is rejected (or taken to be rejected) may appeal to the Land and Environment Court against the rejection of the claim.

For more information, visit [lec.justice.nsw.gov.au](http://lec.justice.nsw.gov.au)

If you disagree with the Valuer General's determination of compensation you are entitled to lodge an objection with the NSW Land and Environment Court.



## Partial acquisition

Sometimes only part of a property will need to be acquired. In this situation, the acquiring authority will provide you with a plan of the required partial acquisition. It will also include the proposed new boundary as a result of the partial acquisition and identify the likely dimensions and area of the part of the property that's needed.

### Property adjustments

When part of a property is acquired, the acquiring authority will discuss with you and agree on what property adjustments are needed as a result of the acquisition, such as changes to driveways or fencing.

If services and public utilities need to be adjusted as the result of a partial acquisition, they will be undertaken at the cost of the acquiring authority, prior to or during project construction. The property boundary will be relocated. If new fencing is required, it will be built to a standard similar to the existing fence. If necessary, a plan detailing property adjustments will be prepared for the property owner to consider. If this plan is agreed, it may form part of the contract for sale (if there is one). If no agreement is reached on compensation, the acquiring authority will issue a Proposed Acquisition Notice (PAN). During the PAN period, you may continue to negotiate with the acquiring authority. Should an agreement not be reached, that part of your property required will be compulsorily acquired. At the date of gazette, that part of your property will transfer in ownership to the acquiring authority and your interest in the acquired property will convert to a claim for compensation.

### Requesting your whole property be acquired

You can ask the acquiring authority to acquire your whole property, even though only part of it is needed for a proposed project. The decision to do so is at the discretion of the acquiring authority.

We're here to help you through every step of the process.

## Property acquisition by agreement – what to expect

If an agreement can't be reached the compulsory property acquisition process will begin

Key stages	Initial consultation and contact period				Agreement can be reached at any time during the initial negotiation period			
	1	2	3	4	5	6	7	8
<p>You can talk to your acquisition support team at any time, including while your lawyer is representing you.</p>	<p><b>The Project is announced</b></p> <p>Community information sessions and public announcements will inform you about the project plans.</p>	<p><b>The acquiring authority contacts you</b></p> <p>If you are directly impacted, you'll be assigned an Acquisition Manager.</p> <p>They will guide you through the acquisition process and be your main contact throughout the acquisition process.</p> <p>Your Acquisition Manager will try to meet with you face-to-face to:</p> <ul style="list-style-type: none"> <li>confirm your property is to be acquired</li> <li>introduce the acquisition support team</li> <li>explain the process.</li> </ul> <p>You may also receive an Introductory Letter as part of this process.</p> <p>If your Acquisition Manager can't contact you personally after a number of attempts, they will send you an email or letter.</p>	<p><b>You meet to discuss the process</b></p> <p>Your Acquisition Manager will arrange a meeting to help you understand the acquisition process and discuss the next steps.</p> <p>They will provide more information about the acquisition process and answer any questions you may have.</p>	<p><b>You receive a Commencement Letter</b></p> <p>Also known as an Opening Letter, this will:</p> <ul style="list-style-type: none"> <li>explain the property acquisition process including your rights and obligations,</li> <li>explain that the acquiring authority will seek to acquire the land by agreement, normally with a minimum six-month negotiation period,</li> <li>advise that the acquiring authority will arrange a valuation of the property by an independent valuer,</li> <li>ask for your help in helping the acquiring authority try to understand the impacts on your business of the acquisition, including whether it can be relocated, if so, any compensation payable in connection with that relocation</li> <li>encourage you to also get your property valued by an independent valuer, and to obtain independent legal advice, and</li> <li>explain that reasonably incurred legal and valuation costs will be paid to you as part of the compensation package.</li> </ul>	<p><b>Valuation reports are done</b></p> <p>An independent valuer will inspect the property to be acquired on behalf of the acquiring authority to determine your entitlement to compensation. A separate consultant (e.g. an accountant or business valuer) may also inspect your business and ask for information in order to understand how the acquisition will affect your business, and what compensation may be payable as a result of that effect.</p> <p>Your own valuer should also carry out a valuation and prepare a valuation report.</p> <p>The valuation report outlines the types of compensation you may be eligible for and how the amount of compensation was calculated.</p>	<p><b>You receive an offer</b></p> <p>Once the acquiring authority's valuation has been completed, and any other enquiries about business impacts have been completed and the answers considered, the acquiring authority will provide you with a Letter of Offer</p> <p>This offer will be based on information from the acquiring authority's valuation report and your discussions.</p> <p>It will set out the authority's offer of compensation for the acquisition of your property, or the compensation for the acquisition of your interest in the property.</p>	<p><b>Working to reach an agreement</b></p> <p>By this stage, the valuers may have exchanged valuation reports.</p> <p>Your Acquisition Manager will arrange for both valuers – and any other experts who have been engaged to help work out the right amount of compensation – to meet and try to reach agreement.</p> <p>This may involve one or more meetings where each valuer presents the evidence their valuation is based on.</p> <p>You are welcome to attend these meetings.</p> <p><b>Note:</b> The actions listed in Steps 6 and 7 may occur in a different order depending on the particular circumstances.</p>	<p><b>Agreement reached and relocation</b></p> <p>Once an agreement on compensation is reached, the Acquisition Manager will arrange for legal documents to be prepared and sent to you or your lawyer.</p> <p>Legal documents will be prepared and a date for completion of the acquisition agreed upon.</p> <p>You will be paid the agreed compensation and you will vacate the premises within an agreed period.</p> <p>If you need to relocate, your Personal Manager will be available to help.</p> <p>You are welcome to provide feedback on the acquisition process.</p>
<b>What you can do</b>	<ul style="list-style-type: none"> <li>Check websites, your mailbox, local newspapers, and local signage for project information.</li> <li>Attend community information sessions.</li> </ul>	<ul style="list-style-type: none"> <li>Meet with your Acquisition Manager.</li> <li>Make a list of questions you would like to ask.</li> </ul>	<ul style="list-style-type: none"> <li>Talk to your Acquisition Manager about the acquisition process and ask them any questions.</li> <li>Talk to your Acquisition Manager about how to select an independent valuer and lawyer</li> </ul>	<ul style="list-style-type: none"> <li>Note any key dates or questions you have.</li> <li>Discuss next steps with your Acquisition Manager.</li> </ul>	<ul style="list-style-type: none"> <li>Seek and engage independent valuation and legal services.</li> <li>Arrange an independent valuation of your property or your interest in the property to be acquired.</li> <li>If you need to engage other services such as accountants, town planners or surveyors it is suggested that you first discuss this with the acquiring authority.</li> </ul>	<ul style="list-style-type: none"> <li>Submit your own valuation to the acquiring authority.</li> <li>Seek independent legal advice on the details of the offer if you feel it necessary.</li> </ul>	<ul style="list-style-type: none"> <li>Attend meetings if necessary.</li> <li>Consider the acquiring authority's offer.</li> <li>Seek legal advice before you formally accept the offer if you want to.</li> </ul>	<ul style="list-style-type: none"> <li>Be prepared to sign any necessary documents.</li> <li>Work with your Acquisition team to relocate to a new business location.</li> </ul>

# Compulsory property acquisition — what to expect

You generally have 90 days to reach an agreement

## Key stages

1

### You receive a Proposed Acquisition Notice

If, after at least a period normally of six months from the Commencement Letter, you have not reached agreement on compensation with the acquiring authority, you will be sent a Proposed Acquisition Notice (PAN). The acquiring authority will also advise the Valuer General a PAN has been issued.

You will have the opportunity to lodge your own claim for compensation with the acquiring authority or the Valuer General.

You have 60 days from receiving the PAN to lodge your Claim for Compensation form.

2

### Negotiations may continue

Negotiations between you and the acquiring authority can continue — and an agreement can still be reached — after a PAN has been issued.

The Valuer General will contact you to explain their role and the next steps.

Your Claim for Compensation form will ensure your interests are recorded and the Valuer General will take this into consideration.

An independent valuer will make a new valuation for the determination of your compensation on behalf of the Valuer General.

3

### Your property is acquired

If an agreement still isn't reached, the acquiring authority will compulsorily acquire your property or your interest in the property.

The acquiring authority will publish a notice in the NSW Government Gazette. Following gazettal, the Valuer General will determine the compensation owed to you. The acquiring authority then takes ownership of the property or the interest in the property, as applicable.

4

### The Valuer General determines compensation

The Valuer General will determine the amount of compensation based on its own independent valuation and will supply information to both you and the acquiring authority.

The Valuer General shares all provided valuation information with both you and the acquiring authority before determining compensation.

5

### You receive a Preliminary Determination

The Valuer General will send you a Preliminary Determination before finalising its determination.

The Preliminary Determination shows the proposed amount of compensation and how it was determined.

The Valuer General will provide the Preliminary Determination to both you and the acquiring authority to identify any errors of fact.

6

### You receive a compensation notice

When the valuation report is finalised, the Valuer General will provide you and the acquiring authority a determination of compensation. This determination must be used by the acquiring authority to issue you with a compensation notice.

If you accept the offer in the compensation notice, you will receive payment within 28 days of the acquiring authority receiving a signed Deed of Release and Indemnity.

You will be paid interest on the compensation calculated from the day the acquisition notice was published in the NSW Government Gazette to the date of payment.

7

### If you don't agree with the compensation notice

If you don't agree with the compensation notice, you can lodge an application with the NSW Land and Environment Court.

You must lodge an application within 90 days of receiving your compensation notice from the acquiring authority.

You must also give the acquiring authority notice that you have begun proceedings in the NSW Land and Environment Court.

- What you can do**
- Complete the Section 39 Claim for Compensation form available at [nsw.gov.au/property-acquisition](https://nsw.gov.au/property-acquisition) and include all information you would like the Valuer General to consider when making the determination of compensation.
  - Continue working to reach an agreement with the acquiring authority.
  - Seek advice from your lawyer and Acquisition Manager on the compulsory acquisition process.

- Note the timelines outlined in your letter.
- Provide any additional information requested by the Valuer General in a timely way.

- Continue to seek legal and valuation advice.
- Arrange for the Valuer General to inspect your property so a full valuation report can be made.

- Remain in contact with the Valuer General.

- Consider the Valuer General's Preliminary Determination and identify any errors of fact.
- You generally have 10 working days to give feedback on the determination before the Valuer General finalises the determination.

- Consider the acquiring authority's compensation notice.
- If you agree with the compensation notice complete a Deed of Release and Indemnity form and send it to the acquiring authority.

- Lodge an application with the NSW Land and Environment Court within 90 days of receiving the compensation notice. The Court may accept late applications in some cases.

## Send in your feedback

At the end of the settlement period, you will be invited to complete a survey to provide feedback on the acquisition process.

The survey is conducted by an independent market research company on behalf of the NSW Government. It is confidential and anonymous.

Your participation will help to continually improve the acquisition process.

More information can be found at [nsw.gov.au/property-acquisition](https://nsw.gov.au/property-acquisition)

## Definitions

### Acquiring authority

A NSW authority that has legal power to acquire land.

### Acquisition by agreement

The process by which property is acquired for a public purpose by agreement with the interest holder.

### Acquisition notice

A notice under Section 19 of the Just Terms Act, published in the NSW Government Gazette, declaring that property described in the notice is acquired by compulsory process.

### Acquisition support team

A specially trained support team provided free-of-charge by the acquiring authority to help you through the property acquisition process.

### Claim for Compensation form

A form to be completed by the interest holder when making a claim for compensation under Section 39 of the Just Terms Act.

### Commencement Letter (or Opening Letter)

A letter from the acquiring authority that generally marks the start of the minimum six-month negotiation period for you to reach an agreement with the acquiring authority. This letter will also include the contact details of your acquisition support team and information about the acquisition process.

### Compensation notice

A written notice under Section 42 of the Just Terms Act, notifying former interest holders of the amount of compensation offered by the acquiring authority (as determined by the Valuer General).

**Compulsory acquisition**

The process by which property is acquired by Acquisition Notice published in the NSW Government Gazette.

**Deed of Release and Indemnity**

A legal document setting out a binding agreement that confirms the agreed compensation is the only compensation payable for the acquisition, and dealing with the risk to the acquiring authority of other people coming forward for compensation in connection with the same interest in land.

**Introductory Letter**

The first written contact from the acquiring authority to notify you of the proposal to acquire an interest in some or all of your property.

**Land Acquisition (Just Terms Compensation) Act 1991 (the Just Terms Act)**

The legislation that governs the process for acquisition of land in NSW and defines compensation entitlements, also referred to as the Just Terms Act in this guide.

**NSW Government Gazette**

The official Government Gazette that is published weekly, in which official proclamations, orders, declarations and notices are published at [legislation.nsw.gov.au](http://legislation.nsw.gov.au)

**NSW Land and Environment Court**

A specialist NSW Court that has the authority to hear claims for compensation arising from property acquisitions where the interest holder disagrees with the Valuer General's determination of compensation.

**Preliminary Determination**

A report issued by the Valuer General that shows a draft determination of the amount of compensation payable to you, and the reasons for that draft determination.

**Property Acquisition Standards**

The Property Acquisition Standards are the five guiding principles that must be observed by agencies that acquire property under the Just Terms Act.

**Proposed Acquisition Notice (PAN)**

A notice, under Section 11 of the Just Terms Act, of the intention to acquire property by compulsory process.

**Valuer General**

The Valuer General is required to independently determine the amount of compensation to be paid by the acquiring authority to the property owner when an agreement can't be reached.

**Valuation report**

A comprehensive document used to form the basis of an offer from the acquiring authority. It may include a list of improvements to the property, any special features that have been added and other considerations.

# Contacts and services

For a comprehensive overview of property acquisition in NSW, visit [nsw.gov.au/property-acquisition](http://nsw.gov.au/property-acquisition)

**Centre for Property Acquisition**

The NSW Government agency that oversees the property acquisition process in NSW.

[nsw.gov.au/property-acquisition](http://nsw.gov.au/property-acquisition)  
1300 029 146

**NSW Law Society**

Provides independent information on finding a lawyer

[lawsociety.com.au](http://lawsociety.com.au)  
02 9926 0333

**Australian Property Institute**

Provides independent information on qualified valuers

[api.org.au](http://api.org.au)  
1800 111 274

**Australian Valuers Institute**

Provides independent information on qualified valuers

[valuersinstitute.com.au](http://valuersinstitute.com.au)  
1300 748 506

**Royal Institution of Chartered Surveyors**

Provides independent information on qualified valuers

[rics.org/oceania](http://rics.org/oceania)  
1300 737 657

**Translating and Interpreting Service**

Provides interpreting services over the phone

[tisonational.gov.au](http://tisonational.gov.au)  
131 450

**Valuer General**

Determines compensation claims independently

[valuergeneral.nsw.gov.au](http://valuergeneral.nsw.gov.au)  
1800 110 038

**NSW Government Gazette**

Publishes official notices issued by the NSW Government.

[legislation.nsw.gov.au](http://legislation.nsw.gov.au)  
02 9321 3333

**Australian Taxation Office**

Provides advice on a range of tax-related topics.

[ato.gov.au](http://ato.gov.au)  
13 28 65



This document is available in other languages at [nsw.gov.au/property-acquisition/publications](https://nsw.gov.au/property-acquisition/publications). You can also contact the Translating and Interpreting Service on 131 450 and ask for Centre for Property Acquisition.

[nsw.gov.au/property-acquisition](https://nsw.gov.au/property-acquisition)

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