

# Land Acquisition Fact Sheet

*This fact sheet provides general information about the land acquisition process. It is a guide only and should not be relied upon as legal advice.*

## Why does land need to be acquired?

South Australia's record investment in infrastructure is improving and developing new roads, schools, hospitals and housing projects across the state, while creating thousands of jobs.

To enable the construction of these projects, the Government of South Australia will, on occasion, need to acquire privately owned land. Once a project is planned, funded and approved and the need for any privately owned land is known, affected parties will be contacted if their property needs to be acquired.

## What process do acquisitions need to follow?

The Land Acquisition Act 1969 (the Act) sets out South Australia's land acquisition process and the compensation owners and tenants are entitled to. Amended in 2020, the Act now provides more support and compensation to owners and tenants whose property is acquired.

Land can be acquired under the Act by agreement or by a compulsory process.



## Who is considered to have an interest in the property and be entitled to compensation?

You may be entitled to compensation if you are an owner, residential tenant or business tenant occupying the land that is to be acquired under a lease, licence or other arrangement. If your enjoyment of the land in which you have an interest is adversely affected by the acquisition, you may be entitled to compensation.

## Is there support available for owners of land being acquired?

Learning that a property is to be acquired may cause concern. Support and advice is available relating to the specific circumstances of each owner and tenant. An affected party whose property is to be acquired will be assigned Acquisition Case Managers to provide guidance throughout the process.

The Acquiring Authority can offer a buyers advocate service to any person seeking to find a replacement property, the cost of such service borne by the Acquiring Authority. The buyers' advocate will work with you to establish your search criteria and will suggest properties aligned with your criteria for your consideration. The Acquiring Authority may communicate with the buyers' advocate from time to time to be informed about how your search for replacement properties is progressing and this information may be raised with you in compensation negotiations. If you confirm that you would like the Acquiring Authority to organise for a buyers advocate to work with you, it will be presumed that you consent to the Acquiring Authority making such enquiry with the buyers' advocate. If you do not consent to the Acquiring Authority making such enquiry, you will need to let the Acquiring Authority know.

Confidential counselling is available to people whose land is being acquired. If the property you own or occupy is being acquired and you consider this service useful, please advise your allocated Case Managers who will assist and provide you with the counseling providers contact details. Aboriginal and Torres Strait Islander people can obtain support and legal representation from the Aboriginal Legal Rights Movement by calling 1800 643 222.

## How is compensation for my interest in the land determined?

The process begins with an assessment of the actual value of the land by an independent valuer. Most commonly, this is based on market sales evidence of land comparable to the land to be acquired as if the project was not occurring.

Other factors that may be considered in determining fair and reasonable compensation include loss due to disturbance (such as relocation expenses) and special value.

In the context of a partial acquisition, loss to the remaining land will be assessed by an independent valuer.

If you are a residential tenant or business tenant, more information on how compensation is assessed is available in the Residential Tenant and Businesses fact sheets.

## What is a solatium payment and am I eligible to receive it?

The compensation paid to you may be increased by way of a solatium payment if at the time the Notice of Intention (NOI) was given, you were a residential owner and occupier of the land and if as a result of the acquisition of the land your principal place of residence was acquired.

The solatium payment will total either 10% of the market value of the land being acquired or \$50,000, whichever is the lesser amount. The solatium payment will be made on final resolution of the amount of compensation payable in relation to the acquisition of the land.

## What do I have to do after receiving an offer of compensation?

You must respond in writing within six months of the date of the offer. You must indicate whether you accept or reject the offer. The parties are required to negotiate in good faith in relation to the compensation payable for the acquisition of the land.

You may apply to the acquiring authority to extend the six month period. If the acquiring authority grants a longer period as a result of your application, you must respond to the offer in writing within that extended time period. If the acquiring authority refuses to grant a longer period, you may refer that decision to the Supreme Court for review.

## What happens if I do not respond to an offer?

If you fail to respond to an offer within the relevant time period, any monies held in the Supreme Court will be paid to the acquiring authority. Should this occur, it will not affect your entitlement to compensation in respect of the acquisition of the land. However, you will not be entitled to any interest accrued on the monies from the time these are paid to the acquiring authority.

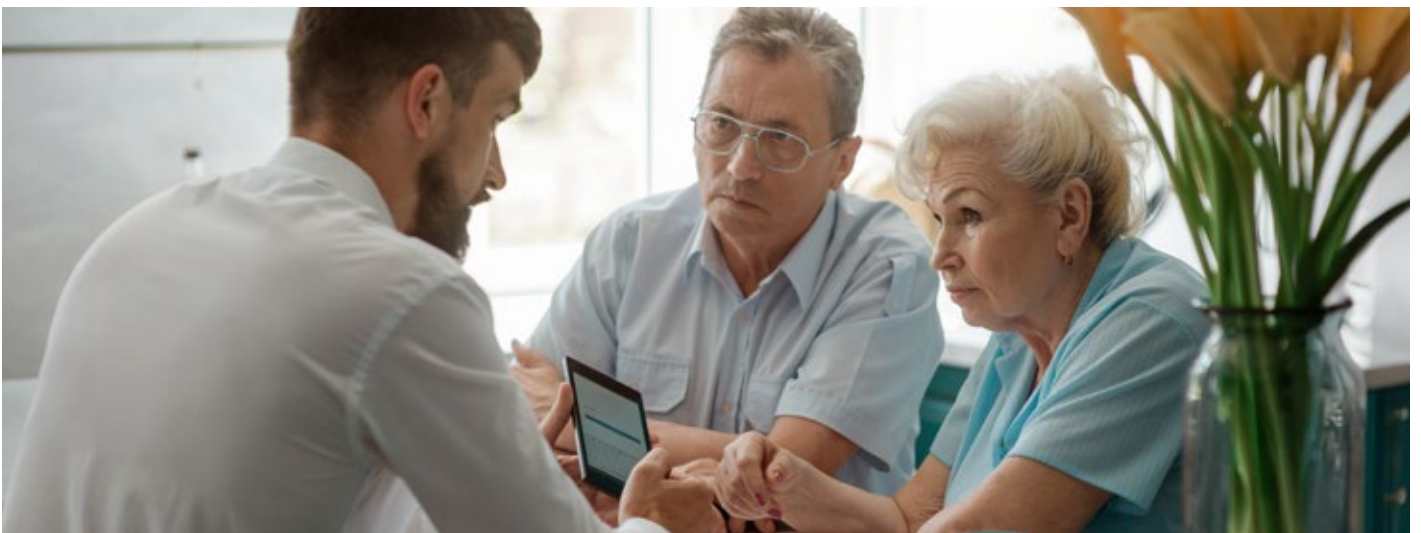
## How do I access my compensation?

The money that the acquiring authority offers you will be paid to the Supreme Court (unless it is \$50,000 or below, when it may be paid directly to you). If you would like to withdraw your money, you may choose to use your own solicitor or ask your Acquisition Case Managers to arrange for government solicitors to make the application on your behalf at no cost to you.

The withdrawal and payment of this money to you does not affect your right to claim further compensation.

If you have not responded to the compensation offer within six months or withdrawn the money 24 months after being paid to the Suitors' Fund, the money together with any accrued interest, will be paid to the acquiring authority.

Should this occur, it will not affect your entitlement to compensation for the acquisition of the land. However, you will not be entitled to any interest accrued on the monies from the time these are paid to the acquiring authority.



## What if there is a dispute about the process or I disagree with the compensation offered?

In rare cases when agreement cannot be reached, a question arising during negotiations can be referred to the Supreme Court for determination following a mandatory settlement conference.

To do this, you must first apply to the acquiring authority to convene a settlement conference.

The acquiring authority will be responsible for convening the conference and will appoint a conference coordinator. It is an offence to refuse or fail to comply with a direction of the conference coordinator. If the matter is not resolved at the settlement conference then you or the acquiring authority may refer a question to the Court.

## If I seek professional advice will I be reimbursed for the fees charged?

If you have been advised that your land is to be acquired you can be reimbursed for reasonable legal and land valuation fees that relate to the acquisition. Speak to your Acquisition Case Managers and refer to the Legal and Valuation Services and Fees Fact Sheet before you engage any professional advisers.

## Acquisition by Agreement

After receiving the NOI and before receiving the Notice of Acquisition (NOA) some owners may negotiate a settlement with the acquiring authority and reach agreement on the value of the land and the compensation to be paid. If this occurs then the land will be transferred to the acquiring authority in the ordinary way and will not progress to NOA.

If you choose to negotiate and reach agreement at this stage you will need to appoint a conveyancer, for which you will be compensated, to help with the property settlement.

If land you own or rent has been identified for acquisition you will be contacted to discuss the acquisition process and what it means for you.

All acquisitions are managed by the South Australian Government in accordance with the relevant legislation.

[www.dit.sa.gov.au/landacquisition](http://www.dit.sa.gov.au/landacquisition)



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