CROSS RIVER RAIL DELIVERY AUTHORITY





"All reasonable legal fees to prepare and lodge a compensation claim are reimbursed to the land owner as part of their overall compensation payout...."

Have you received a Notice of Intention to Resume?

Getting a notice of intention to resume ("NIR") your land from a government authority can be a very stressful event for a land owner. A land owner is entitled to be paid fair compensation for their loss suffered because of the resumption. The Acquisition of Land Act 1967 (Qld) ("Act") gives a land owner the right to compensation.

The main steps of the compulsory land acquisition process are the NIR, objections to land acquisition, application to acquire land, resumption notice and compensation claims.

What are the steps of the compulsory land acquisition process?

Step 1: NIR

The NIR is served on all parties with an interest in the land such as the land owner, easement holder, lease holder and/or mortgagee.

Step 2: Objection

A land owner has 30 days from the date of the NIR to object to the proposed compulsory land acquisition. The land owner is responsible for any costs incurred in engaging professionals to assist them with the written objection or the hearing. If the land owner does not object, the Authority will proceed with a gazette notice and become the land owner from the Gazettal date.

Step 3: Application to Acquire Land

The Coordinator-General and the Minister will consider the compulsory acquisition and apply to the Governor in Council to resume the land. The Coordinator-General's application to the Minister must be made within 12 months of the NIR date.

Step 4: Resumption Notice

If the Governor-General approves the compulsory land acquisition, then a resumption notice is published in the Queensland Government Gazette. Upon publication, the Coordinator-General becomes the land owner (or easement). Access and

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construction on the land can proceed before compensation is paid.

Step 5: Compensation

Claiming Compensation

Upon publication in the Government Gazette, a land owner can lodge a written claim for compensation within 3 years of the resumption notice publication date.

Engage Professional Services

Land owners can engage a registered land valuer to assess the property value and also appoint a solicitor to prepare and lodge the claim on their behalf. All reasonable legal fees to prepare and lodge a claim, are reimbursed to the land owner as part of their overall compensation payout.

Compensation Offer

The Coordinator-General will arrange and independent land valuation and then make the land owner an offer.

The land owner then chooses to either accept or reject the offer. If the land owner chooses to reject the offer, the parties will meet to negotiate a settlement. If the parties cannot agree on the compensation, either party can refer the matter to the Land Court.

Following the lodgment of a claim, an advance payment against the compensation can be requested in writing. This payment does not affect your right to have the matter determined by the Land Court.

Where to go for help

If you ever find yourself in this situation, our specialised team of lawyers can assist you to develop a strong case in support of any compensation claims. Do not expect that the government authority will be generous in any offers they make.

We can assist you with the preparation, lodgment and negotiation of your compensation claim.

All reasonable legal fees to prepare and lodge your compensation claim, will be reimbursed to you as part of your overall compensation payout – this means no cost to you.

Conclusion

If you are uncertain about the compulsory acquisition process or are being affected by the Cross River Rail Delivery Authority, please get in contact with us to discuss your specific requirements. It won't cost you anything to ask.

Disclaimer: This is generalist information only, and is not a substitute for legal advice tailored towards your individual circumstances. If you would like further information, please contact us.



MARK HARLEY
PRINCIPAL
Boss Lawyers
(T) 1300 267 711
(E) mharley@bosslawyers.com.au
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Land identified for compulsory acquisition

Government Authority Issues Notice of Intention to Resume (NIR)

Information that must be included in the Resumption Notice:

- 1. Details and description of the land;
- 2. The details of the acquiring authority;
- 3. The particular purpose that the land is to be acquired; and
- 4. Details regarding the owner's objection rights against the acquisition process and the objection period.

Note: Once you receive an Acquisition Notice, you cannot sell or enter into a new lease for the property.

Landowner objects to NIR

Objection Time Limit = the date specified in the notice.

What you can object to:-

- 1. If the acquisition notice is for land that is not resumed for a public purpose such as: transportation, the environment, education, cultural facilities, health, natural resources, recreation, law enforcement, urban planning, primary production, sanitation or public works; or
- 2. If you can show that the proper process has not been followed by the government
- 3. If you can show that there is a better proposal that should have been considered.

What you can't object to:-

1. The grounds for objection cannot relate to the amount of compensation.

Decision

Government Authority decides on objection

NIR withdrawn

NIR amended

Landowner does not object to

Application to Minister & Governor in Council

Coordinator-General applies to Minister to acquire land and Minister recommends to Governor in Council to acquire land.

Resumption Notice published

Governor in council approves acquisition and resumption notice published in gazette.

Compensation Claim

Landowner submits claim and compensation assessed

Compensation time limit:

Within 3 years after the resumption notice is published.

Settlement not reached Proceed to Land Court

Settlement Reached

Settlement reached and payment made

LEVEL 27 SANTOS PLACE 32 TURBOT STREET

**** 07 3188 0200 **|** 07 3188 0209 INFO@BOSSLAWYERS.COM.AU ☐ BOSSLAWYERS.COM.AU