



# Land Acquisition Hardship Claim Information Guide

Camden Council has adopted a 'Land Acquisition Hardship Policy' to ensure that the process for determining owner-initiated acquisitions (Hardship Claims) is transparent, consistent and impartial.

# The Policy outlines:

- the requirements that a landowner must meet to submit a Hardship Claim to Council.
- the processes that Council staff follow to ensure that the assessment of the claim is transparent, consistent and impartial.

To assist landowners with the Hardship Claim process, this information guide outlines:

- An overview of what hardship is and how to show hardship;
- How to make an application for hardship acquisition and who can apply;
- How compensation is deteremined;
- A checklist outlining the supporting documentation that landowners are required to submit with their Hardship Claim;
- An overview of the process that Council Officers undertake to assess the Hardship
- An overview of the process which outlines Council's procedure if hardship has been determined in accordance with the Land Acquisition (Just Terms Compensation) Act 1991; and
- Reference to Council's Land Acquisition Hardship Policy.

Council's Land Acquisition Hardship Policy can be found on Council's website, www.camden.nsw.gov.au.





PO Box 183, Camden 2570













#### WHAT IS A HARDSHIP ACQUISITION?

Land acquisition is an important part of the state infrastructure planning processes. An acquiring authority may designate land for future acquisition for a public purpose, even though it may not need to the land for some time.

Designation can occur either by written notice from the acquiring authority or by an environmental planning instrument. environmental planning instruments can be viewed at http://www.legislation.nsw.gov.au.

If you are the owner of that land, you can apply for early acquisition under section 23 of the Land Acquisition (Just Terms Compensation) Act 1993 (the Act).

To apply for early acquisition, you must be able to show that you would suffer hardship if the acquisition of your land is delayed.

### **HOW TO SHOW HARDSHIP**

In order for an acquiring authority to acquire land under the hardship provisions, the land owner must demonstrate that:

- 1. Because of the designation for acquisition over your land, you are:
  - Unable to sell your land, or
  - Unable to sell your land at the market value
- 2. It is necessary for you to sell all or any part of your land without delay because of any one of the following reasons:
  - A pressing personal reason,
  - A pressing domestic reason,
  - A pressing social reason,
  - To avoid the loss of income, or
  - To avoid substantial reduction in income.

## HARDSHIP REQUIREMENTS IF THE OWNER IS A CORPORATION

If the owner is a corporation, then the corporations must be able to meet one element from each of the two categories below to demonstrate hardship.

- 1. Because of the designation for acquisition over the land, the corporation is:
  - Unable to sell the land, or
  - Unable to sell the land at the market value.
- 2. It is necessary for the corporation to sell all or any part of the land without delay because of any one of the following reasons:
  - A pressing personal reason,
  - · A pressing domestic reason, or
  - A pressing social reason

of an individual who holds at least 20% of shares in the corporation

Or

- To avoid the loss of income, or
- To avoid substantial reduction in income

of an individual who holds at least 20% of shares in the corporation.







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### **HOW TO MAKE AN APPLICATION FOR** HARDSHIP ACQUISITION

To submit a hardship claim to Council for acquisition of your land you must:

- 1. Complete the Notice Requiring Acquisition of Land form (available on the Property Acquisition website, www.propertyacquisition.nsw.gov.au).
- 2. Provide Information about the environmental planning instrument that your land is designated under, or a notice in writing from Council that your land has been designated for acquisition for a public purpose.
- 3. Provide proof of title or other information to demonstrate that you own the land or are entitled to exercise a power of sale over the land.
- 4. Provide the supporting information as listed in the 'Checklist of Information Required for Hardship Claim Applications'.
- 5. Send your completed application to Council.

## WHO CAN APPLY FOR A HARDSHIP **ACQUISITION?**

When making an application for hardship, you must be able to show that you are the owner of the land.

An owner is someone who:

- owns the freehold title to the land, or
- has become entitled to exercise a power of sale over the land.

### but is not:

a public company or subsidiary of a public company, including if the public company is a charity.

Where there is more than one owner, all owners must sign the Notice Requiring Acquisition of Land form. Only one owner needs to demonstrate they are suffering hardship.

#### LAND IS ACQUIRED WITHIN 90 DAYS

If you can demonstrate hardship, the Notice Requiring Acquisition of Land form is approved by Council and your land is acquired.

Council has 90 days to acquire your land after accepting the hardship application. You can agree to a longer time with Council.

# COUNCIL CAN REMOVE THE DESIGNATION ON YOUR LAND

Before the 90-day period had expired, Council can remove the designation on your land.

If this happens, Council does not have to acquire your land.

Council can remove the designation by giving you written notice that your land is no longer designated for future acquisition.

# APPLYING FOR A REVIEW OF HARDSHIP **DECISION**

You can seek an independent review of your hardship application if:

- Council rejects application for vour hardship
- Council has not responded to your application for hardship within 90 days

You have 28 days after this happens to apply for a review.

Further information regarding the review process can be found on the Property Acquisition website, www.propertyacquisition.nsw.gov.au.





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ABN: 31 117 341 764







#### HOW COMPENSATION IS ASSESSED

Compensation under the Act is required to be on just terms and will include payment for market value of your property.

Depending on your individual circumstances, the following types of compensation may not be paid:

- Any special value of the land,
- Any loss attributable to severance or disturbances, and/or
- Disadvantage resulting from relocation.

Council will look at your individual circumstances when making a decision on the amount of compensation to be paid.

### **ROLE OF THE VALUER GENERAL**

If you are unable to agree on the amount of compensation with Council, the Valuer General will determine the compensation payable.

The Valuer General's website. www.valuergeneral.nsw.gov.au, has more information on the role of the Valuer General.

### COUNCIL'S LAND ACQUISITION HARDSHIP **POLICY**

Camden Council has adopted a 'Land Acquisition' Hardship Policy' to ensure that the process for determining owner-initiated acquisitions (Hardship Claims) is transparent, consistent and impartial.

The Policy outlines:

- the requirements that a landowner must meet to submit a Hardship Claim to Council;
- the processes that Council staff follow to ensure that the assessment of the claim is transparent, consistent and impartial.

Council will consider each hardship claim received on a case by case basis, and each claim will be determined on the merit of the claim.

To be eligible to submit a Hardship Claim, the property must be designated for future acquisition.

Camden Council may accept Hardship Claims in accordance with the Land Acquisition (Just Terms Compensation) Act 1991, the Land Acquisition Hardship Policy and any additional terms and conditions negotiated with respect to each claim.



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dentification				
	Copy of driver's licence or passport			
	A telephone, water or electricity bill that confirms the applicants address			
Proof of Employment				
	Work references			
	Proof of pension			
	Payslips			
Financial Records				
	Bank statements for the past two years			
	Superannuation statement for the past two years			
	Tax returns for the past two years			
	Any shares owned including their value			
	Any other assets owned and their value  Any international assets, which any of the applicants receive an income from, including properties, shares or investments			
	Any rental income the applicant receives			
	Any income received including Centrelink payments			
	Reasons for financial hardship (if applicable)			
	Rent statements			
Mortgage or Loans				
	Mortgage documentation and/or bank statements confirming outstanding loan including the balance and remaining term of the loan			















Evidence of any services rendered for the ongoing day to day maintenance of the property					
All assets owned by the applicant and the value of the current assets including, but not limited to, all property, motor vehicles and farm equipment					
Professional Advice					
Details of any relevant financial advice that the applicant has obtained					
Independent financial advice that supports financial hardship claim					
Sale of Property  Note: The landowner needs to provide evidence that they have made a reasonable attempt to sell the property.					
Placing the property on the market for a minimum of 90 days					
Provide a copy of the Agency Agreement					
Provide a copy of the Contract for Sale					
Provide inspection reports, marketing and promotion schedules or campaigns					
Information regarding any offers made on the property by perspective buyers					
Proof of internet listings of the property					
Statistics of the property internet listing A listing of three comparable sales that the real estate agent has based their opinion of value on, as stated on the Agency Agreement A report from the real estate agent and buyer feedback to advice and support the reasons affecting the sale					
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Support	A۷	aila	ble

	Evidence of available community services to assist the applicant to stay in the property			
	Evidence of consultation with community services and the outcome of completed assessments			
	Evidence of any support available to the applicant			
<b>Medical Conditions</b> Note: Evidence of any diagnosed medical conditions which are impacted as a result of living in the property.				
	A written report from the treating medical specialist detailing the conditions suffered			
	Treatment plan for the management of the medical conditions			
	Explanation of how living in the home is impacting any medical conditions			
	Any other information relevant to support medical conditions			



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# Hardship Claim Assessment Process – what to expect

You have 28 days to apply for a review of the decision.

1

#### YOU SEND A COMPLETED APPLICATION TO COUNCIL

If your property has been designated for future acquisition, you can apply for early acquisition under section 23 of the Land Acquisition (Just Terms Compensation) Act 1991.

The applicant must provide all supporting documentation as outlined in the Land Acquisition Hardship Claim Information Guide.

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#### ACKNOWLEDGEMENT BY COUNCIL

Council will acknowledge receipt of your application within 24 hours.

Upon receipt of all information required, The Property Services Team will assess the hardship claim.

ASSESSMENT

Council's Solicitor may be instructed to conduct an assessment of the claim or review the claim on Council's behalf.

Note: Council may contact the applicant for further information or clarification during the assessment.

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#### DETERMINATION

The Property Services
Team will report the matter
to Council for
determination of hardship.

Note: This will be a closed Council Meeting due to the commercial in confidence information associated with the hardship claim. 5

#### HARDSHIP DETERMINATION

The Property Services
Team will notify the
applicant of the Council's
determination in regards to
the hardship application.

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#### HARDSHIP DETERMINED

Refer to Council's Hardship Determined Process. 7

### HARDSHIP NOT DETERMINED – APPLYING FOR A REVIEW

If Council determined to reject the hardship application, Council will advise in writing the following:

- the reasons for the decision.
- that you have a right to seek a review of the decision.
- that seeking merits review must apply within 28 days of receiving the written decision.

The Department of Planning, Industry and Environment facilitates the merits review. An independent expert will be appointed to assess your eligibility for hardship.

Note: the decision of the reviewer is final.

# Hardship Claim Acquisition Process – what to expect

You have 90 days to lodge an objection with the NSW Land and Environment Court.

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# COUNCIL DETERMINED HARDSHIP

If Council determined to acquire your land under the hardship provision of the Land Acquisition (Just Terms Compensation) Act 1991, the Property Services Team will contact you:

- to arrange an inspection of the property by Council Officers.
- to advise that Council will instruct a registered valuer to provide a valuation.
- to arrange a suitable time for a Pest and Building Inspection.

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#### **OFFER**

Council will submit an offer in writing to the landowner for the purchase price.

This will commence negotiations with the landowner regarding the purchase price.

# MEGO

#### NEGOTIATIONS SUCCESSFUL

If Council can reach an agreement with you as the property owner regarding the purchase price, Council will:

- Prepare a Contract for Sale for review by your Solicitor.
- Contracts will be exchanged and a date for settlement will be agreed on.
- A final inspection prior to settlement will be conducted.
- Settlement of the Property and handover of the Property to Council.

Note: If negotiations are unsuccessful, refer to steps 4 – 7.

4

#### NEGOTIATIONS UNSUCCESSFUL

If agreement on the purchase price cannot be reached, Council will proceed to compulsory acquire your land.

The Valuer General will determine the amount of compensation payable.

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# PRELIMINARY VALUATION REPORT

The Valuer General will send you and Council a Preliminary Valuation Report.

The report shows the amount of compensation and how it was determined.

FINIAL VALUE

# FINAL VALUATION DETERMINATION

Council will send you a compensation notice that will contain the Valuer General's final determination.

If you agree with the compensation notice, you can be paid the compensation within 28 days, once the Deed of Release and Indemnity has been received by Council.

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# IF YOU DON'T AGREE WITH THE FINAL DETERMINATION

If you don't agree with the amount of compensation determined by the Valuer General, you can lodge an objection with the NSW Land and Environment Court.

You must lodge your objection within 90 days of receiving your compensation notice from Council.

The Court will determine your compensation following necessary proceedings.