

Easements and Acquisitions

This fact sheet provides an overview of the new provisions for easements and acquisition powers under the **Housing Availability and Affordability (Planning and Other Legislation Amendment) Bill 2023 (Bill)**.

What are the new easement and acquisition powers?

The Bill creates the power for the State to take land or an easement or create a new easement to deliver development infrastructure (for example, water infrastructure, transport infrastructure, parks and community facilities).

Who becomes the owner of the acquired land or easement?

If the State decides to acquire land or an easement, or create a new easement, the State will vest the land in a public sector entity (for example, a local government, State agency or utility provider).

Why does the State need these powers?

As Queensland continues to grow, infrastructure - like drainage and roads – need to happen quickly. We are working to speed up the delivery of infrastructure in new areas to get Queenslanders in their new homes faster.

Through our work on identifying barriers in South East Queensland, we identified that developers are faced with land fragmentation (smaller land parcels held by multiple owners). The process for negotiating sale of this critical land can be costly and time-consuming, meaning developers are not able to bring housing that is connected to essential infrastructure on the market, quickly.

The State's new powers allow the State to intervene to deliver infrastructure where it is a barrier to development progressing and all other options have been exhausted (such as negotiating by agreement or reaching out to local governments).

These powers also extend beyond the scope of other Acquisition legislation by allowing the State to acquire land, even when there is a benefit for a private entity such as developers or landowners.

Key Features:

- State can acquire land or create an easement even if there is a private benefit (for example, for a developer or landowner).
- State can only vest land in a public sector entity (for example, local government or utility provider).
- State may only acquire land if the request meets the criteria for the acquisition and if the development infrastructure would facilitate development.

Scenario of when these powers may be used:

An area of land within a key local government area is identified for growth, however, has had limited development occurring to support new housing and land supply on the market. The area is flood prone and is held by multiple owners in smaller parcels of land.

The local council has identified water infrastructure on particular parcels of land, is necessary to mitigate flood impacts and unlock additional land for housing. However, this land is held by multiple owners and developers have been attempting to negotiate sale agreements for a number of years.

The site has the potential to provide approximately 200 new houses.

Through the Bill, the State can acquire the necessary land to deliver the infrastructure and vest this land in the local council to manage the water infrastructure. This will allow the developers to unlock the additional land to deliver housing for the community.



How is land acquired?

Land may be taken by the State under the *Planning Act 2016* (Planning Act) which gives the State the power to compulsory acquire land for development infrastructure.

The *Acquisition of Land Act 1967* sets out the acquisition process, including compensation. Before the State acquires any land, the person requesting the acquisition (such as the developer or local council) must enter into an agreement with the State about the cost of taking and land and the cost of providing the infrastructure.

If the land is not used or not required within 7 years, there is a requirement to offer the land back to you for sale.

What are the amendments as part of the HAA Bill?

To create new powers in the Planning Act for the State to acquire land or an easement or create a new easement, the Bill inserts new provisions in the Planning Act. Other amendments are also proposed for the Planning Regulation 2017 to support the amendments to the Planning Act.

Proposed amendments ¹	
Planning Act	<p>The Bill inserts provisions to the Planning Act relating to the taking of land by the State including:</p> <ul style="list-style-type: none"> • The State may take land for development infrastructure (for example, water infrastructure, transport infrastructure, parks, local community facilities). • The State may create an easement by registration. • The State may vest the land in a public sector entity. • Land taken under the Planning Act may be vested in the entity stated on the gazette resumption notice. • This power applies even if the taking of land vests rights and interests in another entity and a person may derive a benefit from this action. • The process under the Acquisition of Land Act for the taking of land and compensation applies to the acquisition of land and creation of an easement under the Planning Act. • Before land is taken, a person must enter in an infrastructure agreement with the chief executive about the costs for taking the land. • If within 7 years after the land is taken, the land is no longer required by the public sector entity, the entity must offer the land back to the previous landowner by notice.
Planning Regulation	<p>To support the head of power in the Planning Act which allows the State to acquire land and create an easement, the Planning Regulation will be amended to include criteria for the acquisition of land. For example, the criteria may include:</p> <ul style="list-style-type: none"> • there is a need or demand for the development infrastructure, • the development infrastructure will be completed in a timely manner.

Further information

For further information please contact the Department of State Development, Infrastructure, Local Government and Planning via planning4housing@dasilgp.qld.gov.au.

¹ The table below provides indication of the nature of the amendments.