

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 determined;
- 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 Claim;
- 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.

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. All 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.

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 is 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 your application for 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.

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.

CHECKLIST OF INFORMATION REQUIRED FOR HARDSHIP CLAIM APPLICATIONS

Identification

- 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

Services Rendered

- Evidence of any services rendered for the ongoing day to day maintenance of the property

Assets

- 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

Support Available

- 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

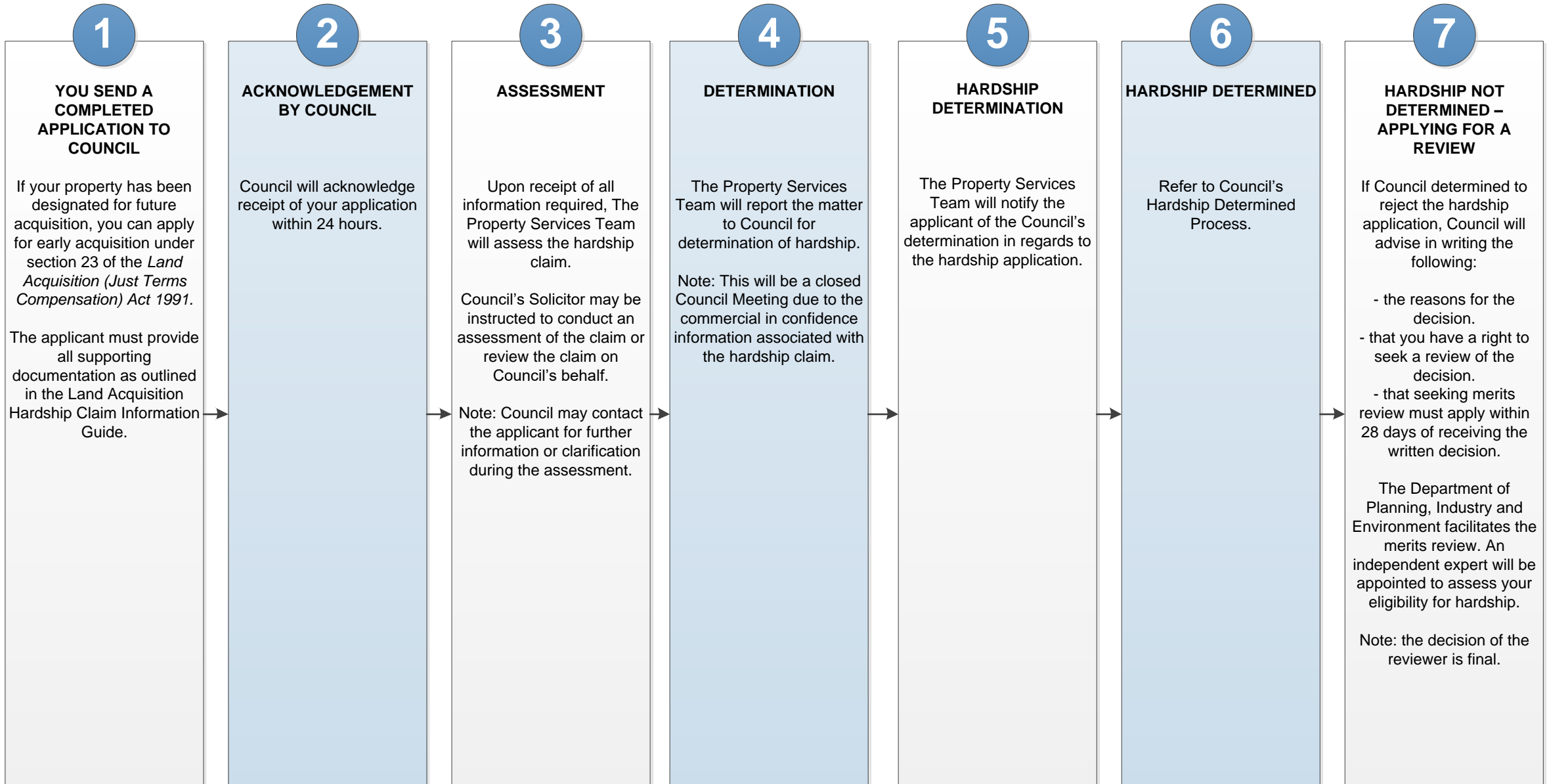
Medical Conditions

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

Hardship Claim Assessment Process – what to expect

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



Hardship Claim Acquisition Process – what to expect

