



Valuer
General

VG21/150

Ms Emma Rogerson
Principal Council Officer
Upper House Committees
Legislative Parliament of New South Wales

Via email: portfoliocommittee6@parliament.nsw.gov.au

Dear Ms Rogerson,

Please find attached my response to the questions on notice (Attachment A) and supplementary questions (Attachment B) following my appearance before the Portfolio Committee No 6 – Transport and Customer Service hearing on 6 October 2021 for the Inquiry into the acquisition of land in relation to major transport projects.

Should you require any further information, please don't hesitate to contact my Executive Officer, _____ on _____ or via email at _____

Yours sincerely

Dr David Parker
Valuer General

3 November 2021

**Portfolio Committee No. 6 – Transport and Customer Service
Inquiry into acquisition of land in relation to major transport projects
Hearing 6 October 2021**

Valuer General's response to the questions on notice

1. Delegation

The Hon. DANIEL MOOKHEY: When did you make that decision?

ANSWER:

- I issued the following direction on 19 August 2021:

With immediate effect, all delegated authority from the Valuer General to members of the Just Terms Team is revoked.

The decision to issue this direction was made in the weeks leading up to the issue of the direction, following my review of numerous recommendations for determinations made by the DPIE Just Terms team, which were of concern to me.

2. Five Dock Pharmacy

The Hon. JOHN GRAHAM: How long has this process taken so far?

Dr PARKER: It would have been with me for approximately two months.

The Hon. JOHN GRAHAM: That is with you. How long has it been with the Office of the Valuer General altogether?

ANSWER:

- I am advised by the DPIE Just Terms team that the compulsory acquisition of Five Dock Pharmacy was gazetted on 19 March 2021. I am further advised by the DPIE Just Terms team that the final determination was issued on 15 October 2021.

3. Any Shapes Plastic and Hospitality Equipment 2020

The Hon. JOHN GRAHAM: Can I just ask about two particular determinations? The Any Shapes Plastic business in Clyde is still waiting for a final determination since 19 March 2021. Is there a date for final determination and also for the hospitality 2020 business in Clyde?

ANSWER:

- In relation to the compulsory acquisition of Any Shape Plastics, I am advised by the DPIE Just Terms team, that:
 - the matter was gazetted on 19 March 2021 and the preliminary report was issued on 26 July 2021;
 - a response was received from the claimant on 2 August 2021 and from the acquiring authority on 20 August 2021;
 - throughout August and September, a number of requests for additional financial information were made of the claimant to allow for the finalisation of the determination; and
 - the final determination was issued on 25 October 2021.

- In relation to the compulsory acquisition of Hospitality Equipment 2020 Pty Ltd, I am advised by the DPIE Just Terms team, that:
 - the matter was gazetted on 14 May 2021 and that the preliminary report was issued on 20 September 2021;
 - a response was received from the acquiring authority on 23 September 2021 and from the claimant on 5 October 2021; and
 - the final determination was issued on 1 November 2021.

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Valuer General's response to the supplementary questions

1. Non-compliance

In response to Hon Daniel Mookhey's questioning you stated

"the extent to which determinations were not compliant with Valuer General policy, court precedent or the Act"

How were these determinations specifically non-compliant to

- (a) Valuer general policy
- (b) Court precedent
- (c) Relevant legislation

ANSWER:

- Valuer General policy
 - The most common, but not the only, non-compliances arise from the Valuer General's policy on *Compensation following compulsory acquisition* (in particular, entitlement of the claimant to compensation for stamp duty) and the Valuer General's Guidelines on *Determination of compensation following acquisition of a business* (in particular, entitlement to compensation for relocation).
- Court Precedent
 - The most common, but not the only, non-compliances arise from application of the Land & Environment Court decisions in *Roads and Maritime Services v United Petroleum Pty Ltd [2019] NSWCA 41* (in particular, entitlement to compensation for relocation), *Eureka Operations Pty Ltd v Transport for New South Wales [2021] NSWLEC 41* (in particular, entitlement to compensation for professional fees incurred to inform the claimant's legal adviser) and *Adams v Valuer General [2014] NSWLEC 1005* (in particular, the need to explicitly accumulate, analyse, adjust and apply comparable sales and rental evidence).
- Relevant Legislation
 - The most common, but not the only, non-compliances arise from s55(d) (disturbance), s59(c) (financial costs – relocation) and s 59(f) (any other financial costs reasonably incurred) of the *Land Acquisition (Just Terms) Compensation Act 1991*.