

25 March 2022

Hon. Ms Abigail Boyd, MLC
Chair of Portfolio Committee 6
Legislative Council
Parliament of NSW
Macquarie Street
Sydney NSW 2000

Dear Ms Boyd,

Re: Parliamentary Inquiry Hearing #5 PC6

We refer to the Parliamentary Inquiry Hearing #5 PC6 – Acquisition of land in relation to major transport projects.

There have been many difficulties and inconsistencies when dealing with the various Acquiring Authorities during the property acquisition process. One particular persistent issue has been Acquiring Authorities providing lump sum offers for compensation with no transparency as to a breakdown of those offers under the various headings in Section 59 and 60 of the *Land Acquisition (Just Terms Compensation) Act 1991* (the 'Act'). This has occurred at both the initial offer stage and during negotiations with Acquiring Authorities.

We note that although Hearing #5 has now been completed, we believe there has been some recent information that should be drawn to the Committee's attention. This information confirms there is a need for Acquiring Authorities to be required to provide breakdowns of the compensation offered under the various headings under the Act both at the initial offer and at all stages during negotiations.

On 16 March 2022, we sent an email to the Centre of Property Acquisition as follows inter alia:

'I was hoping that you could confirm that the acquiring authorities are required to provide breakdown of compensation in accordance with s.59 of the Act.

The only thing I could find on the CoPA website was Principle 7 Clear reasons and explanations are given for financial calculations, offers and terms of settlement. I was wondering if you have anything else provided to the Acquiring Authorities, as there is so much inconsistency on this issue across agencies.'

On 25 March 2022, we received the following response from the Centre of Property Acquisition:

MCMAHONS POINT
MAILING ADDRESS

"The Boatshed", 23A King George Street, McMahons Point
PO Box 7136, McMahons Point, NSW 2060

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'The Centre for Property Acquisition can confirm there is not a requirement under the Land Acquisition (Just Terms Compensation) Act 1991 for acquiring authorities to provide a specific detailed breakdown of compensation within the initial letter of offer. [our emphasis]

Acquisitions can vary greatly, depending on their nature the types of interests involved and, subsequently, so may the details of negotiations and offers.

It is important that Acquiring Authorities are in a position, following the issue of a letter of offer, to mutually exchange independent valuation reports with affected property owners, discuss the details, and negotiate a mutually acceptable outcome at structured valuation conference. This would include a discussion of specific breakdowns of the assessed compensation as well as the valuation itself. The mutual exchange of valuations and subsequent expert discussions, is considered the appropriate forum to discuss in more detail, all applicable heads of compensation.

With this in mind, acquiring agencies should be satisfied that the negotiations are done in accordance with the Property Acquisition Standards and principles.'

This confirmation by the Centre for Property Acquisition, that Acquiring Authorities are not required to provide specific details of breakdowns of initial offers of compensation and offers during any negotiations, seems to be contrary to Principle 7 of the Centre of Property Acquisition's '*Standards and principles: the 10 guiding principles of property acquisition*' (<https://www.propertyacquisition.nsw.gov.au/standards-and-principles>), which states:

'Clear reasons and explanations are given for financial calculations, offers and terms of settlement.'

We believe the comments made by the Centre for Property Acquisition are clearly contrary to Principle 7 and should be addressed by the Inquiry.

It is important for Acquiring Authorities to be transparent during the initial offer and throughout negotiations by providing full disclosure, so that claimants can understand precisely what they are receiving and why. This will assist in getting more matters resolved during the negotiation stage.

Yours faithfully

NEWHOUSE & ARNOLD SOLICITORS

David Newhouse

Partner

CC: Deputy Chair, Hon. Mr Daniel Mookhey, MLC
Ms Emma Rogerson, Acting Director, Committee Office