



Sydney Metro

Responses to Post-hearing questions

Committee No.6 - Transport

Inquiry into Acquisition of Land in Relation to Major
Transport Projects

Hearing Date – Friday, 18 March 2022

QUESTIONS ON NOTICE

QUESTION:

1.

The Hon. DANIEL MOOKHEY: Mr Newhouse is a solicitor who represents multiple people who have been in dispute with your agency. He says that his clients have appealed matters to the Valuer General for determination. I probably should not use the term "appeal". His clients have elected to proceed to the Valuer General for determination. The Valuer General in instances has ordered Sydney Metro to pay double what it had originally offered, which is astounding. Do you wish to respond to that claim?

PETER REGAN: Again, you are asking—to be clear, that is a very general question. What I would say is we do our best to get, with the evidence available to us, to a value. As we have talked through before, any property owner does have the right, if we cannot reach an agreement, to go to the Valuer General. The Valuer General then makes that determination as to the value. Sometimes that determination is very similar to where Sydney Metro was, sometimes it is very similar to where a property owner was, and sometimes it is completely different. That is something that the Valuer General determines. That is what the process is there for, so that the Valuer General, independent of both parties, can form a view. There may be specifics where that has happened, but I think there would also be specifics where the opposite has happened, where the Valuer General has not reached the same view that Sydney Metro has.

The Hon. DANIEL MOOKHEY: Can I invite you to take on notice if you can provide any further specifics to substantiate either of those two scenarios that you have just described, that would be helpful.

ANSWER:

Sydney Metro engages independent valuers to undertake an assessment of compensation in accordance with the *Just Terms Act*. This assessment of compensation is based on all available information at the time of assessment and informs the initial offer of compensation to affected property owners.

Any additional information provided during the course of negotiations is considered by Sydney Metro and its independent valuers. Where applicable, this new information may result in the offer of compensation being revised.

The Valuer General (VG) forms an independent view of compensation and takes into account the compensation submissions from both Sydney Metro and the former property owners/tenants, in addition to the VG also appointing their own independent valuers. These submissions are considered by the VG in their independent determination of compensation.

Metro West (Westmead to The Bays) – Of the 417 acquisitions undertaken, 119 matters proceeded to the VG, and as at 8 April 2022 113 matters have been finalised.

103 of the 113 final VG determinations were on average 62% lower than the former owners/tenant's compensation claims submitted to the VG.

Metro Western Sydney Airport - Of the 64 acquisitions undertaken, 17 matters proceeded to the Valuer General (VG), and as at 8 April 2022 15 matters have been finalised.

13 of the 15 final VG determinations were on average 65% lower than the former owners/tenant's compensation claims submitted to the VG.

QUESTION:

2.

The Hon. DANIEL MOOKHEY: In terms of going on with some of the specific matters that he has brought to our attention, in his submission he says—this was as of May last year: More recently, Transport for NSW ("Sydney Metro") has had more than 70 property and business claims referred to the Valuer-General as agreement could not be reached. This should be a cause for alarm as it would be the largest number of properties/businesses referred to the Valuer-General for a single project. Furthermore, many of the matters which did reach agreement were resolved only in the last month (or even last days) before Sydney Metro prepared its Gazette Notices.

That is Mr Newhouse's claim. Did you have 70 properties and business claims referred to the Valuer General last year in respect to any part of the Sydney Metro projects?

PETER REGAN: I will have to check the exact number. I am happy to take the exact number on notice.

PETER REGAN: On the question of how many were referred to the Valuer General, we are happy to take that on notice and we can get that exact number for you.

ANSWER:

Metro West – achieved 72% (298 acquisitions) by mutual agreement with affected property owners/tenants for the 'Westmead to The Bays' property acquisition program, with 28% (119 acquisitions) compulsory acquired and independently assessed by the Valuer General (VG) as at 19 March 2021.

Metro Western Sydney Airport – achieved 70% (45 acquisitions) by mutual agreement with affected property owners/tenants, with 30% (17 acquisitions - over 19 lots) compulsory acquired and being independently assessed by the Valuer General (VG) across the project as at 8 April 2022.

QUESTION:

3.

The CHAIR: How many—and obviously take this on notice because I do not imagine you have it in your head—I guess looking over the last five years, say, how many of the acquisitions that did not go ahead through negotiation, but were then given to the Valuer General, resulted in a higher price or a higher value through the Valuer General than had been offered on the basis that the public purpose was viewed differently?

PETER REGAN: Chair, we could definitely take that on notice to see whether we can answer that. If we cannot answer that specific question as to the public purpose, I think what we definitely can do is give you some further information on just that broad-based percentage itself—how many have come in at a higher or lower level, if that would be helpful.

The CHAIR: As well. That would be useful, actually.

ANSWER:

To date, the Valuer General has remained consistent with Sydney Metro as to the consideration of the public purpose, when assessing compensation in accordance with the Just Terms Act.

QUESTION:

4.

PETER REGAN: Yes. There are different circumstances on these projects. I would be very happy, if it would help the inquiry, to provide details of the percentages by project that we have acquired by agreement or that have gone to the Valuer General.

The Hon. DANIEL MOOKHEY: Please, if you could.

ANSWER:

Sydney Metro Northwest - 78% by mutual agreement and 22% proceeded to the Valuer General.

Sydney Metro City & Southwest - 82% by mutual agreement and 18% proceeded to the Valuer General.

Sydney Metro West (Westmead to The Bays) – 72% by mutual agreement and 28% proceeded to the Valuer General as at 19 March 2021.

Sydney Metro Western Sydney Airport – 70% by mutual agreement and 30% proceeded to the Valuer General across the project as at 8 April 2022.

QUESTION:

5.

The CHAIR: Just on that, then, we are using the idea of percentages of properties acquired during negotiation as a measure of perhaps some sort of success or whatever, which clearly it is not. There are many, many reasons why people might accept or not accept the offer. Do you do anything such as a satisfaction survey or some sort of data collection to see what people are thinking after the process? Is there any kind of surveying done?

PETER REGAN: I might ask Ms McPhee.

REBECCA MCPHEE: We do a lot of broader community engagement surveying, but I am not aware that we do specifically with the acquisition process but I will take that on notice.

ANSWER:

At the end of the acquisition process, property owners are given the opportunity to complete a survey, where they can share their thoughts in relation to the property acquisition process.

This survey process is managed by NSW Centre for Property Acquisition (CPA), which is independent of Sydney Metro or any project and all responses remain anonymous and confidential. All survey results are captured and stored by the CPA (not Sydney Metro).

More information on the survey process can be found via the link below.

<https://www.nsw.gov.au/housing-and-property/property-acquisition/about-us/survey>

QUESTION:

6.

The Hon. DANIEL MOOKHEY: Is Sydney Metro responsible for land near Narellan being rezoned as special purpose infrastructure allowing for the development of a train station

The Hon. DANIEL MOOKHEY: Sure, but the problem is that as a result of the special purpose infrastructure rezoning, 19 landowners have been told that there is a possible compulsory acquisition of their properties coming but they have not heard anything since and this took place two years ago. Do you have any response to that or any knowledge of that?

PETER REGAN: I would have to take that on notice. We have no investment decision; there has been no decision from Government to build that section of rail line. I am not aware of that.

The Hon. DANIEL MOOKHEY: Can you take it on notice?

PETER REGAN: I am happy to take it on notice.

The Hon. DANIEL MOOKHEY: The problem is that it has effectively rendered their land untransactable because now its zoning has changed for a corridor development ahead of a, clearly as you say—

PETER REGAN: As I said, I do not believe that that is a Sydney Metro activity but I will take it on notice.

ANSWER:

This question is best directed to the Customer Strategy and Technology Division of Transport for NSW.

QUESTION:

7.

The Hon. DANIEL MOOKHEY: Fair enough. I was hoping to get a very short update on the number of acquisitions which are still pending for the two lines.

PETER REGAN: Yes, if you give us a moment. When you say "acquisitions still pending", do you mean acquisitions still to be determined?

The Hon. DANIEL MOOKHEY: Acquisitions you would like to make that are yet to be resolved in either way you described through whichever method of resolution.

PETER REGAN: Sorry, I was just checking what you meant.

REBECCA McPHEE: I think it is probably best if we take that question on notice because we have a mix. We have a mix of acquisitions which are for the Pyrmont and Hunter Street stations, which are—

The Hon. DANIEL MOOKHEY: Any information you have to hand right now will be acceptable with the opportunity to supplement by notice. That might be a better way to proceed if possible.

REBECCA McPHEE: I am happy to do that.

ANSWER:

Excluding outstanding Valuer General determinations which are detailed in the previous questions, Sydney Metro has only one acquisition program currently underway.

Metro West (Pyrmont & Hunter Street stations) – which comprises the acquisition of 513 interests, across 13 buildings. The property acquisition program is currently underway, and the compulsory acquisition process has not yet commenced.

Currently, negotiations with all affected property owners and tenants are ongoing, all of whom are provided with a dedicated Acquisition Manager.

QUESTION:

8.

The Hon. JOHN GRAHAM: One of the businesses that is operating there at the moment, one of the key music venues in the city, is Frankie's Pizza By The Slice. There has been some public concern about what happens to that. Where are you up to in the process with that specific business?

PETER REGAN: I am not sure where we are up to with the specific discussions with the owner of that business. But I could look into that, although I will not be able to come back with the specifics because we are in that early negotiation phase.

The Hon. JOHN GRAHAM: My previous questions were too general. I am now being quite specific. I was hoping you could tell me something about this, in part because the former transport Minister promised publicly the venue would be looked after and relocated.

PETER REGAN: I will take it on notice to see whether I can give you a specific update. I do not know where we are up to on that actual site.

The Hon. JOHN GRAHAM: Can I put my concern to you though, Mr Regan, which is this:

This is what the Minister said:

Frankie's is an important part of the Sydney live music scene and we will make sure it is properly supported during this challenging time. Sydney Metro is assigning Frankie's a dedicated acquisition manager to guide them through this process ...

The Minister has promised it will be looked after and relocated, which will not be easy.

The Hon. SCOTT FARLOW: This is the former Minister, I take it.

The Hon. JOHN GRAHAM: The former Minister. Have they been allocated a dedicated acquisition manager?

PETER REGAN: I will check that.

The Hon. JOHN GRAHAM: Do you want to check that with Ms McPhee, who is nodding?

REBECCA McPHEE: All of our properties we acquire are—

The Hon. JOHN GRAHAM: Alright, so it is a routine part of the process.

PETER REGAN: Yes. We can come back and confirm that. I do not believe that any transaction has been agreed on that site. I will see what I can come back with in terms of detail. And I understand your comment.

ANSWER:

Sydney Metro has been working closely with all affected property owners and tenants including 'Frankie's Pizza by the Slice' since the confirmation of the Hunter Street station as part of Sydney Metro West in 2021.

Frankie's have in place their appointed valuation experts, who are liaising with Sydney Metro.

Consistent with all property acquisitions, 'Frankie's Pizza by the Slice' also has a dedicated Acquisition Manager from Sydney Metro, who provides them with a direct point of contact throughout the acquisition process.

Sydney Metro and the leasehold operator of 'Frankie's Pizza by the Slice', continue to progress negotiations to assess compensation under the *Just Terms Act*.

As the acquisition process is ongoing and respecting the sensitivities and confidential nature of current negotiations with 'Frankie's Pizza by the Slice', it is not appropriate to disclose publicly the specific details of the acquisition at this point in time.