

## Questions on notice from the committee hearing into acquisition of land in relation to major transport projects - 18 March 2022

### Question 6 - page 4 of the transcript

The Hon. DANIEL MOOKHEY: In one instance we have heard that, in what I would now probably describe as a more high-profile matter, the valuations reached after failed efforts to jointly agree a value for a parcel of land from a company by the name of Sydney Helicopters—which operates a helicopter facility that assists the SES and others—the valuation team reached a certain value and then, without notice to them, the Valuer General intervened and reduced it substantially and triggered a dispute. To be fair to the Valuer General, he has made the point that he felt that that was (a) within his power and (b) he thought he applied the correct judgement, and the valuation team was wrong. Do you have anything you can say about that? Or can you take it on notice for a response from the department or your team?

STEWART McLACHLAN: I can probably comment broadly on how the valuation or valuations of those matters occur. But certainly, in term of the specifics of the matter you mentioned, I would need to take on notice because I am not familiar with it.

#### Answer:

We understand the valuation has been challenged but are not able to confirm whether or not this is current, or the outcome, and further questions should be directed to the acquiring authority, Sydney Metro.

### Question 7 - page 4 of the transcript

The Hon. DANIEL MOOKHEY: How many valuations has the just acquisitions team completed in the last 12 months?

STEWART McLACHLAN: I would need to take that figure on notice.

#### Answer:

Valuations undertaken by the just terms team are reported annually to the Joint Standing Committee. These reports are based on financial year reporting periods, with the 2020-2021 period available at [https://www.valuergeneral.nsw.gov.au/publications/annual\\_reports](https://www.valuergeneral.nsw.gov.au/publications/annual_reports)

For this financial year to 6 April 2022, the Just Terms team has finalised 185 matters. This does not include substratum determinations.

For this financial year to 6 April 2022, the Just Terms team has finalised 417 substratum determinations.

In total, for this financial year to 6 April 2022, the Just Terms team has finalised 602 determinations.

**Question 8 - page 6 of the transcript**

The Hon. DANIEL MOOKHEY: My final question is, of the 129 and 47 reports, or for that matter just beyond that, how many just terms acquisitions valuations settled by the Valuer General are currently before the Land and Environment Court, subject to appeal?

STEWART McLACHLAN: I would need to take that on notice.

**Answer:**

The Valuer General is not a party to the legal objections taken for the amount of compensation offered by the authority of the State in the Land & Environment Court. The parties to such appeals are the Acquiring Authority and the landowner, as such, VGNSW does not retain this information. Such information may be obtained from the Acquiring Authorities or the Attorney General.

**Question 9 - page 6 – 7 of the transcript**

The Hon. JOHN GRAHAM: Mr McLachlan, I want to ask some questions about the operation of the Just Terms Compensation Act. One of the things the Committee is looking at is the evidence that we have received about how that could be improved. I am interested mainly in your observations or your team's observations about how it is working in practice on some matters of fact. There are obviously some policy questions that you might not want to comment on, but I am more interested in what is factually going on at the moment. Can I just put some issues to you and then I am interested in your perspective about whether this is factually true. One of those things that the Committee has received evidence about is Sydney Metro being involved in valuations where the valuation offer does not increase by a single dollar, as it has been put to us, despite the fact that the Sydney property market has been rising quite rapidly over the past 12 months. Have you got any observations about whether that is factually the case in the instances you are seeing?

STEWART McLACHLAN: I think I would need to take that on notice specifically, and if you had specific matters I can certainly respond in detail.

**Answer:**

Under section 55 of the Act, in determining the amount of compensation to which a person is entitled, regard must be had to the market value of the land on the date of its acquisition.

**Question 10 - page 7– 8 of the transcript**

The Hon. JOHN GRAHAM: One of the bits of evidence that we have received is that in some cases, issues were only raised by the acquiring authority through its submissions to the Valuer General—that is, landowners are finding out for the first time about issues not in the six-month process, or not prior to that PAN being issued, but in subsequent submissions that are made to the Valuer General. Have you seen instances of that occurring?

STEWART McLACHLAN: That is probably best placed for the acquiring authority to answer, but I am certainly not aware of specific instances. What does occur when VG NSW facilitates a determination is that we are notified of the PAN. We then seek to procure services to undertake the relevant determination. As part of that we may identify issues that neither party has previously identified because we are undertaking a separate valuation. Whether or

not there are issues that an acquiring authority or a claimant has advised the Valuer General that they have failed to advise during negotiations is probably a matter for them to respond to.

The Hon. JOHN GRAHAM: I will certainly be putting it to them, but this is referring to the part of the process that you are closer to. I am interested in whether you factually observe that this is occurring or in your experience is this not occurring?

STEWART McLACHLAN: From my understanding, I am not aware of specific instances where this has occurred, where something has not been raised with the claimant and then is raised by an acquiring authority. However, I would need to take it on notice to answer that appropriately.

**Answer:**

I am not aware of any instances where this has occurred. However, should the Committee have specific instances or examples, these are matters that the Department can investigate further.

**Question 11 - page 8 of the transcript**

The Hon. JOHN GRAHAM: What is the benchmark time at the moment? What is the average delay as you are measuring those and as you are trying to get it down to the 45-day mark?

STEWART McLACHLAN: I would need to take it on notice.

**Answer:**

For this financial year to 6 April 2022 the average number of days to issue:

- a substratum determination - 417 matters - is 12 days; and
- for all other matters – 185 in total - is 181 days

**Question 12 - page 8 of the transcript**

The Hon. JOHN GRAHAM: Mr McLachlan, you have provided really useful context about why this is the case but this is a key benchmark: the 45 days. I am going to press you. You must have some sense of the average at the moment, with all the context that you have just provided.

STEWART McLACHLAN: I would need to take it on notice to get the specific days, but I would say that it is around 120, give or take. But, again, I would not know without taking it on notice to give you the specific number.

**Answer:**

Please see answer 11 above.

**Question 13 - page 9 of the transcript**

STEWART McLACHLAN: Yes, it is a large gap. But, as I said, I would need to preface that as we lift these work rates and we lift the output from the VG NSW, which we are striving to continue to achieve, that number will have to go up before it comes back down, because we are getting through matters that are significantly longing in their nature.

The Hon. JOHN GRAHAM: How much higher could that number go?

STEWART McLACHLAN: I would need to take that on notice.

**Answer:**

It is not possible to calculate how much higher the number for average days to issue a determination could go, as this is dependent on a variety of factors that are outside the control of the Department. This includes, but is not limited to, relevant submissions by claimants and Acquiring Authorities.