

Speaking notes for Inquiry into Compulsory Land Acquisition

INTRODUCTION

Thank the Committee for the opportunity to speak to the inquiry.

Acknowledgment of country – particularly important to reflect on the impact of First Nations dispossession when considering implications of compulsory land acquisition in the colonial system.

Acknowledge there are specific impacts from several major Transport projects underway in the Balmain electorate – WestConnex and the Rozelle Interchange, the Western Harbour Tunnel and the Sydney Metro West. Impacts include damage to homes, noisy construction work 24/7, and of course the compulsory acquisition of land that changes the fabric and composition of our local communities.

Weighing up the costs and benefits of these projects – I don't believe our community should be forced to endure these impacts for the sake of private tollways. While there is a need for transformative public transport projects, and this should be the focus of our public transport infrastructure pipeline, we should look to minimise these impacts wherever we can.

There is a need for a compulsory land acquisition process for major transport projects and I acknowledge there have been some improvements made in past years based in no small part on the lessons that have been learned in my electorate and neighbouring areas. I've been involved in making some of those improvements. But of course, there is so much more that needs to be done.

I am here to make a number of recommendations based on the commentary I've already provided in my submission, and then I'll be happy to take any questions.

RECOMMENDATIONS:

1. Reform the process around negotiations with landholders.

The compulsory acquisition process is complex and parties do not share equal bargaining power. The government should ensure independent legal advice is available to property owners who will be impacted whenever a new major transport infrastructure project is approved. Such services could be delivered through Legal Aid or by providing specific program funding to the network of Community Legal Services, in consultation with those services.

Non-disclosure agreements should not be imposed. People should be able to talk to their neighbours about the process and outcomes they have experienced. Where land is being acquired using government funds there is a public interest element. Our approach to such transactions should be to insist on transparency and accountability rather than treat them as commercial-in-confidence.

2. Reform the rules for notification of affected landholders.

All notices and other communications must be sent to both the occupant and owner of land, so that every impacted party receives information directly from the government and does not have to rely on third parties passing information on.

3. Reform the basis on which compensation is calculated.

Landholders who are forced to relocate should be paid an additional premium to ensure they can replace like for like. This is particularly important for those who go through the hardship acquisition process who are currently not entitled to the same terms and benefits as those who experience compulsory acquisition. It applies equally to recreational lands, as the ability to acquire new unimproved land at similar value will generally always be limited. There should also be compensation for intangible and non-pecuniary disadvantage caused.

4. Reform the hardship acquisition process.

There is a conflict of interest where the party that causes damage or disruption to a property is also the decision-maker in the process of acquisition. Landholders need to be fully – and proactively – informed of their review and appeal rights when assessing liability for property damage, including referral to the Independent Property Impact Assessment Panel (IPIAP). Where liability for property damage cannot be agreed the process for determining hardship acquisition applications should not be the responsibility of the Transport department or their contractors.

5. Pay fair compensation for sub-stratum acquisition.

Acquisition of sub-stratum impacts on the market value of property and can affect a landholder's ability to secure finance. The principle of passing on the private benefit of compulsorily acquired land to a for-profit multinational tollway operator is unjustified and unfair. This practise must end.

6. Return surplus land to the community.

Surplus land should always be put to community benefit. This includes land that can be resumed as public open space and parkland as well as buildings that can be converted into community spaces or low-cost office space for not-for-profit community organisations.

7. Value capture mechanisms should be introduced.

Planning decisions should be driven by planning principles rather than potential profits from the sale of public land for transport infrastructure projects. The uplift in value of private land that's adjacent to land acquired by government should be captured and shared across the community.