

**Supplementary  
Submission  
No 430a**

**INQUIRY INTO IMPACT OF THE WESTCONNEX  
PROJECT**

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**Date Received:** 21 September 2018

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## ***Submission to the Inquiry into the Impact of the WestConnex Project***

### **(d) the compulsory acquisition of property for the project**

Dear Committee Members,

The recent decision in the NSW Supreme Court to uphold the Compulsory Acquisition of the Desane site in Rozelle is a matter that raises serious concerns for landowners.

Not only have residents been forced out their homes - and willfully cheated out of compensation, but also now the NSW Supreme Court has handed a considerable amount of power to the RMS to compulsory acquire land without the requirement for a 'valid notice' or need to identify any specific public purpose for the acquisition of property.

Simply, the NSW Government can now take your land.

This demonstrates the continued abuse of the Land Acquisition (Just Terms Compensation) Act by the NSW Government, and the extraordinary lengths they will go to acquire land – even if it requires the unreasonable use of taxpayer money to take land and fight residents and businesses out of compensation.

However, what is more alarming is the potential for the NSW Government to further abuse the Land Acquisition (Just Terms Compensation) Act.

Section 71A 2(d) indicates any land that has been compulsory acquired does not have to be offered back to the former owner – 'if the land has been proposed to be disposed of to another authority of the State'.

### **LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991 - SECT 71A**

#### ***71A Land not required for acquired purpose to be first offered to former owner***

(1) This section applies to land:

- (a) that has been acquired by an authority of the State (being an acquisition to which this Act applied as referred to in section 5), and
- (b) that the authority proposes to dispose of because the land is no longer required for the public purpose for which it was acquired.

**(2) The authority must, if practicable, first offer the land for sale to the former owner at the market value of the land at the time the offer is made if:**

- (a) not more than 10 years has elapsed since the acquisition, and
- (b) the authority has not made substantial improvements to the land, and
- (c) the land is not Crown land, and
- (d) the land is not proposed to be disposed of to another authority of the State for a public purpose.**

**(3) For the purposes of this section, land is no longer required for the public purpose for which it was acquired if:**

**(a) the land has not been used and is no longer proposed to be used for the public purpose for which it was acquired, or  
(b) the regulations otherwise provide that the land is no longer required for the public purpose for which it was acquired.**

(4) The regulations may make provision for or with respect to offers for sale, the review of decisions of authorities and other matters arising under this section.

(5) A person dealing with an authority of the State is not concerned to inquire whether this section has been complied with, and the vesting in a person of an interest in land is not affected by any contravention of this section.

This would mean the NSW Government can Compulsory Acquire land - without the need to disclose any specific public purpose, then transfer to another government department – and potentially ‘dispose’ or sell to developers and other interests.

Residents and businesses will be the losers, they are now completely powerless and have no say... many wouldn't have the financial means to appeal the Compulsory Acquisition of their land, and we have already seen the RMS is prepared to force landowners to appeal their unreasonable offers with the Valuer General and L&E Court – and NSW Supreme Court, who deliver favourable outcomes for the NSW Government.

A Parliamentary Inquiry into the Compulsory Acquisition and Appeals process is desperately needed – as recommended by Recommendation 20 of the *Russell Review* -

*“that the next review into the Just Terms Compensation legislation be undertaken by a reviewer who is obliged to hold public hearings and take evidence from interested parties”*

To ensure the process is fair and just, further changes are needed to ensure the Land Acquisition (Just Terms Compensation) Act cannot be abused by the NSW Government:

- alternatively, establish an Independent Body to undertake Government Valuations and oversee Appeals – “Valuation Commission” as proposed in 2013 and rejected by the Government,

Please HALT any future acquisitions. There can be no doubt that the Compulsory Acquisition and Appeals process is ‘broken’, and needs to be ‘fixed’ to ensure the process is fair and just for everyone.

Thank you for taking the time to consider my submission.

Best regards,  
Richard Capuano