

**Submission
No 26**

INQUIRY INTO ACQUISITION OF LAND IN RELATION TO MAJOR TRANSPORT PROJECTS

Organisation: Appin Orbital Motorway Support Group

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NSW Legislative Council
Portfolio Committee No. 6 – Transport and Customer Service

Submission

14th May 2021

The **Appin Orbital Motorway Support Group** tender a submission pertaining to the 2021 Terms of Reference with particular focus on clauses 1(b)(vii), 1(c), 1(d), 1(f), 1(g) and 1(i).

In doing so, the Appin Orbital Motorway Support Group (the 'Group') wishes to draw to the Committee Members attention that we are in agreement with the Government's objectives of planning ahead to better connect communities with jobs, services and amenities, and to help businesses to move freight more efficiently.

In relation to the Terms of Reference (TOR), our experience with Transport for NSW (Department) stems from the planning for a transport connection between the Hume Motorway and Appin Road; i.e. **Outer Sydney Orbital Stage 2 Corridor – Sector 1 Options Report, 1st November 2020** (Options Report). *[1(b)(vii)]*

The Group has reviewed the Options Report and has highlighted inconsistencies which deem the Options Report to contain process flaws in the way the Department has identified possible land for acquisition. The flaws stem from a significant **failed premise**, an **inappropriate assessment** criteria and the **lack of transparency** in the final assessment.

The Options Report stipulates that there is an urgent community need for housing development in Appin, but fails to elaborate as to why and from whom in the Appin community. Moreover, the Greater Macarthur plan clearly identifies many areas for housing development and the Department had acknowledged within the Options Report that delivery of the Appin infrastructure is not expected for many years.

One may surmise that the 'urgency' has been motivated by profit for property developers and those holding land-banks, and not necessarily reflecting any 'urgency' stemming from the Greater Macarthur plan or community needs. *[1(f)]*

The assessment processes applied by the Department in identifying residents that are likely to be adversely affected is highly questionable. The Options Report narrows the infrastructure plan options down to two and assigns them equal weighting; one labelled Yellow and the other Blue. The Yellow option clearly causes many more residents to be *hurt* by compulsory land acquisition. *[1(c)]*

Another salient disappointment is the Department's processes in assessing the impact on residents as it relates to the application of mitigations pertaining to key performance issues. The Options Report lists more key performance issues for the Yellow option, yet the process equally ranks both options. *[1(c)]*

In short, the Department's processes in this example does not give the impression of being fair, unbiased and equitable as the Yellow option appears to favour property developers and land-bank holders at the expense of residents.

Whilst not directly related to the TOR, the Group believes the Inquiry should also encompass the Department's patronising approach that compulsory land acquisition compensation addresses the *hurt* to affected land owners.

A failed land acquisition price negotiation with the Department leads to the employment of the NSW Valuer General. Whilst this may appear to be a good outcome, it is usually not as the property value is determined at time of acquisition. That is after the property value has depreciated due to the very presence of the infrastructure, etc. Moreover, there appears to be no process to question the NSW Valuer General without lodging an objection with the NSW Land and Environment Court which is outside the financial resources of most residents. [1(d)]

The above manifests itself into many families facing ominous financial consequences whilst there is usually a substantial financial benefit to a few. The Group believes that a fair, unbiased and equitable solution is for property developers and those holding land-banks that benefit from transport projects or rezoning decisions, to financially contribute (via a capital gains levy; e.g. Canberra model) to the *hurtful* financial consequences often faced by residents caught in the process of compulsory land acquisition. [1(g)] Moneys collected may be applied to affected residents as follows:

1. Compensation based on the property value (i.e. land and buildings) prior to the infrastructure proposal being gazetted.
2. Solatium to be based on the short-fall in acquiring a reasonable equivalent new property to the former property which is the subject of acquisition (e.g. Canadian model).
3. Subject to point 1 above, property valuation based on the higher of the NSW Valuer General and a certified valuer appointed by the affected resident.

In summary, whilst the Appin Orbital Motorway Support Group is in agreement with Government as to the need for large scale transport infrastructure, we believe that people should not be *hurt* by Government and a few be handsomely rewarded. [1(i)] Our recommendation is that in every transport project:

1. Local residents are always put first.
2. Transport for NSW is to clearly demonstrate that there is no other feasible alternative to land acquisition from residents, irrespective of costs.
3. Transport for NSW to clarify likely cost of compulsory land acquisition from residents using the above recommended basis.
4. Transport for NSW to identify land-banking and other speculative practices that are likely to profit from the transport project and rezoning decisions. In addition, provide an indication of the likely profit from such practices.
5. Proposals from Transport for NSW and related agencies pertaining to major transport projects, are independently reviewed by a committee of disinterested learned persons.

The Secretary

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