

Submission
No 427

INQUIRY INTO IMPACT OF THE WESTERN HARBOUR TUNNEL AND BEACHES LINK

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OPEN LETTER
Submission to the NSW Parliamentary Inquiry on
The Beaches Link Tunnel

Prepared by

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EXECUTIVE SUMMARY

- 1.1 The RMS has acquired my Home using a valuation process which, in my opinion, facilitates undervaluing of the homes being acquired.
- 1.2 With respect to the acquisition of my home, I believe that some sections of the RMS valuation report were false, deliberately deceptive and designed to reduce the value of my home.
- 1.3 One section of the RMS valuation report where data from a pre-existing report covering ongoing flooding in Manly Lagoon appears to have been deliberately misinterpreted, is disgusting.
- 1.4 During a mediation process, the RMS Acquisitions Team claims that it has no direct input into the so-called independent valuation reports.

However, when the RMS quite clearly has a mandate to acquire properties as cheaply as possible and noting that there are valuers who are aware of the best way to get ongoing work, the Acquisitions Team claims of valuer independence are totally hollow.

If the Acquisitions Team did not believe that their appointed valuer had deliberately undervalued my home, it would not have increased the valuation of my home by \$150,000 (approximately 8½ %) during mediation, albeit that the final valuation was still undervalued by approximately \$150,000 (as determined by our appointed valuer.)

2. INTRODUCTION

- 2.1 At more than 70 years old, the lives of myself and my wife were turned upside down when our home was acquired by the RMS in the name of the Beaches Link Tunnel.
- 2.2 There were aspects of this RMS acquisition process which were disgusting and the purpose of this submission is to:
 - (a) Share these experiences.
 - (b) Hopefully, lead to improvements in the acquisition process.

3. ACQUISITION NOTIFICATION

3.1 My wife and I had lived in Dudley Street Balgowlah for around seven years during which we had spent countless hours renovating the house and constructing a bush rock garden using our own labour and a significant amount of money for materials.

3.2 In December 2019, we were notified by two women representing the RMS via a knock on the door and the presentation of a letter stating that, sometime in the near future the RMS may need to compulsorily acquire our home to facilitate the construction of a Beaches Link Tunnel because this work would involve:

- (a) The use of Balgowlah Golf Course as a construction site.
- (b) Dudley Street would ultimately disappear as noted in the reference designs.

At this same time, we were advised that, if we wished, the RMS would now purchase our home under the terms of compulsory acquisition.

3.3 Our home backed onto Balgowlah Golf Course and as of December 2019, the public awareness of a future Beaches Tunnel Construction Site on Balgowlah Golf Course meant that every home in Dudley Street had been hugely devalued on an open market.

Overnight, this meant that we were left with two choices:

- (a) Sit back and hope the Beaches Link Tunnel did not eventuate or
- (b) Accept the offer of the RMS to have our home acquired under the terms of compulsory acquisition.

3.4 Given our age, we were left with no choice but to accept the offer of the RMS to have our home acquired under the terms of compulsory acquisition.

4. RMS VALUER

- 4.1 The primary contribution to any compensation payable as part of an acquisition is based on a determination of the value of the property in question.
- 4.2 The RMS has a panel of **independent?** valuers from which it draws one for each property they want valued.
 - (a) We were aware that one of the valuers on this panel notoriously undervalued acquisition properties and for this reason, our legal representative requested that this one valuer not be used to value our home and that any other valuer was assigned to our home.
 - (b) As expected, the RMS assigned this particular valuer to our home.
- 4.3 The owner has the right to engage their own independent valuer to ensure that they are being fairly treated, which is what we did.

5. RMS VALUATION OF OUR HOME

5.1 At this point it is important to note the following directive by the Valuer General.

The Valuer General's Policy June 2019 states in Section 1.4

“When determining the market value of land subject to acquisition, any reasonable doubt should be resolved in favour of the land owner ensuring that the compensation will not be less than market value.”

5.2 The RMS valuation report for our home was \$300,000 (approximately 15%) less than the valuation of our own appointed valuer.

5.3 Key aspects of the **RMS Valuation Report** were as follows:

- (a) The valuation method used was a direct comparison method which means that the subject property should be compared with recent similar sales in the surrounding area.
- (b) The RMS valuer referenced ten comparison properties two of which were recent sales in Dudley Street.

Both of these sales in Dudley Street had been severely impacted by the Beaches Link Tunnel Project and the RMS valuer stated for both of these properties:

“The property will be impacted by the Transport for NSW Beaches Link proposal – it is understood and assumed that, at the date of sale, the property was to be situated approximately (50 metres OR 35 metres) from the proposed new link road between Burnt Bridge Creek Deviation and Sydney Road (this is a negative impact; however, it is assumed that a noise wall and landscaping would have been situated between the new link road and the property.)”

- (i) Instead of ignoring these two sales results, which the Valuer General clearly states that he should have because these property sales had been adversely affected by the Project, the RMS valuer fed these values into his highly distorted subjective thinking as part of his valuation process.

The RMS valuer justified this on the strength that the RMS would place a noise wall between the residents of Dudley Street and a new link road which totally ignores the fact that:

- The very reason the RMS notes future compulsory acquisition is that the entire golf course was to be turned into a tunnel construction site

for upwards of seven years and

- The reference designs for the Beaches Link Tunnel Project show that Dudley Street will no longer exist.

(c) The valuation for our property fell between two of the comparison properties as follows:

- (i) 16% below the highest value comparison property and
- (ii) 9% above the lowest value comparison property

The range between these two comparison properties was around 25%.

(d) This meant that the valuation for our property within the very large range of 25% as noted above was based on a totally subjective valuation on the part of the valuer.

(e) *The lower value comparison property:*

- (i) Had been sold approximately 6 months prior to the RMS valuers report during which the median value for Balgowlah properties had risen by approximately 10%.
- (ii) Had the following significant features as compared to our Dudley Street home.
 - Strata title versus Dudley St. Torrens title
 - Upper duplex versus Dudley St. semi detached
 - One bathroom versus Dudley St 2½, one of which was a large ensuite.
 - Shared garden space versus Dudley St. large private garden.
 - Overlooked on one side by a two-storey building versus Dudley St. outlook to Balgowlah golf course.

(f) *The upper value comparison property:*

- (i) The only superior property of this comparison property was its modern appearance.
- (ii) The RMS valuer described this property as having an inferior position to that of our Dudley Street home where in fact it was VASTLY inferior for the following reasons.
 - It fronted directly onto Sydney Road very close to a large

intersection and traffic lights and it was notable that the RMS valuer chose not to mention the noise from Sydney Road which is extremely high but he did choose to mention the presence of the roads behind the noise wall in Dudley Street, despite the negligible noise in Dudley Street.

- The rear garden in the comparison property was badly overlooked by a block of apartments whereas our home in Dudley Street looked across the vast expanse of a golf course.
- (iii) The land on title for this property is approximately 14% less than that of our home in Dudley Street. Most of this difference was reflected in the much smaller rear garden area.
- (iv) Our home in Dudley Street and the comparison property had very similar Floor Area but the comparison property had sacrificed the generous living area exhibited by our Dudley Street home, for an extra two relatively small bedrooms.

Weaknesses

5.4 Under the heading *Weaknesses*, the RMS valuer stated in his report

- (a) “*The subject property appears to be impacted by flooding*”. This statement was supported in his report by reference to an extract from a computer-generated image that had been contained in a 2013 Report “***Manly Lagoon Flood Study***”

Facts

- (b) The notion that Dudley Street is subject to flooding is clearly laughable.

In fact, the extracted computer-generated image referred to the fact that any storm water running down Dudley Street ends up in Manly Lagoon (the subject of the report) along with thousands of other areas and does not relate to or imply any flooding in Dudley Street.

The RMS valuers statement with respect to any flooding in Dudley Street was **100% false** which was subsequently confirmed by Northern Beaches Council documentation.

- (c) “*The subject property is impacted by an onsite stormwater detention system which*

must be maintained by and at the expense of the registered proprietor of the subject property”

Facts

- (d) Since at least 2003, the Northern Beaches Council has a had a requirement that any new property, which has direct rainwater discharge to Council stormwater systems, must incorporate either an above ground or below ground OSD (Onsite Storage Detention system) which, in the case of an underground OSD is usually a concrete tank.
- (e) Like thousands of homes on the Northern Beaches, our home in Dudley Street had an underground concrete OSD tank and the RMS valuers reference to this fact was nothing more than a disgusting attempt to use any reason, valid or not, to devalue our home.
- (f) *“The subject property is affected by some traffic noise from Burnt Bridge Creek Deviation – a six-lane arterial road which is situated opposite (however it is noted that some of this noise is mitigated by a noise wall”*

Facts

- (i) Inside our home and in the rear garden, there is negligible and or no perceivable traffic noise.
- (ii) Referring to Section 5.3 (f) above, the RMS valuer had not referred to any noise issues for the upper value comparison property.

Covid

5.5 In his report the RMS valuer states in his Valuation Rationale:

“The market sentiment improved from mid-2019 following the federal election outcome, interest rate cuts, and a loosening of lending standards by APRA. However, as at the date of valuation, the global economy and the domestic economy were being significantly impacted by the Novel Coronavirus (covid 19) which was declared as a ‘Global Pandemic’ by the world Health Organisation on 11 March 2020. The real estate market is being impacted by the uncertainty that the COVID-19 outbreak has caused.

Clearly:

- (a) The RMS valuer has applied an assumption that within a very short period of time,

the covid outbreak had adversely affected the value of our home and that this had fed into his highly subjective valuation of our home.

- (b) The RMS valuer had absolutely no right to make predictions, albeit totally incorrect predictions, about the future property market and then feed that thinking into his highly subjective valuation of our home.

6. APPOINTED VALUER

- 6.1 The valuer appointed on our behalf is a well-respected licensed valuer.
- 6.2 The same comparison method was used by our valuer.
- 6.3 Unlike the RMS valuer, our valuer referenced 13 properties none of which were directly impacted by the Beaches Link Tunnel project.
- 6.4 The value of our home as determined by our appointed valuer fell between two properties separated by a sale difference of \$40,000 (Approx. 2%).

This meant that unlike the RMS valuer, the subjectivity of his valuation was very small compared to the comparison properties.

7. MEDIATION

7.1 During a subsequent 5-hour mediation process.

- (a) The RMS initially agreed to a \$100,000 increase in the documented valuation of our home.
- (b) The RMS subsequently agreed to another \$50,000 final increase in the documented valuation.
- (c) This final value was halfway between the original RMS valuation and the valuation of our appointed valuer and was approximately 7% less than that of our appointed valuer.

Options

7.2 At ages over 70, my wife and I had two options, viz.,

- (a) Refer the valuation process to the Valuer General and over a period of probably more than six months, hope that the Valuer General came up with an improved valuation OR
- (b) Accept what was now on offer and move on with our lives which is what we have done.

8. OUTCOME

- 8.1 At ages over 70, my wife and I have had our lives turned upside down.
- 8.2 The compensation received by the RMS made it impossible to buy anything in Balgowlah that came even close to what was taken from us.
- 8.3 Our chosen option has been to move to a cheaper suburb, buy a house that needed a total renovation.
- 8.4 We have spent a total of 4 months of heartache, expense and labour renovating our new home.

9. CONCLUSIONS

Noting that **The Valuer General's Policy June 2019** states in Section 1.4

“When determining the market value of land subject to acquisition, any reasonable doubt should be resolved in favour of the land owner ensuring that the compensation will not be less than market value.”

- 9.1 For comparison purposes, the RMS valuer used two property sales in Dudley Street which should not have been used because their value had been directly adversely affected by the Beaches Link Project.

Refer Section 5.3 (b)

- 9.2 The two comparison properties, which the RMS valuer's valuation for our home fell between, had a sold price range of approximately 25%.

This enabled the RMS valuer to entirely subjectively value our home within a very large range.

Refer Section 5.3 (c)

- 9.3 The lower of the two comparison properties, in which the RMS valuation fell, was vastly inferior to our home as verified by the fact that the final accepted value for our home was \$299,000 (approximately 18%) above the value of this property.

As with many of the properties sales selected by the RMS valuer, this property should not have been used for comparison purposes.

Refer Section 5.3 (e)

- 9.4 The RMS valuation report **falsely** described our home as being subject to flooding and used **false** evidence to support this claim.

Refer Section 5.4 (a) & (b)

- 9.5 The RMS valuation report falsely claimed that our on-site water detention system devalued our home.

Refer Section 5.4 (c) – (e)

The RMS valuation report referred to traffic noise at our home, which was in fact negligible and at the same time chose not to mention the very high traffic noise associated with the upper value comparison property, below which the RMS valuation for our home was placed.

Refer Section 5.4 (f)

- 9.6 The RMS valuation report incorrectly and inappropriately referred to the devaluing effect on our home as a direct result of the Covid pandemic.

Refer Section 5.5

- 9.7 During mediation, the RMS Acquisition Team stated that they had no knowledge/input with respect to the valuation process and simply trusted their appointed valuer.

Referring to all the facts above, this statement by the Acquisition Team is in my opinion preposterous.

- 9.8 The RMS has treated us with contempt by using the might of their organisation and a deliberately low valuation to get us out of our home for the absolutely lowest cost to their organisation possible.