

**Submission  
No 56**

**INQUIRY INTO ACQUISITION OF LAND IN RELATION TO  
MAJOR TRANSPORT PROJECTS**

**Name:** Mr Charles Kolano

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I am Charles Kolano, resident of Werralong Road, Dalgety, and have summarised some important points that are derived from my experience with the Snowy Monaro Regional Council's decision, to compulsorily acquire this property. The influencing decision was stated in Council's business paper "was based on the consent of the landowners to the gifting of land for Werralong Road through their properties, was conditional upon Council receiving approval from the OLG to the acquisition without consent (this property)".

The track across this property formerly known as part of Werralong Road, has not been used since our neighbours re-routed the road for public use in January 2015. Subsequently the track was totally blocked off with barb wire and large boulders, forcing us into a landlocked position. Council has full knowledge of this, to the extent Council's solicitor had concurrently represented seven of our neighbours, took instructions from two other neighbours while representing Council at the same time in the Werralong Road acquisition process.

### Recommendations

All authority (e.g. Council) projects follow strict guidelines of project briefs and business cases for major projects, as should be the case for Werralong Road. This includes acting in the public's best interests.

1. The business case (and project's) execution must follow the official principles of property acquisition, best practice delivery, and robust project governance, not what an authority believes these to be.

2. Decisions for approval of major projects must :

a. First be based on whether the authority has the funds readily available. If not, the project is automatically stopped and disbanded. If the costs are provided by re-organising the delivery programme, then this must involve community consultation (not the current pathetic form of consultation that the authority provides).

b. Second be based on whether the project can be achieved within the authority's delivery programme. If not, it would totally irresponsible and inappropriate to commit an incoming electoral base to expenditure that they may not agree with. "They", means the rate-payers of that community that the electoral base are accountable to.

c. Third be based on fact, merit, clear financials, and within the delivery programme, including the authority's Capital Works Programme.

d. Forth cannot be influenced by senior Government officials (such as Deputy Premier's, Ministers, etc), personal agendas, etc. It must follow the established rules within the Model Code of Conduct.

e. Fifth "Deals" or "gifts" or "trades" cannot be part of the land acquisition process. This includes a project's cost/benefit analysis, where a landowner may be forced into acquisition "without consent". The project cannot be approved unless all landowners "consent".

f. Sixth An authority must not enter into a civil matter, e.g. the attempt to resolve matters involving a track through various properties to a public road. The project cannot be approved unless all landowners "consent" to their portions of their land being acquired for the benefit of the project.

3. There must be a process for complaint / objection and escalation established by the State Government, which has complete independence and thus removal of potential unruly influence. Once the complaint is lodged, the project (regardless of size and cost) is halted until that investigation has concluded. It is clear the OLG and Minister's Office of Local Government has dramatically failed in the both the proper investigation and management of Werralong Road, Snowy River Shire Council, and Snowy Monaro Regional Council.

4. Severe penalties need to be introduced for authorities, public servants, and their agents who have been proven to be acting unprofessionally. This may include employment termination, referral to ICAC, and potential liability to repay legal fees borne by the applicant, due to their involvement.

5. The removal of "confidential" items with the authority, their meetings, and discussions must be enforced. This is to ensure authorities do not abuse the ability for affected parties to access vital information. The only exception for this would be a contract currently under consideration or tender, whereby that tender would be deemed invalid by the disclosure of relevant information. Once that tender period has passed, it must be public record and accessible.

6. Any affected landowners must be provided all of the information immediately regarding a decision to acquire their land or part thereof, if the project involved land acquisition. All acquisition processes must strictly follow the official guidelines, processes, and procedures as outlined by the State. This does not remove the landowner's right to complain.

7. All authorities must keep decisions consistent and maintain policy. They cannot decide to maintain policy for one project, but then apply a decision based on personal agenda for another, e.g. the authority must not involve themselves in civil matters.

8. All authorities must not consider motions, which have no detailed cost analysis indicating the impact to their budget, asset management, maintenance schedule, and workforce strategy.

9. All authorities must update their constituents on a monthly basis with a Statement of Accounts, including a detailed general ledger report illustrating expenditure items.

10. Where the authority is a Council, their General Manager (or alternative position, e.g. CEO) must scrutinise motions prior to sitting before Council, particularly if they result in a major project of work. Failure to do so may result in employment breach of contract or formal warning. This is designed to prevent personal agenda, statements not based on fact, poorly constructed cost/benefit analysis, business case rationale, etc being submitted to Councillors.

11. Any authority, where it has been proven, that misuses Police or judicial systems to their advantage, must be formally addressed as a question of law.

12. Any authority, whereby a senior official or Councillor accepts or encourages influence of private interest or conflict whilst carrying out official duties, the improper presence of individuals during prolonged problems, misuse of position or power to obtain an outcome that was not in the general public interest or discriminatory, evidence of intimidation, and harassment or bullying behavior will be deemed a breach of their Code of Conduct may result in immediate termination of that individual's position.

There must be an investigation into that individual's involvement up to the time it is known such behaviour exists, which may result in the same outcome. Any senior official or Councillor who was aware of the behaviour and fails to report it, must suffer the same fate.

13. Any authority, whereby a senior official or Councillor wrongfully accuses a member of the public will be deemed a breach of their Code of Conduct may result in immediate termination of that individual's position.

There must be an investigation into that individual's involvement up to the time it is known a false claim exists, which may result in the same outcome. Any senior official or Councillor who was aware of the false accusation and fails to report such an issue, must suffer the same fate.

14. Any authority, that is a Council, must adhere to Section 439 of the Local Government Act at all times, i.e. "Every Councillor, member of staff of a Council and delegate of a Council must act honestly and exercise a reasonable degree of care and diligence in carrying out his or her functions". Where it is proven that individual / those individuals did not, must result in immediate termination of employment.

Charles Kolano