

**Submission
No 63**

INQUIRY INTO ACQUISITION OF LAND IN RELATION TO MAJOR TRANSPORT PROJECTS

Organisation: Hawkesbury City Council

Date Received: 2 July 2021

Our Ref: 7501624

1 July 2021

The Director
Portfolio Committee No. 6
Parliament House
Macquarie Street
SYDNEY NSW 2000

E-mail: PortfolioCommittee6@parliament.nsw.gov.au

Dear Sir/Madam,

Submission – Inquiry into the acquisition of land in relation to major transport projects

I refer to the NSW Legislative Council's Portfolio Committee No. 6 – Transport and Customer Service's invitation to provide comments in respect to the Inquiry into the acquisition of land in relation to major transport projects.

Council submits the following comments:

1. *Compulsory Acquisition Issues:*

This part of the submission refers to parts B(vii) and I, specifically the process in relation the hardship provisions in section 24 of the Land Acquisition (Just Terms Compensation) Act.

Council received a hardship application that was refused under Section 2(a) of the Act as the landowner had not proven that the land was unsaleable because they refused to place it on the open market. Further the applicant owned multiple properties and refused to lease any of them to generate an income.

The property owner claiming hardship lodged an appeal under the Act, which quashed Council's determination, without Council being afforded due process in being able to provide documentation to prove its case. The appeal was decided entirely on what the applicant supplied.

This process is unfair to the community as it may cause Councils to re-prioritise acquisitions or acquire properties prior to development occurring.

Further, in this acquisition the property owner would not negotiate with Council and forced the acquisition to proceed via the compulsory acquisition process. The fees charged by the valuer general are extremely high and are not advised to the acquiring authority prior to the matter progressing. The Valuer General staff at the time were charged at \$300 per hour plus expert reports. When experts are engaged by the Valuer General Staff the consultants' rates are not sent to Council's, however, they bear the bill at the end of the acquisition. Costs can be up to 10 times higher than a negotiated acquisition; this is unfair for the community who will receive less infrastructure if acquisition costs blow out.

2. *Plans of Acquisition by Transport for NSW*

In February 2020, Council received notification from Transport for NSW of a plan of approval defining an amended road boundary for a future upgrade of Bandon Road. In this notification, Transport for NSW requested Council to rezone the defined land to SP2 Classified Road in the preparation of any future draft local environmental plans undertaken by Council.





Concern is raised in respect to Transport for NSW's consultation policies with councils in regard to future acquisition of land required for road purposes. Up until receiving the notification of the plan or approval for Bandon Road, Council was not aware of the proposed amendments to the road boundary. As a result, Council obligations to disclosure road acquisitions on Planning Certificates and the requirement to rezone the land were delayed. Such delays could leave Council open to criticism or liabilities.

It is suggested that when Transport for NSW require the rezoning of land for acquisition purposes, that such amendments to local environmental plans can be more readily undertaken by the Department of Planning, Industry and Environment. In addition, prior notification of such changes should be made to councils to ensure that they can fulfil their obligations and not be open to legal challenge.

Thank you for the opportunity to make a submission to this Inquiry.

Yours faithfully

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