

**Submission
No 65**

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

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

I welcome the opportunity to make a submission to the NSW Parliamentary Inquiry into the acquisition of land in relation to major transport projects.

My electorate of Balmain has and will be impacted by compulsory acquisitions for a range of transport projects including WestConnex, the Western Harbour Tunnel and the Sydney Metro West.

I have previously expressed my strong objection to major private tollway projects including WestConnex and the Western Harbour Tunnel in my submissions to the Environmental Impact Statements as well as in NSW Parliament.

I am supportive of new public transport projects such as the Metro West, however I have expressed concerns about the cost of providing supporting infrastructure such as metro stations, the immediate land value impacts and the rampant development that is invariably pursued to offset these costs.

My submission will focus on those terms of reference that are relevant to the Balmain electorate.

Negotiations with landholders

Much of the impact of land acquisitions along a major transport project routes in New South Wales has been experienced by small land holders in relation to a single property. For many it has meant a direct impact to a primary asset such as the family home or a residential investment property. These property owners are at an immediate disadvantage when forced to deal with the NSW Government as there is a considerable imbalance in the parties' bargaining power.

It is incumbent on the government and its agencies to treat each negotiation with great care and sensitivity, however in assisting constituents through such matters it is clear that this is not always the case.

Risks associated with this could be mitigated by ensuring adequate independent advice and representation for property owners is available so that this power imbalance is acknowledged and addressed. The NSW Government could fund this through already established bodies like Legal Aid or the network of independent community legal services.

Finally, it is important to note that many landholders have raised concerns with my office about the choice by WestConnex to notify residents rather than property owners. This decision has meant that many homeowners who do not occupy properties impacted by compulsory acquisition are notified later than necessary in the process as they are forced to rely on information being passed on by tenants rather than being notified directly.

Compulsory acquisition of surface property

Many property owners have contacted my office for advice and support through the compulsory acquisition process. In all cases it is an extremely difficult time, but in instances where the family home is involved it becomes an emotional issue as well as a financial one. Impacts are felt by affected property owners but also their neighbours, as established communities are broken up and neighbours displaced.

Constituents have told me of their difficulty in finding new homes within the same neighbourhoods. This has been particularly so for families who wish to remain in their local school catchments and those who have established social, health and other support networks in the area. Because of the rapid pace at which property values have increased over the past years, many people have struggled to buy back into the same market.

It is also often the homes with the lowest value in an area that are being acquired for transport projects, since they are already proximate to the major infrastructure or on the fringes of precincts that have been identified for a new transport corridor.

The NSW Government needs to recognise this and require its agencies to offer an additional premium to owner-occupiers who are forced to relocate through a compulsory acquisition process, to provide the best opportunity to replace their homes with a like-for-like property.

Hardship acquisitions

Constituents who have contacted me for support through hardship acquisitions tend to face all the same challenges as those facing compulsory acquisition, in terms of finding a new home in the same area that can meet their needs. Many have spoken to me about the added burden of stamp duties and other relocation costs that are not offered as part of the hardship acquisition process.

They also have the added complication of being unable to remain in their home because the WestConnex project has made it untenable. This is usually because of an unbearable disruption such as protracted construction noise, or damage sustained to the property through vibration and land subsidence. As such property owners entering into a hardship acquisition are concurrently involved in complex and delicate negotiations with other agencies within Transport for NSW and/or their contractors. Their already vulnerable bargaining position is further diminished.

The NSW Government needs to recognise this and ensure these property owners have access to independent advice and representation where required, as well as offering an additional premium to owner-occupiers who are forced to relinquish their homes through the hardship acquisition process.

Compulsory acquisition of sub-stratum

The compulsory acquisition of sub-stratum has been a particular concern for constituents. Many residents have contacted my office because notices have lacked clarity as to whether or not compensation would be offered. The government has never considered compensating property owners for sub-stratum acquisitions, which is particularly galling in the instance of WestConnex tunnels which are to be used in the pursuit of profit by a private toll-road company.

The refusal to compensate property owners for sub-stratum acquisition has had a direct financial impact on several residents in my electorate. I have heard from a number of property owners who have had offers to purchase withdrawn or reduced once a sub-stratum acquisition notice has been issued.

The NSW Government must reconsider its refusal to offer compensation for sub-stratum acquisitions.

Interactions of planning, infrastructure and transport

It is evident from projects such as the new Sydney Fish Markets and proposals like the Blackwattle Bay revitalisation plan that the state's planning priorities are being driven by a desire to offset the cost of new infrastructure with land value windfalls via high density residential development. The Blackwattle Bay site could be made into a world-class harbour side community that is sensitive to the adjacent low- and medium-rise neighbourhoods to its immediate west, but instead there is a proposal to convert it into a forest of 45 storey residential towers.

The plan does not provide for adequate community infrastructure such as schools, parks, and critically needed social housing, but will include commercial and retail at the ground level. The resulting increase in land value, and profits from its sale to developers, will fund the new Sydney Fish Market.

This same model is applied across all major infrastructure projects in New South Wales, including major transport infrastructure. The Blackwattle Bay revitalisation plan, when considered in the context of the broader Pyrmont Peninsula Place Strategy, is a case in point. When the draft strategy was placed on exhibition it did not include a Metro West station or any additional public transport options. The finalised plan now include the development of a Metro West station at Pyrmont along with a projected increase in the intensity of surrounding redevelopment.

While the inclusion of a station at Pyrmont is important in the context of the Metro West project the increased density it imposes highlights the influence that Transport for NSW has over planning outcomes in New South Wales. The government must address and rebalance this as a matter of urgency, by implementing an alternative model for capturing land value uplift.

Land value capture

The current approach to capturing land value uplift relies on ad hoc contributions from developers on the one hand, and the “unlocking” of unrealised value held in government-owned sites on the other. Current practise in New South Wales requires some level of proximity between the rezoning of a site for redevelopment and the use of the land value uplift that can be captured.

The introduction of a Betterment Levy would ensure unearned windfall gains accruing across the board can be shared throughout the community. This could provide a significant amount of the resources needed for the ongoing planning and delivery of infrastructure.

As I have noted elsewhere, recent modelling shows that New South Wales could be raising \$8.2 billion per year by following the Australian Capital Territories’ model of levying a Betterment Levy on 75% of the land value uplift created by rezoning decisions.¹ The NSW Government must consider adopting a similar approach in New South Wales to ensure the community is no longer being short-changed on developer contributions, and that planning outcomes are no longer determined by the cost of transport and other nearby infrastructure, but by genuine community need.

Surplus land

When land is compulsorily acquired above ground there is often surplus land left over once construction projects are completed. Our community has had to fight for surplus land to be retained for community use rather than being sold-off for development.

Any compulsorily land that is acquired through transport projects that is surplus to operational requirements should be returned as parkland or for community use, not sold-off for redevelopment. Returning surplus land to the community can help to buffer the costs felt by the community by large construction projects.

If you have any questions about this submission or need more information, please do not hesitate to contact me at 9660 7586 or balmain@parliament.nsw.gov.au

Yours sincerely,

Jamie Parker MP
Member for Balmain, NSW Parliament

¹ <https://www.smh.com.au/national/nsw/nsw-missing-out-on-8-billion-a-year-from-failure-to-tax-land-rezoning-inquiry-told-20200527-p54wx1.html?>