

**Submission
No 81**

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

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Submission to the Upper House Inquiry on the Acquisition of land by Transport for New South Wales and related agencies in relation to major transport projects

My submission mainly refers to (h) in the Terms of Reference – “the conduct of agencies and government in relation to the determination of the route of the M9 (Outer Sydney Orbital)”

Thank you for the opportunity to provide this submission to the committee. I am happy for this submission and my name to be made public.

I write this submission as someone without personal experience of the land acquisition process, and my property was not directly in the corridor for the Outer Sydney Orbital. I have no prior experience in any related matters before 2018. I have no vested interest other than to represent my community, advocate for better outcomes for Camden and the Macarthur area, and to help others be informed about what is happening. This submission contains facts that I have found over the last three years, my personal impressions of the impacts on others in the community, and my observations of the media and relevant Facebook groups. I am not writing this as a representative of any group.

Since the announcement of the Outer Sydney Orbital Corridor on 26th March 2018, I have taken a keen interest in matters relating to this project and other projects that impact on the wider Camden / Macarthur area, as well as the plans for the Aerotropolis. I have been an admin for the Outer Sydney Orbital Macarthur Action Group (Facebook group) since mid-2018 and have had an active role in matters regarding the group. I have undertaken much research, written a number of submissions, and had many interactions with people involved with and affected by these proposals.

I live close to what would have been the Burragorang Road interchange of the originally proposed Outer Sydney Orbital path in Grasmere. I will never forget the shock of seeing such a large motorway and freight rail corridor proposed to run through or alongside the homes of my neighbours in this semi-rural community. What was even more shocking was that at that time very few locals were aware that this was even a possibility.

On the day of the announcement, Transport for NSW staff delivered envelopes telling hundreds of residents that their home was in the corridor. They did not always stop to explain what this meant, leaving people in shock and in tears, and with no idea what they could do about it. People immediately bordering the proposal were not directly notified at all.

Thanks to the efforts of local residents, awareness was raised in the media, meetings were organised, and a Facebook group started. We shared information, and worked hard to understand what was happening, what we could do, and why we had been unaware. As we investigated, we became increasingly aware of the corridor project and its timeline. We realised that there had been a broad 2015 public consultation that few locals had realised related to a proposal for an Outer Sydney Orbital. Not many knew that this could impact

their homes. In some cases these were rural properties, with multiple family houses, that had been their family home for generations.

It was apparent that the corridor chosen for the March 2018 exhibition was an odd choice. There was an awkward S-shaped curve as it crossed the Nepean from Cobbitty to Ellis Lane. It split the heritage town of Cobbitty and cut through the local rural communities of Ellis Lane, Brownlow Hill, Cawdor, and Menangle and along the side of the entire length of Grasmere. Transport officials said at a meeting at the time that they thought they had “threaded the needle”, but it didn’t really seem to fit. It was apparent that this path primarily impacted smaller land holders, while leaving large landholders in the area (for example the University of Sydney site at Brownlow Hill) less affected. The Outer Sydney Orbital Transport Corridor - Draft Strategic Environmental Assessment - March 2018 states that the University’s preferred options were taken into account (*see references in Appendix*).

What became clear was that large landholders and organisations had been an integral part of that 2015 consultation and subsequent discussions, often by invitation. (*See Appendix for excerpts*). Other landholders were never directly notified, with no direct communication from Transport for NSW or any other government department. They had no way of knowing this process was occurring if they did not see the 2015 public exhibition and realise that they may be affected.

Even if someone had attended one of the 2015 publicity sessions, looking at the ‘purple swoosh’ from the June 2015 Outer Sydney Orbital newsletter (available online¹) it was so broad it would have been impossible to assess which area might be directly affected. Furthermore, in that document it is clearly stated that there was meant to be “*Consultation and information gathering on short list of options*” as another stage of the process before the last round of consultation on a final corridor. There was no public consultation on a short list of options. That step was completely bypassed, which did not allow the public any opportunity to participate in the final corridor selection.

The publicity about the 2015 exhibition period focussed almost exclusively on the impact of the North South (passenger) rail corridor, and the impact on communities from Narellan to Oran Park, (which was later partly resolved with a proposed tunnel). Many of us made the logical assumption that any future major transport connection from the new airport to the Hume Highway would be along a similar path, aligned with The Northern Road, Narellan Road, and a future Spring Farm Parkway.

It is therefore not surprising that so many in the Camden area did not realise that there was any proposal for a major road, let alone an eight-lane motorway and two freight rail lines, to the west of Camden. And so we were in shock, worried about our homes, concerned about our future, anxious for our community, and increasingly, angry.

At well-attended local community meetings in April 2018 it was left to local state MPs, councillors, and officials from Transport for NSW to face the understandably angry and

¹ <https://www.transport.nsw.gov.au/sites/default/files/media/documents/2017/outer-sydney-orbital-newsletter-june-2015.pdf>

distressed people who were faced with the loss of their homes and their land. At no time did any NSW Minister or the Premier visit the community to explain the need for this project, or when it might be expected to be built, or how the acquisition process would work. The answers from Transport officials were at times vague and unsatisfactory, though at least they came to the meetings.

After we spent much time on researching and writing submissions, we hoped that our voices would be heard. Perhaps as much due to political pressure as the issues we raised, there was an announcement in late June of a tunnel for part of the corridor, and a few other minor adjustments, as if that had solved the whole problem. And yes, many homes and local communities from Cobbitty to Grasmere were no longer on the list for acquisition. But there were some local landowners still in the “blue line”, and neighbouring the corridor, at Cobbitty, Cawdor, and Menangle. There was no information about how a tunnel would be feasible, or the impacts that it would have on properties above or beside the tunnel path.

Further negotiations were subsequently made privately with some residents, but no public information has been announced for this section since June 2018. It is understandable that some of these discussions are private, but the lack of open dialogue adds to the general public’s suspicion that deals are being done behind closed doors. Some of us in the group attempted to find out more from Transport officials and our local MP, but no new information has been forthcoming. No updates have been sent to those that made submissions, other than a brief note to those no longer in the corridor in June 2018. It has been over three years now.

Unusually there has been no report on the Outer Sydney Orbital consultation process from either 2015 or 2018. Experience with other consultations shows that these reports are usually publicly available within a few months, and certainly before the next round of consultations. The Outer Sydney Orbital submissions have never been made public. Why not?

Many people do not believe in the tunnel and remain fearful of eventual acquisition in the original (or perhaps a new?) orbital path. People feel like they are in limbo. Long-held properties in the corridor area have been sold, and people are moving away. And those that are still in the corridor, those that would apply for the compulsory acquisition and take the money, are forced to wait for “gazetta” – a concept that was promised long before now but never delivered. Their sense of security is gone, they cannot see any point in improving their homes or properties. No one will buy a property that they cannot develop and is at risk of compulsory acquisition. People are stuck in a place that they can no longer enjoy.

The uncertainty extends to those of us that were not in the corridor too. This semi-rural community has a dark cloud in its future, and we feel we have been taken out of the rural fringe and will be enclosed into the city by the orbital. We have learnt that the government can deliver an envelope and take your home away any time they want. We know that no matter what is written in the official planning rules and policies, that a new one can come along and change it all. And we saw how all this could happen without warning.

The shock of being in the corridor, the threat of compulsory acquisition, the steep learning curve of how to respond, and the stress and uncertainty, were all bad enough. But when it became apparent that major landholders and institutions knew all along, and that they were able to plan, buy and sell land with that awareness, there is an additional layer of distress and unfairness. How did they know? Why were they aware of this information, and the rest of us were not? Were they specifically consulted on future plans before everyone else?

It becomes apparent the more you look into it that there are a number of possible answers. One would be that politicians are illegally sharing information with those that could profit from it, and that would be corrupt behaviour. I have no knowledge of this occurring other than what is published in the media or from ICAC hearings.

However, what I did see evidence of was the open connection and networking between politicians, government departments, and major landholders and developers, and the advantages that this gives these major landholders and developers.

I know, as I have spent much time on this since 2018, that watching and searching for opportunities to participate in the process, keeping an eye on the media, and researching and writing submissions, is a time-consuming process that most do not have the time, expertise, or resources to do. It is often not apparent which proposals are planned, whether they will impact you or your community, when the consultation process will be, and whether anything you say individually will make any difference. With their well-connected professional organisations and lobby groups, and plenty of staff and consultants to work on proposals and submissions, developers and major landholders are in the box seat every time there is a concept plan or proposal on “public” exhibition.

Furthermore, there are many events held by business organisations, developer organisations, and lobby groups, that provide information sessions and networking opportunities with officials from government departments (including Transport for NSW), as well as the relevant Ministers and the Premier. Communities and smaller landholders do not have this access. (In fact as I mentioned earlier, no Minister or the Premier ever came to visit our community when there was so much distress during the 2018 Outer Sydney Orbital consultation.) These events also provide opportunities for attendees to find out about current and upcoming consultations, so in this way they are forewarned, and specifically invited to participate.

Examples of these events include BOOMTOWN! which was launched in November 2016 by the Western Sydney Leadership Dialogue with the spiel below².

There's a big noise coming from Western Sydney with tens of billions of dollars of public infrastructure under construction or in planning. Combine this with record private investment in commercial and residential property development, and you have a real BOOMTOWN!

Partnering with Transport for NSW, the Western Sydney Leadership Dialogue will present an

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<https://static1.squarespace.com/static/552bbddde4b0da214d6d3a2f/t/58324f4f03596e27e249aaaf/1479692122505/BOOMTOWN+Program+Website.pdf>

industry summit to flesh out the policy issues around infrastructure development and funding, urban renewal and strategic planning.

We've assembled national experts and industry leaders from the public and private sector to consider such pressing issues as value sharing, governance, skills and community engagement - in context of this building boom and major initiatives like the GSC's District Plans, the Long Term Transport Update and the Commonwealth's 'City Deals'.

We will use real life projects as our case studies, allowing delegates to get the 'insider's view' on:

- *Western Sydney Airport at Badgerys Creek*
- *Parramatta Light Rail*
- *Westmead Hospital*
- *ANZ Stadium & Parramatta Stadium*
- *South West rail extension*
- *M9, M12 & other airport roads*
- *Warragamba Dam*
- *Western Sydney University innovation corridor*
- *WestConnex*
- *Powerhouse Museum*
- *Moorebank Intermodal Terminal*
- *Liverpool riverbank*
- *Sydney Olympic Park's masterplan*
- *Western Sydney rail review*
- *Bankstown Airport*
- *WestMetro Rail*

The presenters at BOOMTOWN! 2016 were an impressive list of politicians, senior government officials, and CEOs. Note that the spiel talks of a '*partnering with Transport for NSW*' and '*allowing delegates to get the 'insider's view' on*' various projects which included the M9 (Outer Sydney Orbital). The day concluded with:

— *CLOSING DRINKS WITH THE MINISTER Please join our co-host, Minister Andrew Constance and many of the day's other eminent speakers for an informal networking session to discuss the themes, policies and projects that featured during the Summit.*

BOOMTOWN! has continued each year and has included a long list of politicians, government officials, and CEOs of key Western Sydney authorities. BOOMTOWN! 2020 included the Minister for Transport and Roads and the Minister for Planning and Public Spaces.³

Another recent event called NextGen West conference⁴ held by leading development industry body The Urban Development Institute of Australia NSW was described as "*a one-day interactive forum with captains of the development industry, key government and city shaping leaders, who will discuss the major planning and infrastructure projects and issues affecting Greater Western Sydney and help determine the outcome of the Western Parkland City.*" It was attended by senior representatives of government departments, and included developer sponsored breaks, and "*Super Networking Drinks*".

³ <https://westernsydney.org.au/bts2020>

⁴ <https://udiansw.force.com/memberportal/s/lt-event?id=a1r2s000000uU9VAAU>

There are a number of these events held every year, by a variety of developer, business, and industry groups. At these events, major land holders, businesses, and developers have access to information both through the presentations, and by direct informal contact during the breaks and networking sessions. It really is no wonder that they appear to have knowledge of plans that the general public are unaware of.

These events are opportunities that the public and small landholders do not have access to. Even if you were aware the event was on, and even if you were able to buy a ticket, the tickets cost hundreds of dollars. Information being public at an exclusive event is not the same as information being freely available to all. The media reports of these events are often brief, and carry a positive spin about the future plans, but are without the details and the potential negative impacts on existing local landholders and communities.

So the big land holders have an inherent advantage in any process that requires land acquisition. They can then make investment decisions based on their awareness of future proposals and use the power of their detailed and professionally prepared submissions to influence government decisions, all legal, but something that ordinary residents cannot easily do.

The larger the developer's property, the easier the government finds it to deal with them, and it would appear, the more say they have over future plans. The disadvantage of being a relatively small landholder, or even a group of small landholders, can be seen clearly in the outcomes for those in Leppington, Dwyer Road Aerotropolis precinct, and Luddenham.

The many decades of waiting for the announcement of the Western Sydney airport led to the expectation amongst many of those small to medium landholders that one day their property would drastically increase in value, that they would make a windfall, and that they had invested for their retirement. No land holder expected to be acquired for motorways or green space, and certainly not to be left with a threat of acquisition sometime in the distant future, and thus unable to sell or develop their land. A large landholder can afford to lose some of their land to infrastructure, especially when it contributes towards the rest of their land becoming more developable and thus more valuable. Homeowners and small land holders can lose out completely, both financially and emotionally, if their home ends up in a transport corridor and is subject to the acquisition process.

The system is inherently unbalanced, and in my opinion, this is the reason that so many everyday homeowners and small landholders suffer disproportionately in the acquisition process.

We are still waiting for information on the fate of the Outer Sydney Orbital (Stage 1), and any report on the 2015 or 2018 consultation. Meanwhile a consultation for a small part of Outer Sydney Orbital Stage 2 Hume Motorway to Appin Road was announced at the end of 2020. The conclusion from my submission to that consultation is below:

"I am so disappointed that this second consultation process is also flawed. Another group of homeowners has been shocked to find a motorway being planned through their homes and

properties. The community is not impressed with the poor communication from the government and Transport for NSW on this major project.

We need to have faith that due process is being followed. The future of our existing communities, towns, heritage, and wildlife seems to be of lesser consequence than the plans of developers and new projects. We all realise that progress will happen, and new homes and roads will be needed, but there needs to be a process that better consults existing residents, and listens to their concerns and local expertise, before final options are selected, and plans are made. Surely there is scope for these major projects to be accommodated in newly developing areas rather than running through existing homes and communities, and our precious heritage, wildlife corridors and threatened ecological areas.”

If I were to make recommendations, they would be:

- Immediate public release of the submissions and any reports for both the 2015 and 2018 Outer Sydney Orbital corridor consultations.
- Direct notification of any possibly impacted residents at the earliest or concept consultation stage of any future projects that involve land acquisition.
- Improved public notification of exhibition periods for future concept plans and infrastructure proposals, and clear communication of the potential impacts on existing residents and communities.
- A fairer system of compensation for land acquisitions, including compensation for delays between notification of acquisition and gazettal and acquisition payments.
- Careful consideration of the involvement of government MPs, (including Ministers or the Premier), or any official from government departments, in any events run by developers, related professional organisations, or their lobby groups.

Thank you for the opportunity to provide this submission to the committee. I am happy to be contacted for further information, or further assist the inquiry in any way that is thought appropriate, including appearing as a witness.

Yours sincerely

Jo O'Brien

July 2, 2021

Appendix follows

Appendix – Excerpts from Outer Sydney Orbital Transport Corridor - DRAFT STRATEGIC ENVIRONMENTAL ASSESSMENT - March 2018

(as available here - <https://www.transport.nsw.gov.au/corridors/oso>)

These are some of the many examples in the above document that show where only some (targeted/large/major) landholders were consulted or considered when Transport for NSW made decisions about the future path of the corridor, and/or which option should be chosen. It should be noted that this document is for the entire corridor from Box Hill to Menangle. There is no evidence of individual (small to medium) landholders, or community groups, being directly consulted in the Macarthur area before March 2018.

Consultation

This integrated corridor protection planning process has included extensive engagement with stakeholders and the community. This began between June and August 2015 to raise awareness of the strategic planning objectives and obtain information on constraints, opportunities and values that may influence recommended OSO corridor development within the OSO Study Area. Additional consultation with the relevant local, State or Commonwealth government authorities, service providers, community groups and some landowners was undertaken between 2015 and 2017 to inform the development and assessment of corridor options. (p. iii-iv)

Selecting a recommended OSO corridor – a continuation of the evaluation process where selection and refinement of a recommended corridor involved multi-criteria assessment, targeted stakeholder consultation and design development (p. vi)

The recommended corridor balances engineering, environmental, social and land use considerations. It was informed by local and regional factors as well as feedback from stakeholders, including consultation and engagement with the Department of Planning and Environment (DPE), the Office of Environment and Heritage (OEH) and other key agencies, councils, major land holders and community groups (p. vi)

The recommended corridor traverses the University of Sydney's site at Greendale and its Camden Campus. During community engagement in 2015, the University explained its future expectations for its properties and key areas which should be avoided by future OSO infrastructure. The recommended corridor has generally avoided these identified areas. (p. viii)

TfNSW consulted with stakeholders throughout the corridor development process and provided information and updates on the OSO study. (p 1)

[There was only one public information event, in 2015]

Summary of key constraints – Category - Land use planning and property

Proposed urban and employment land areas outside the North West and South West Growth Areas, including Cawdor, the Sydney Science Park at Luddenham and Tidapa (west of Oran Park).

Medium

University of Sydney southern campuses – Cobbitty, May and Mount Hunter campuses, in particular key buildings and infrastructure for these campuses.

Medium

(p. 24)

TfNSW undertook a set of consultation activities with relevant local, State and Commonwealth government authorities, service providers, community groups and impacted landowners. These consultation activities aimed to reflect the purpose of each stage while also allowing TfNSW to consult:

- With the wider community between June and August 2015 to create awareness of the strategic planning objectives and obtain information on constraints, opportunities and values that may influence corridor development for the OSO within the OSO study area.

•On-going communication directly with some impacted landowners, community groups, government and other key stakeholders to consider social, environmental and land use values that may be impacted. (p. 61)

TfNSW has consulted with all relevant local, State or Commonwealth government authorities, service providers, community groups and impacted landowners on multiple occasions during the corridor development process. TfNSW shared the feedback from this consultation with AECOM to help guide the development of corridor options, inform specialist studies and provide useful information and updates from the results of the OSO study (p. 61)

[Note – most impacted landowners were NOT contacted directly, and they were NOT consulted on multiple occasions – for many the only opportunity for input prior to March 2018 was the poorly communicated 2015 consultation]

It is also the preferred option of the University of Sydney as it avoids sensitive infrastructure within the Campus sites while providing a definite boundary between the urban areas of Ellis Lane and Grasmere and the rural campuses. (p.108)

The recommended corridor has been located to reduce impacts on the existing and future operation of University of Sydney Campuses. (p.119)

The recommended corridor transects the western extent of the Leppington Pastoral Co. land and, slightly further south, the University of Sydney John B Pye, Wolverton and Coates Park farms. Direct impacts on these properties would occur through increased noise and vibration and the introduction of a new visual element, however provision of new connections to the University would act as a benefit to these educational facilities. (p.121)