

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

Organisation: The University of Sydney

Date Received: 2 July 2021

Partially
Confidential



Professor Stephen Garton AM
Vice-Chancellor and Principal

2 July 2021

Ms Abigail Boyd, MLC
Committee Chair
Portfolio Committee No. 6 - Transport and Customer Service
Parliament of NSW
By email: PortfolioCommittee6@parliament.nsw.gov.au

Dear Ms Boyd,

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

Thank you for the opportunity to provide a submission to the Portfolio Committee Number 6 – Transport and Customer Service's *Inquiry into the acquisition of land in relation to major transport projects*.

The University of Sydney welcomes this Inquiry, as it provides an opportunity to recommend some improvements to the NSW Government's land acquisition process, based on the multiple interactions and negotiations the University has had with the Government in recent years.

Our submission is structured to align with the Inquiry Terms of Reference, with the following Terms being addressed directly:

- B(ii)** - the conduct of agencies in acquiring land for metropolitan rail projects
- B(iii)** - the conduct of agencies in acquiring land for any project related to the Western Sydney Airport
- C** - how government agencies identify land for acquisition and the extent to which the price of the land and the identity of landowners are taken into account when determining the route and sites for such projects
- D** - how government agencies conduct direct negotiations with landholders in relation to purchasing land/properties prior to, or in parallel with, the compulsory acquisition process, and the extent to which such process is fair, unbiased and equitable
- E** - the interaction of the planning, infrastructure and transport planning systems of government to support best practice outcomes for the NSW community, and
- H** - the conduct of agencies and government in relation to the determination of the route of the M9 (Outer Sydney Orbital).

We would welcome the opportunity to discuss these issues further with the Committee at its convenience. Please contact Greg Robinson, Chief University Infrastructure Officer if you require any further information.

Yours sincerely,

Stephen Garton

THE UNIVERSITY OF SYDNEY

CONFIDENTIAL SUBMISSION TO THE LEGISLATIVE COUNCIL'S INQUIRY INTO THE ACQUISITION OF LAND IN RELATION TO MAJOR TRANSPORT PROJECTS

This submission is structured to align with the Inquiry Terms of Reference, with the following Terms being addressed directly:

Terms of Reference		Comments
(a)	the response of agencies to the Russell and Pratt Reviews into the Land Acquisition (Just Terms Compensation) Act 1991	No comment
(b)	the conduct of agencies in acquiring:	
	(i) land for the WestConnex Project	No comment
	(ii) land for metropolitan rail projects	Refer Part A
	(iii) land for any project related to the Western Sydney Airport	Refer Part B
	(iv) land for the Parramatta Light Rail Projects (Stages One and Two)	No comment
	(v) land zoned as commercial land acquired between 2015 and 2020	No comment
	(vi) land for the North Wilton estate acquired by Landcom	No comment
	(vii) any other specific land acquisitions that may give rise to community concerns about current government process	No comment
(c)	how government agencies identify land for acquisition and the extent to which the price of the land and the identity of landowners are taken into account when determining the route and sites for such projects	Refer Part A
(d)	how government agencies conduct direct negotiations with landholders in relation to purchasing land/properties prior to, or in parallel with, the compulsory acquisition process, and the extent to which such process is fair, unbiased and equitable	Refer Part A
(e)	the interaction of the planning, infrastructure and transport planning systems of government to support best practice outcomes for the NSW community	Refer Part C
(f)	whether government agencies are adequately protecting the public against 'land-banking' and other speculative practices undertaken by persons or interests seeking to profit from future transport projects and rezoning decisions	No comment
(g)	whether, and what legislative or other measures should be taken by the government to capture the uplift in land/property value created as a result of such transport projects	No comment
(h)	the conduct of agencies and government in relation to the determination of the route of the M9 (Outer Sydney Orbital)	Refer Part A
(i)	any other related matters	No comment

PART A – LAND FOR METROPOLITAN RAIL PROJECTS

The University has made multiple submissions to Government to reconsider the current Sydney Metro West route. Unfortunately, very little communication was initiated with the University once the submissions were received and incorporation of our concerns and recommendations into the Sydney Metro West business case has been negligible.

The current route selection for Sydney Metro West is inconsistent with the strategic plans of other NSW Government agencies – such as the Greater Sydney Commission’s ‘Camperdown-Ultimo Place Strategy’, which clearly states the need for a public transport solution to connectivity and congestion issues within the Camperdown-Ultimo Collaboration Area.

Recommendation:

A more transparent means of consultation is required. The University understands that submissions to a public exhibition does not mandate that the proposal on exhibition will change. It is recommended, however, that greater acknowledgement of the submission be given, and greater transparency as to why the Government has or has not agreed to incorporate the submission recommendations into the proposal or business case.

PART B – LAND FOR PROJECTS RELATED TO THE WESTERN SYDNEY AIRPORT

General context

The University’s Badgerys Creek land has experienced incremental and significant affectations over time. There are currently three live acquisitions of the University’s lands at Badgerys Creek for the following projects:

- M12 Motorway
- Sydney Metro – Western Sydney Airport
- Upper South Creek Advance Water Recycling Centre

The University has made multiple submissions to various agencies regarding the extent and configuration of transport corridors within and around the Aerotropolis, and specifically how these restrict the economic potential of the land immediately north of the Western Sydney Airport (“Airport”), which is land most suited to airport-related commercial and industrial uses.

Anecdotally, there has been the perception that the size and scale of the affectations on the University's Badgerys Creek land has been influenced by the fact that the University is the landowner. In conversations with Transport for NSW (TfNSW), it appears there is a view within agencies that the University is regularly bequeathed land and that it should not mind if the State acquires it for State projects. In fact, the University's landholdings are a mix of land bequeathed and land purchased. Our landholdings in Badgerys Creek were all purchased, not bequeathed. Comments made by TfNSW that the land was "given" to the University gave the University the impression that it has been targeted in Badgerys Creek. In any event, how land has come to be in the ownership of the University must always be irrelevant within any compulsory acquisition process, but that did not seem to be the attitude of TfNSW.

The University has had mixed experiences in negotiations with acquiring authorities. Of the three current acquisitions of the University's lands at Badgerys Creek, Sydney Metro is the only project that has resulted in a commercial agreement. The Sydney Metro team was prepared to work through the area subject to acquisition and it was the only acquiring authority to provide an initial offer which enabled a negotiated outcome. The University has been served Proposed Acquisition Notices (PANs) for the M12 Motorway and Sydney Water acquisitions, and to date has not come to a negotiated outcome in relation to those acquisitions.

Further information is provided below on each interaction the University has had with the NSW Government regarding the acquisition of the University's Badgerys Creek land to enable major transport projects.

M9 / Outer Sydney Orbital

In mid-2015 the investigation area for the M9 route ran peripheral to the Western Sydney Airport and indicatively followed The Northern Road from Windsor Road to the west of the Airport. However, by mid-2018 the route was moved east to connect with the M12, resulting in increased impact to the University's Badgerys Creek lands.

The draft Strategic Environmental Assessment in 2018 indicated multiple impacts to the University's lands at Bringelly, Camden and Mount Hunter. TfNSW does acknowledge the University's 2015 submission to the Corridor Protection Study, however, incorrectly infers that the University was satisfied with Bringelly being dissected.

A 10km tunnel is now proposed from north of Cobbitty Road, Cobbitty to south-east of Cawdor Road, which would reduce impact to the University's Camden and Mount Hunter properties. However, for the areas of the corridor within the Aerotropolis, there is no timeframe for acquisition and in fact the required land has not yet been designated for acquisition, just made subject to a concurrence requirement. Clarification around the next steps for this corridor is required.

East-West Rail Link

The East-West Rail Link will be a future passenger rail link between Greater Parramatta and the Western Sydney Aerotropolis. The University understands and appreciates the importance of such a link to connect Sydney's Three Cities, however, the route alignment appears to have been influenced by the M12 corridor and does not service any significant catchments within or around the Aerotropolis. The University sees this as a lost opportunity for enabling uplift potential to benefit the economic outputs of the Western City.

There is an uncertain timeframe for acquisition and development potential within the East-West Rail Link corridor. The University would like more clarity around the future of the corridor and the consultation process moving forward.

Open space network within the Western Sydney Aerotropolis

As identified in numerous submissions by the University and other landowners, the quantum, location, configuration and acquisition of the open space network in the Aerotropolis has been poorly executed in the planning documents and presents many long-term challenges. Some of these challenges include:

- Many of the corridors have no evidence base to justify their location or configuration, for example, there are several farm dams which have been interpreted as parts of natural watercourses, however these areas lack ground-truthing by the Government, and the University's technical studies indicate there is no ecological basis for protection. In addition, the reservation of green corridors with standing water immediately below the flight path conflict with airport operations, and are not servicing a residential or community use catchment.
- Provisions for the acquisition of the open space network are inconsistently applied – e.g. only a small section of the Wianamatta South Creek Corridor is indicated for acquisition.

Without a rational, evidence-based approach, there is a risk that the balance of the open space network will have suboptimal delivery as there is uncertain funding for acquisition, embellishment, and long-term maintenance.

Recommendation:

The University would like to see more evidence that the various Government agencies involved in the above projects are making decisions with a long-term view of the Western Parkland City's economic potential, and the Airport's role in driving this potential.

As outlined above, there needs to be more consistency across planning documents for the area, and there have been numerous examples of consultation with the University and neighbouring landowners being suboptimal.

Positive experiences have been had with individual agencies in negotiating areas for acquisition (Sydney Metro and Sydney Water). However, at a broader scale, it appears the NSW Government has not considered the strategic importance of the land at the gateway to the Airport, resulting in significant affectations that present opportunity losses for the Aerotropolis as a whole.

PART C – INTERACTION OF THE PLANNING, INFRASTRUCTURE AND TRANSPORT PLANNING SYSTEMS

Overall, it appears that urban planning is often not executed in a coordinated way with transport delivery. A key example is the M12 motorway and the lack of resolution on connectivity, reducing fragmentation or severance of sites.

The draft Precinct Plans prepared by the Western Sydney Planning Partnership are inconsistent with the Aerotropolis Structure Plan and SEPP. The draft Precinct Plans do not optimise the economic potential of land most proximate to the Airport and plan at a fine-grain level over an impractically large area without the requisite detailed studies to inform the plans.

The application of the Public Safety Area for the Airport lacks detail and justification as to its configuration and why it changed so significantly from the original zone indicated with the Airport Masterplan.

Recommendation:

A more coordinated approach between NSW Government agencies on urban planning decisions is required.