

**REPORT ON PROCEEDINGS BEFORE**

**PORTFOLIO COMMITTEE NO. 6 - TRANSPORT AND  
CUSTOMER SERVICE**

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

**CORRECTED**

**, Virtual hearing, Video conference, Sydney on Tuesday, 5 October 2021**

**The Committee met at 9:33 am**

**PRESENT**

Ms Abigail Boyd (Chair)

The Hon. Mark Banasiak (Deputy Chair)

The Hon. Scott Farlow

The Hon. Ben Franklin

The Hon. John Graham

The Hon. Shayne Mallard

The Hon. Taylor Martin

The Hon. Daniel Mookhey



**The CHAIR:** Welcome to the public hearings for the Inquiry into the Acquisition of Land in Relation to Major Transport Projects. Before I commence I would like to acknowledge the Gadigal people, who are the traditional custodians of the land on which the Parliament sits. I would also like to pay respect to the Elders past, present and emerging of the Eora nation and extend that respect to other Aboriginals present or who may be watching today.

Today's hearing is being conducted virtually. This enables the work of the Committee to continue during the COVID-19 pandemic without compromising the health and safety of members, witnesses and staff. As we break new ground with this technology, I ask for everyone's patience through any technical difficulties we may encounter today. If participants lose their internet connection and are disconnected from the virtual hearing, they are asked to re-join the hearing by using the same link as provided by the Committee secretariat. Today we will be hearing from some Orchard Hills residents who are impacted by the acquisition of land for the Sydney Metro Western Sydney Airport project along with representatives from Sydney Metro.

Before we commence, I would like to make some brief comments about the procedures for today's hearing. While parliamentary privilege applies to witnesses giving evidence today, it does not apply to what witnesses say outside of their evidence at the virtual hearing. I therefore urge witnesses to be careful about comments they may make to the media or to others after they complete their evidence. Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. In that regard, it is important that witnesses focus on the issues raised by the inquiry terms of reference and avoid naming individuals unnecessarily.

All witnesses have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018. There may be some questions that a witness could answer only if they had more time or with certain documents to hand. In these circumstances, witnesses are advised that they can take a question on notice and provide an answer within 21 days. Today's proceedings are being streamed live and a transcript will be placed on the Committee's website once it becomes available.

Finally, I will make a few notes on virtual hearing etiquette to minimise disruptions and to assist our Hansard reporters. I ask Committee members to clearly identify who their questions are directed to and ask that everyone please state their name when they begin speaking. Could everyone please mute their microphones when they are not speaking. Please remember to turn your microphones back on when you are getting ready to speak. If you start speaking while muted, please start your question or answer again so it can be recorded in the transcript. Members and witnesses should avoid speaking over each other so we can all be heard clearly. To assist Hansard, I remind members and witnesses to speak directly into the microphone and to avoid making comments when your head is turned away.

**JESSE VELLA**, Orchard Hills resident, sworn and examined

**LAUREN VELLA**, Orchard Hills resident, sworn and examined

**VICTOR XIBERRAS**, Orchard Hills resident, sworn and examined

**LUKE KOHLER**, Orchard Hills resident, sworn and examined

**The CHAIR:** I welcome our first witnesses. Thank you all so much for attending this hearing. I know it has been a long time on the cards before we could make it work, given the COVID restrictions and all the rest of it. We are very pleased to have you here today. Would you like to start by making a short statement? If you could keep it to no more than a couple of minutes. I will start with Mr and Mrs Vella.

**Mr VELLA:** Good morning. My name is Jesse Vella, and I am here with my wife, Lauren. First, I would like to sincerely thank the Committee for inviting us to provide evidence today. Our home was acquired by Sydney Metro last Friday. As a result, we have encountered firsthand the flaws of the acquisition process and the harsh constraints of the Just Terms Act. As impacted residents, we would like to raise the following concerns: the acquiring authority acquiring more land than was necessary for the construction of the public purpose; the legislative requirements regarding market value assessment resulting in unjust compensation; impacted residents being financially disadvantaged by no fault of their own as a direct result of the acquisition; and finally, the inability for landowners to be reinstated back into our suburb of Orchard Hills in a comparable property due to inadequate compensation.

I have a deep connection to the suburb of Orchard Hills as this is where I have lived my entire life. Many sacrifices were made by Lauren and I in order to purchase our property. On 11 September 2020 we were informed by Sydney Metro that our newly renovated home would be acquired for the public purpose. This news came as a shock to us as we were informed three months prior by a Sydney Metro representative that our property would not be acquired. Upon the release of the environmental impact statement [EIS], it was evident that the scale of land being acquired in Orchard Hills was far greater than any other metro station in New South Wales. Sydney Metro have acquired approximately 65 acres to construct the Orchard Hills metro station and line. This figure excludes the land being acquired for the stabling and maintenance facility area.

In comparison, Sydney Metro have previously acquired approximately 40 acres to construct the entire Sydney Metro West line which includes nine stations in total. A tunnel will be constructed approximately 20 metres below the surface of our property, without any impact to the surface post-construction. Sydney Metro confirmed that the freehold interest in our property was required for the construction of the project. For this reason, we offered Sydney Metro the right to acquire a leasehold interest of the entire parcel of our property for the duration of construction and the right to demolish all improvements on the land. Sydney Metro declined this offer and reiterated they would proceed with acquiring the freehold interest in our property as planned and in accordance with the Just Terms Act.

We are of the opinion that the acquiring authority did not make all attempts to minimise land acquisitions and were able to do so while acting in accordance with the Just Terms Act. The Orchard Hills metro station will service a future residential and mixed-use precinct. We believe the unstated reason for acquiring the freehold interest in our property is to facilitate the future development in the precinct post-construction. Therefore, we feel this is the reason they declined our offer to lease the property, which would have been a much more cost-effective option for the New South Wales taxpayers. We understand that there was no incentive for Sydney Metro to lease our property, however there was a strong motivation for Sydney Metro to acquire our property, given the huge uplift in value to be captured. Sydney Metro now own our property equal to 20,230 square metres of land within the future residential and mixed-use precinct.

We believe the Just Terms Act should be amended so that if a dispossessed landowner reacquires part or all of their land, then such reacquisition is at the market price paid by the acquiring authority. Another concern for us is that when Sydney Metro valued our property, they took into account the proposed environmental zoning based on the Draft Cumberland Plain Conservation Plan. This resulted in a substantial decrease in the valuation of our property. After numerous attempts to seek clarification from the department of planning, we reached out to our local State member. She advised us that the Cumberland Plain conservation team contacted Sydney Metro and confirmed that the plan over Orchard Hills is a draft and "questioned why Sydney Metro would use a draft overlay in valuing properties when it is certainly not final and not a planning instrument".

The significant issue resulting from the Just Terms Act is actually very simple: We are unable to be reinstated back into our suburb of Orchard Hills in a reasonably equivalent property. New South Wales is the only jurisdiction in Australia that does not offer compensation on a reinstatement basis. We are not against infrastructure and progress. However, we believe that residents facing compulsory acquisition must be

compensated so they have the opportunity to be reinstated back into their suburb in a comparable property. If the New South Wales Government are serious about treating dispossessed landowners fairly, then there must be major changes to the acquisition process and the Land Acquisition (Just Terms Compensation) Act of 1991. Thank you.

**The CHAIR:** Thank you very much. Mr Xiberras, did you have a statement you would like to make?

**Mr XIBERRAS:** As I said before, my name is Victor Xiberras and what I pretty much cannot understand is, on behalf of my mother, who is a 76-year-old widow, if she did not have seven children Sydney Metro would have stolen what my mother and father had worked for all their lives. The first offer compared to their last offer was a 73 per cent increase. What I am gutted about is how a first offer can be so low and come up by 73 per cent to the last offer, which she still cannot relocate with that money back into the area. In saying that, a 73 per cent increase just shows how out of state Sydney Metro's valuers are. Luckily, my mother has seven children to fight for her. My brothers and sisters and I have all contributed to the fight for the last year, which is wrong. People should not have to fight and argue for something they have. All my mother wanted and all we wanted was to replace what we have. The first offer was that insulting—a couple of months before Christmas last year—we thought we were headed for hell.

My mother has been on land all her life and this is what people do not understand what they are playing with. My mother has been on land all her life and she wants to stay on land till the day she dies. That is all she told me so I fought for that. What they have offered we cannot buy land back for her back in the area. How does a woman who has worked for 50 years in this country—something gets taken away from you that you cannot replace. Explain that to a 76-year-old widow. What I am saying is that I am here not only on behalf of my mother, but I am sure there are plenty of other people in my mother's boat. The stress that Sydney Metro put my family through is why I am here today. I am a nobody. I am Vic Xiberras. I cannot fix this problem but you guys can. You do not realise what you are doing to the people. These valuers and all these people are only doing their job. They are getting paid.

I am going to allege—and I am alleging because I do not want to get in trouble here—but I cannot understand how Sydney Metro's valuers can be so different to my valuer. We got a couple of different valuations on my mother's property and they were very, very similar. So how come Sydney Metro's valuers were so far out of fact? If my mother did not have children to fight and argue and get people involved, town planners and this, to prove what the land is worth—the land is worth what it costs to replace. It is as simple as that. That is what nobody understands. That land is worth what it costs to replace. If I was asking a cent more than what it cost to replace, then I am being greedy. We did not ask for that; we asked to replace what we have. They said, "No, we cannot do that because of the uplift, because of this, because of the Just Terms Act." It is fraud. It is a system that is fraud. It is a system that is causing depression, sickness in families, upset and it is wrong. It needs to be changed for the people.

I am not saying that the Government needs to overpay for land because it is taxpayers money and I do not want that. But I think that whether you have five acres in Orchard Hills or whether you have a beachfront property at Bondi Beach, if it is going to get acquired, no matter what it is, you should be paid enough to replace that property with no questions asked. If anything, you should get more, not less. You cannot take something away from a personal home. My mother and I are nobodies out here. We cannot fight the Government but all we want—the people—is to replace what that person has. Get five local agents and see what it is worth to buy back in the area. But we could not do that under the Just Terms Act because of the laws, the uplift and this and that.

At the end of the day, we have to go to a local real estate agent and buy a property. That is all we want. When we told the real estate agents what we had been offered, they laughed at us. Thank you for your support and I will cut it short there. The moral of the story is: What people get taken away, it should be replaced. No matter what property, what shape or what form. They should not have to be stressed. Treat people with fairness and respect. That is Australia. People went to war; people worked hard. Do not steal one cent from a resident. That is all I want to say. Thank you very much. Hopefully one day this can change and help people in the future so that we can live free and happily in our beautiful country that we live in. God bless everyone and thank you.

**The CHAIR:** Thank you, Mr Xiberras.

**The Hon. TAYLOR MARTIN:** I know it is a bad time to interrupt, Chair, but I have to go downstairs for our party room meeting. I am sorry.

**The CHAIR:** That is okay. Mr Kohler?

**Mr KOHLER:** Hello everyone. My situation is similar in a way to the other parties but also different. Myself and my brother purchased that property in Orchard Hills in 2011 after we had worked together for about 10 years to save our money to get that deposit to be able to buy that property. When we purchased that property we had done our investigation on the whole of western Sydney and decided through all of our knowledge that that

would be the best potential for us to put our money in to get a return in the future of potential development. That is not hidden; it is a fact. That is why it has got such good infrastructure and everything leading to it and hence why now it has been chosen to put a metro line and a station through it. In September 2020 we got an acquisition notice from the metro and by November we got an offer. The offer at that time was less than half of what the current market value was. I went and got my two of my own independent valuations and both of them came back at double of what that was. Double! How can that be? How can that possibly be that that valuation can be double for what I am getting offered for my property that I am getting kicked out of?

In June 2021, so six months later basically, we got an offer the same as Mr Vella of 70 per cent more. Now if you just watch the media what has happened over the past 12 months property prices have gone up 20 per cent, not 70 per cent. All current properties in Orchard Hills for sale right now at this point are \$1 million an acre to buy. We are still not at that point. They are trying any possible way to bring the value of our properties down. Now they are bringing in and trying to use a draft Cumberland Plain, which is not even fact yet and cannot be used as town planner's advice. I have been told by multiple town planners that if you went to put a development application [DA] on that property it would have to get approved because you cannot use a draft conservation plan of why you can knock something back. So how can they use that to devalue our properties? It is just not fair or Just Terms Act at all.

The biggest problem in this whole situation is that Orchard Hills in particular had been earmarked for development for 30 years. The reason it has not been developed already is because the unknown of what is happening with the station and the unknown of what is happening with the airport. That is the only reason it has not been developed. As a result of that, there is very little sales evidence, especially in the past five years, as there has been more and more talk about redevelopment of Orchard Hills. So there are no examples of how we can get an actual fair price. And when there are sales after the fact we are not allowed to use them because of the Just Terms Act. Of the last recent four sales in Orchard Hills, three of them we are told we cannot use because of the Just Terms Act. The claim is that they only have this uplift that they have because of the announcement of the station.

Also one of the issues with the current Just Terms Act is the way the town planning advice is taken, in particular our case here in Orchard Hills. Because there has been this lack of sales and lack of things, there is not any evidence of urban planning. That is what the metro's town planner has said. I have taken two town planners' advice from that and taken it to the metro to show them that that is incorrect—that there has always been an urban growth plan for Orchard Hills in play. I have had my retirement—that is what I have put all my heart and soul into over the past 20 years of work. I have put it into that property knowing that one day it would be worth a lot of money and I will be paid fairly for it. Instead, I get acquired and I cannot even replace that.

You only need to do a search on realestate.com and have a look to see how many properties there are—there are one or two for sale in Orchard Hills—and what the price is. They start at \$1 million an acre and they are no less than that. Anyone can do that. How can they not be able to replace what they are taking away from us? It is just incredibly unfair. I thought the show *The Castle* was a joke but this is playing out right in front of me. To a hardworking citizen like myself, I worked for 20 years and paid taxes. I have done everything correct the way that you are supposed to run your life and do the right thing as a citizen. Instead, I have just had it taken away from me—my retirement taken away from me—and I have had to fight and continually try to fight to prove what this is worth when all you have to do is go to realestate.com and have a look—straightaway, in two seconds.

**The CHAIR:** Thank you, Mr Kohler. Thank you all for putting the human face on the impact of the legislation and the process. Before I go to the Opposition to start questioning, I wanted to check with Mr and Mrs Vella whether they said that their property had been acquired last Friday?

**Mr VELLA:** Yes, that is correct.

**The CHAIR:** And that was through compulsory acquisition, not through negotiation?

**Mr VELLA:** Yes, that is correct, through compulsory acquisition.

**The CHAIR:** Okay, thank you. I will start with Mr Mookhey.

**The Hon. DANIEL MOOKHEY:** Firstly I thank all the residents, as the Chair said, for coming forward and telling their story. It is a very courageous thing to do. I will start with Mr and Mrs Vella? Mr and Mrs Vella, you said that your property was acquired by compulsory acquisition. Is that because you were unable to reach an agreed price with Sydney Metro?

**Mr VELLA:** Yes, that is correct.

**The Hon. DANIEL MOOKHEY:** Did that then go to the Valuer General for determination?

**Mr VELLA:** I believe that the Valuer General was already notified a couple of weeks ago because that is just how the process works. But, yes, our next step in the process will be receiving a valuation from the Valuer General.

**The Hon. DANIEL MOOKHEY:** Yes. Have you had any indication as to when you can expect to receive that valuation?

**Mr VELLA:** Yes, there was actually a lot of talk that the Valuer General was delayed because there were a few things going on within their office or department. I actually gave the Valuer General's office a call a couple of weeks ago and spoke to one of the representatives. He said that they have already appointed a valuer and a town planner and he said that if all goes well we should have a draft valuation by mid to late October from the Valuer General.

**The Hon. DANIEL MOOKHEY:** But as of now your home has been taken by Sydney Metro, is that correct?

**Mr VELLA:** That is correct.

**The Hon. DANIEL MOOKHEY:** Do you have to pay Sydney Metro rent?

**Mr VELLA:** At this stage, I believe not. It has not been told to us that we have to pay rent. I believe that we are staying here free of rent up until a certain date that has to be verified by our solicitors. Because our property was acquired last Friday our solicitor today will be sending the Sydney Metro solicitors—asking the question of the exact finer details of us living at the property and if it is free rent or not.

**The Hon. DANIEL MOOKHEY:** Can you tell us about what the impact has been of you losing your home on your family?

**Mr VELLA:** Yes. It has been pretty hard.

**The Hon. DANIEL MOOKHEY:** Take your time.

**Mrs LAUREN VELLA:** Obviously it has been very stressful for us. As we mentioned in our opening statement, we purchased this property and there was no inkling that this would be acquired. We started renovations last year and we were almost complete and then found out that our home would be compulsory acquired. So since then our life has been revolving around this acquisition. A lot of time and expense has gone into this process and, as Mr Xiberras said, we are not experts. This is all new to us. We have had to appoint solicitors, town planners and valuers. That all comes with a very significant up-front cost.

**Mr VELLA:** In saying that, too, we were denied up-front compensation costs to pay for solicitors. I run a business myself. The past 12 months have been very hard for us. Obviously, paying for our wedding—we had an overseas wedding cancelled and we lost a lot of money with that. In the past 12 months business has obviously been hard. We have had people struggling to pay our bills so we have been struggling with having funds ourselves and, on top of that, to have our request for up-front funds be paid was a kick in the stomach. It has been hard for us to try to run a business, pay our workers, keep them in a job and then pay for legal fees and valuation fees on top of that. It is no fault of the solicitors and valuers because they have to get paid and we completely understand that. It is just that we were put in this position. It would have just been a little bit of respect I believe to have—

**Mrs LAUREN VELLA:** A portion.

**Mr VELLA:** Yes, a portion or just something to go to it. In saying that, Sydney Metro have now offered us some sort of compensation that we can claim, but obviously that was going to be from after the date of acquisition so that will hopefully start the process today to see what the conversation will be. Up until this point now we have not received one dollar from Sydney Metro at all and we have outlaid a lot of money. Like I said, in the past 12 months with COVID running a business has been difficult and it has obviously been very hard for us.

**The Hon. DANIEL MOOKHEY:** Mr Vella and Mrs Vella, you said that you have outlaid a lot of money. Can you give us an estimate of what the cost has been so far?

**Mr VELLA:** Approximately, would you say between \$80,000 and \$100,000 or so? Do not hold me to the exact dollar because I have not exactly worked it out, but I would say between \$70,000 and \$90,000 or so, maybe more. I would rather keep it—

**Mrs LAUREN VELLA:** [Disorder] lean.

**Mr VELLA:** Yes, I would rather keep it on the lean side. I will take that question on notice and get back to you guys with an exact answer.

**The Hon. DANIEL MOOKHEY:** Okay. And you said this all took place soon after your wedding, is that correct?

**Mr VELLA:** Correct. We were given the acquisition notice in September just before we got married—a month before we got married last year. It sort of put everything—it has made it very hard for us in that time.

**The Hon. DANIEL MOOKHEY:** Mr Xiberras, are you also in a position to talk to us about what the impact has been on your family and, equally, what costs you have had to incur as you have engaged in the process with Sydney Metro?

**Mr XIBERRAS:** Look, it has been challenging. Like I said, what creates the problem is that the original offer was that low that there is no other way than to say that you were headed for death row. We are nobodies out here; we are not millionaires. When we got that first offer before Christmas we did not even tell our mother. That is how insulting it was—we did not tell our mother what the first offer was, between the brothers and sisters. All we did since then was fight and argue with phone calls to this and town planners to try to bring up the valuations and this and that. At the end of the day, something costs what it costs to replace it. It is as simple as that. You do not need to get 10 people in a room and have 100 meetings and courts and that. It is very simple. If you have a block of land then that block of land costs what it costs to replace it. When I told Sydney Metro, "All we want is to replace what we have", then you are on your own. That is your problem.

They are living in an unreal world. You have people trying to say what Orchard Hills land is worth. Orchard Hills land is worth what it would cost to replace. What should have happened in my eyes is that my mother should be able to go down to her local real estate agent—it should be as simple as this; she is a 76-year-old widow. She goes down to one of the local real estate agents—Jim Aitken or whoever they are—and says, "Righto, Jim, you are the biggest real estate agent in Penrith. Find me five acres in Orchard Hills." I mean, five acres that are equivalent—let us be fair. As soon as you find something, okay, well that is roughly what it is worth or what is on the market. But they have not done that. They want to come up with these rules and these regulations—you have to [disorder] purpose.

**The Hon. DANIEL MOOKHEY:** How much stress would it have saved you had Sydney Metro started the negotiations with a reasonable offer as opposed to having to increase it by 73 per cent over the course of negotiations? How much time would that have saved you?

**Mr XIBERRAS:** That would have been enormous. We have only now started looking at other properties in the past four weeks because of what is going on with this. That is not right. About four to six hours before our first face-to-face meeting—and I do not know the numbers and I want to watch what I say—but they came up massively in the past two weeks before the end of the acquisition period. What is that thing? The property acquisition notice [PAN]. Two weeks before the PAN was going to end when they came up with that massive gap. And it is still under change but they are doing that on purpose.

**The Hon. DANIEL MOOKHEY:** By PAN do you mean property acquisition notice?

**Mr XIBERRAS:** That is right. My mother has done a deal and she is short-changed but, at the end of the day, she is 76 and we did not want to go to court and prolong this stress. At the end of the day, they test you. My argument is: Do not test people; do not put people through a three- or six-month duration fight and bring up the valuation by 73 per cent. Do not insult people, do you know what I mean? The stress is enormous for no reason. You all know roughly what it is worth. It is worth what it costs to roughly replace what you had. What should happen is Sydney Metro should say, "Okay, what is it roughly worth to replace?" And that is it. That is the moral of the story. Otherwise, people are going to lose out.

There is not much more to say other than replace what you have. If Sydney Metro think that we are ripping them off, let them go out and find the property. That is what I said to Sydney Metro. "You go out, you find a property roughly equivalent to my mother's and, when you find it, if you find it for \$1 million, we will give you my mother's for \$1 million. If you have to spend \$7 million, \$8 million or \$10 million, then you give my mother \$7 million, \$8 million or \$10 million." I have told that to Sydney Metro but they say they cannot do that because of whatever the laws are.

**The Hon. DANIEL MOOKHEY:** Mr Kohler, I ask you the same question: What has the impact of this acquisition been on you and your brother, and how much cost have you had to incur so far as you engage with Sydney Metro?

**Mr KOHLER:** Like I said, it has had a very detrimental effect on myself and my brother because we invested all of our life savings into that property and to pay it off to know that one day we would have that potential development value for that property, hence why we bought it. Exactly what Mr Xiberras was saying, they cannot give me back what they are taking off me, and they are not even giving me enough money to be able to do that.



The kick in the guts is that when you get that initial offer it is just a game—they are playing a negotiation game. If you are not wise enough to say no with the first offer or to fight them then you are going to get half the money of what the actual value of the property is. How much have I spent? I have probably spent more than \$80,000 because I wanted multiple parts of evidence. Once I received that first offer I was so upset that I got multiple town planning advice and multiple valuations of my property. Each time you do this it is \$5,000 to \$10,000. I would be in excess of \$80,000 that I have spent now and have had no compensation back as yet as well.

**The CHAIR:** From your testimony it is very clear that you are not asking for something in addition to what you have now; you just want to be made whole. I think that has come through really clearly. I just want to ask about the support you were given. Clearly we have Sydney Metro, who has a lot of experience in acquiring property—they have people dedicated to that process—and then we have you. There is a real power imbalance there, is there not, in that negotiation? Did you get any sort of assistance in legal or financial advice to be able to have that negotiation on a more level footing?

**Mr KOHLER:** Was that question to me?

**The CHAIR:** I will start with Mr Vella and then I will come back to you, Mr Kohler.

**Mr VELLA:** In terms of—what was that wording she said?

**Mrs LAUREN VELLA:** Assistance.

**Mr VELLA:** In terms of assistance, financially, obviously not. We were declined any financial assistance. Like I said, I believe they have offered some sort of assistance now after the property was acquired. In terms of emotional assistance and stuff like that, they have a representative that is meant to be our personal relationship manager. I guess he probably does try his best. The reason why it probably does not work so well is that it is not his job to know all the technical side of the acquisition. To help us get through it, we wanted to know why our property was being acquired, what the valuation was going to be and how it was going to be fair. That person, by no fault of his own, could not help us with that. Us ringing him up did not help us because when we were speaking to this representative he did not have the answers for us. That is by no fault of his own, as well.

By luck, the same representative that was assigned to us by Sydney Metro was the same representative that told us our property would not be acquired three months before. So to be completely honest, I lost complete trust in that representative because for the same representative to give me assurance that the property would not be acquired to then be assigned as our relationship manager—I lost complete trust in him. Look, like I said, it is by no fault of his own. It is not a personal attack on him; he is a really nice guy. But it did not help us at all. We had many sleepless nights and I do not think it was—

**The CHAIR:** So this is a relationship manager appointed by Sydney Metro—is that correct?

**Mr VELLA:** Yes, correct.

**The CHAIR:** Okay, but they are not on your side. They are sort of sitting in the middle between—

**Mr VELLA:** Correct. I would not say sitting in the middle, I would say definitely more on their side. But he is the one who is in between us and the metro and he was the one we were meant to go to and speak to about our concerns and stuff like that, yes.

**The CHAIR:** So if you want to get any sort of power to be able to understand the process of having somebody who represents you who has the same sort of level of knowledge and experience as Sydney Metro, you would be looking at appointing an external person for that, which is how you get into the costs that you talk about.

**Mr VELLA:** Correct, exactly right, yes. Obviously, we are not experienced in any of this so for us to try to make assumptions on what we have been given—that is what we paid our solicitors for and our valuers for. That is their job and obviously we are not experts in this field so for us to try to comprehend—it was hard enough for us to read through the thousands of pages of the EIS and multiple EISs for projects like the Western Sydney Airport line and the Metro West line. That was hard enough for us to spend time reading all of that and going through all of that and to realise what was actually going on here, let alone trying to deal with the exact details of the acquisition and the process. I guess that was the reason for our solicitors. They have done a great job informing us to this point in time. But, obviously, it costs money. Another hard thing was that they did not agree to give us up-front costs to cover those fees.

**The CHAIR:** So you offered Sydney Metro a lease over your property on the basis that they were only going to use it for construction anyway and they could perhaps give it back to you at the end—

**Mr VELLA:** Correct, yes.

**The CHAIR:** How was that offer made and was it made on specific terms? Did you put up a particular proposal?

**Mr VELLA:** No, we did not get to that. Basically, that offer was made through our solicitors. Because we came to the fact that the property—Sydney Metro sort of confirmed that the property would not be affected on the surface of the land post-construction then our solicitor made an offer to Sydney Metro for the construction lease. No money was mentioned of what the amount for the lease would be because it did not get to that. Pretty much straightaway they came back and said, "No, we are not accepting that lease. We are acquiring the property as a freehold and that is it." The discussion did not go any further.

**The Hon. BEN FRANKLIN:** Just one question, if I may. Thank you very much for being here. We have heard evidence from you today that one property was revalued upwards by 73 per cent and one by 70 per cent. That is extraordinary to me. My question is: What was the justification that they used in such a massive disparity? They had to say for some reason the price had jumped by that much. Did they use any justification at all? Can I start with Mr Kohler?

**Mr KOHLER:** In my case my second offer from them was made in conversation with my solicitor, not a formal offer, so I do not have any justification of that because I denied the offer straightaway. I never got to that stage where they would provide that to me, so I cannot answer that question. I cannot give you an answer.

**The Hon. BEN FRANKLIN:** Thank you. Mr Vella?

**Mr VELLA:** I think there may have been a conversation. When I questioned the uplift in valuation from Sydney Metro, I think they said they may have taken into account evidence of a recent sale. But, like I said, it was a very vague conversation because we obviously did not accept the offer and it did not go any further than that. But it was a shock to us that they came to us with that first offer, and then they came to us—look, do not quote me—a couple of months later with another offer saying that the property did not go up in value. This was, I believe—

**Mrs LAUREN VELLA:** Six months later.

**Mr VELLA:** —six months later saying it did not go up in any value. Then after that, maybe another four to eight weeks—I will take that on notice and get back to you with the exact time—it jumped up a substantial amount. I could not understand that in six months it did not go up in value but in four weeks or six weeks or eight weeks it jumped up dramatically. I could not understand that but, like I said, I believe they had a sale that came up that they were able to possibly use in some sort of shape or form.

**The Hon. JOHN GRAHAM:** I just had one question for Mr and Mrs Vella. You talked about the fact that much more land has been acquired than was needed, or certainly much more land than has been acquired for possibly nine stations on another line. When you have raised that issue—why is so much land required here if not just for the station—given you are concerned that it is essentially a development play by the government agency, have you been given any answer or any satisfactory answer?

**Mr VELLA:** Our answer was basically "Just Terms Act". That is basically it. They basically said, "Well, we've spoken to contractors and this is what land is required." I am lost for words. We still cannot understand why—still to this point we do not know why. It was just basically, "We're taking your land. It's under the Just Terms Act. We have the power to do it and that's what we're doing." There was no real reason for it. Obviously it just does not make sense: 65 acres for one station and, I guess, the construction of the line, which is mostly tunnelled through—well, under our property it is a tunnel, anyway. But then, obviously, they can go and build the Sydney Metro West line in a more densely populated area, I may say, where in Orchard Hills we are five-acre rural properties. There is a lot less going on here than what there is, I guess, in the metro west line as well.

How can you go and build nine stations and the whole line in approximately 40 acres but then one station is over 65? It does not make sense whatsoever. For us to get that clarification from Sydney Metro, for them just to say, "It's the Just Terms Act. We're going to take it"—our solicitor has brought it up as well and questioned them on it, but has basically got the response back: "We are acquiring the property as a freehold interest as per the Just Terms Act," and that is it. I believe they have got the power to under the Just Terms Act. It needs to change. Something has to change with the Just Terms Act.

**The CHAIR:** Unfortunately we have run out of time, but I think that this has been an incredibly useful session. Thank you so much for coming and talking to us and giving us the benefit of hearing about your experiences. There were no questions taken on notice, but to the extent we have supplementary questions for you the Committee secretariat will be in touch and you will have 21 days to get back to us. That concludes this session. We will now have a 10-minute break and come back with our next set of witnesses.

**(The witnesses withdrew.)**

**(Short adjournment)**

**CHRISTINE VELLA**, Orchard Hills resident, sworn and examined

**SAM GRIMA**, Orchard Hills resident, sworn and examined

**THERESA GRIMA**, Orchard Hills resident, sworn and examined

**The CHAIR:** I welcome our next set of witnesses. It is very good to see you. I invite each of you to make a short opening statement. If you could try to keep it to a few minutes so we have time for questions, that would be fantastic.

**Mrs CHRISTINE VELLA:** Good morning all. My name is Christine Vella and my husband and I live together with our three children in Orchard Hills. We have lived here for 12 years and have built our lives within and around our community. We had no plans to move. When we purchased our home it was free from any encumbrances or transport proposals. We are not against infrastructure. I have previously submitted a submission that was written in July outlining our concerns in regards to the acquisition process. Our family home has since been acquired last Friday. I am happy to give evidence and answer in detail any questions you as a Committee may have in regards to the acquisition of our home or any problematic issues that have arisen from it. Thank you to all.

**Mrs GRIMA:** Good morning. My name is Theresa Grima and I am here with my husband, Sam Grima. We have lived in Orchard Hills for 20 years and we have two 22-year-old boys still living at home. Metro's initial phone call was 11 September 2020. We were not home—we were at work—and they made a call to our mobile. You cannot begin to image what that phone call did to us in the weeks and months ahead. The unnecessary stress associated with this whole situation and financial stress has made it very difficult, and even harder due to COVID. From that day we have been living in a nightmare, with continuous stress to us, our family and my business, which we cannot get back. Sam is a third-generation farmer. We live 15 minutes away from his mother's farm, where we run our market garden business. We have situated our home and business near both. Sam wakes up before midnight three days a week. If we do not find a property close by, it will add additional travel time, which will affect his health due to less sleep. We are being disadvantaged through no fault of our own.

Because of rising property prices in New South Wales it has been very difficult to find a property like ours. Properties in Orchard Hills are difficult to find; it is a tight-held suburb. We are one minute to the M4 freeway, with major hospitals, shopping centres, universities and three train stations in a five-kilometre radius. We just want to relocate nearby. It has been a constant fight to get a correct valuation that reflects our property from the metro. Their initial valuation was dismal. Their offer was so low we think it was a negotiation ploy to beat us down and make us accept, with no regard to the true value of our property. All we want is to replace what we have and stay in our area. We are a hardworking family. We are proud people and are very proud of our home. It was to be our forever home. Countless hours, money and effort have gone into our property.

Our initial meeting with Sydney Metro was face to face and we thought that they were sympathetic to us, but afterwards it was like we did not matter. Every offer we made to them was refused and they did not want to negotiate. It has been a heart-wrenching process. We have been professional and courteous and treated Sydney Metro with respect all the way through this process. Every offer we made to them was refused and they did not want to negotiate. This process is not a negotiation. We do not even know how we got to this stage of going to the Valuer General [VG]. What is the point to getting a valuer and town planner when everything that has been presented to them has been ignored and rejected? A negotiation should be two parties coming together to resolve the issue, but Sydney Metro was not willing to negotiate with us. If we do not agree to their offer, we are off to the Valuer General.

Sydney Metro is relying on a draft plan to devalue our property, and now we have been informed that the draft plan may not even go ahead. Two weeks before the proposed acquisition notice [PAN] period ended Sydney Metro brought up a biodiversity issue and it has been heavily discounted over three trees on our property. It was a real kick in the guts. This biodiversity is still in draft form and is not yet zoned. How can something that is not zoned be a reason to heavily discount our property? How can we not be able to use recent sales in our area to their full capacity but must use them at a discounted rate because of the public purpose, and then something that is not zoned and is in draft form can be used to have it discounted? It does not make any sense.

They keep mentioning that we must follow the Land Acquisition (Just Terms Compensation) Act 1991. It is a law that is 30 years old. It is outdated and it constrains us from everything. It does not work in these current times on acreage properties. Our valuer has his hands tied. We cannot believe that Sydney Metro are acquiring 65 acres of land to build one train station when Westmead was built on four acres. What is the justification of them acquiring that much land? It is totally wrong and they are pushing us out of our home. Thank you.

**The CHAIR:** Thank you so much for those opening statements and for being here today and sharing your experience. I will start with the Opposition and Mr Mookhey.

**The Hon. DANIEL MOOKHEY:** I thank the witnesses for making their time available to us this morning and for being so candid. Can I just start by getting a bit of an appreciation of where you are respectively up to in the process? Mrs Vella, you said your property was acquired on Friday. Is that correct?

**Mrs CHRISTINE VELLA:** That is correct.

**The Hon. DANIEL MOOKHEY:** Was that by agreement?

**Mrs CHRISTINE VELLA:** It was by agreement.

**The Hon. DANIEL MOOKHEY:** How long did it take you to reach that agreement?

**Mrs CHRISTINE VELLA:** Right up until the agreement was signed, not this Monday but the Monday before.

**The Hon. DANIEL MOOKHEY:** And it started in September last year?

**Mrs CHRISTINE VELLA:** Yes. We received an acquisition notice on 11 September. We actually got news of the proposal back on 26 March 2018 for a different version of the line. My husband and I, and our family, have waited for 3½ years. We waited 2½ years for the gazetted line and we have been in this acquisition process for the last year.

**The Hon. DANIEL MOOKHEY:** In total, it has been three or four years of your life?

**Mrs CHRISTINE VELLA:** Yes, it has been 3½ years of our life.

**The Hon. DANIEL MOOKHEY:** Insofar as you reached an agreement, are you in a position to shed light on the difference between Sydney Metro's first position and the position you agreed? Did it go up or down?

**Mrs CHRISTINE VELLA:** I have not worked out the exact percentage but it is dramatically higher. I will say that it is still not like for like. I can speak on our own position that we will be financially worse off from what we began with. Under the terms in the legislation that we have had to endure, I cannot see how anyone would be able to, at the very least, financially be in the same position as what they began with.

**The Hon. DANIEL MOOKHEY:** I understand that you do not have the exact difference, if you do not mind taking on notice the difference between the first position and the last position. But the other witnesses earlier this morning made the point that in one case it was a 70 per cent variation—a 70 per cent increase on Sydney Metro's first offer. Is that similar to what you have experienced?

**Mrs CHRISTINE VELLA:** It would be a similar percentage. It would not be far off. Like I said, I do not know exactly—I would have to go check my figures—but it would be very close.

**The Hon. DANIEL MOOKHEY:** You made the point that you do not think it is like for like. Does that mean you do not think that that would allow you and your family to effectively be reinstated in Orchard Hills?

**Mrs CHRISTINE VELLA:** Not in the same—what we have now, we could not replace on what we have agreed upon.

**The Hon. DANIEL MOOKHEY:** Mrs Vella, in the last year how much costs have you incurred on lawyers and town planners and valuers?

**Mrs CHRISTINE VELLA:** In excess of \$100,000.

**The Hon. DANIEL MOOKHEY:** Did you get any of that compensated?

**Mrs CHRISTINE VELLA:** Yes, I did, within our agreement.

**The Hon. DANIEL MOOKHEY:** Can I just talk to Mrs and Mr Grima as well? You are yet to reach a position with Sydney Metro. Is that correct?

**Mr GRIMA:** Correct.

**Mrs GRIMA:** That is correct.

**The Hon. DANIEL MOOKHEY:** Have they issued you a property acquisition notice?

**Mr GRIMA:** Yes, pretty much.

**Mrs GRIMA:** Yes, they have with our solicitor.

**The Hon. DANIEL MOOKHEY:** And have they now taken possession of your property? Do they own it, or how far away are you from them owning the property?

**Mrs GRIMA:** I believe it was last Friday that it was gazetted, so I would think so.

**The Hon. DANIEL MOOKHEY:** Right. You are off to the Valuer General, are you?

**Mrs GRIMA:** Yes, that is correct.

**Mr GRIMA:** [Inaudible].

**The Hon. DANIEL MOOKHEY:** Is that because you have not been able to reach an agreement with Sydney Metro?

**Mrs GRIMA:** That is correct.

**The Hon. DANIEL MOOKHEY:** How many offers has Sydney Metro put to you?

**Mrs GRIMA:** Three.

**The Hon. DANIEL MOOKHEY:** Are you also in a position to shed light as to whether there have been dramatic variations in their position?

**Mr GRIMA:** From a ridiculous offer, then just before a meeting we had we received the higher offer. There was an offer in between that, but then we got the higher offer.

**Mrs GRIMA:** We are not quite sure of the percentage of it, but I can get back to you with that.

**The Hon. DANIEL MOOKHEY:** But as it is, it still would not permit you to reinstate yourself into the suburb and certainly not close to your flowers business. Is that correct, Mr Grima?

**Mr GRIMA:** There is no chance, not with what we have invested in our property here.

**The Hon. DANIEL MOOKHEY:** Is that the reason why you are yet to be able to reach agreement with Sydney Metro?

**Mr GRIMA:** We were willing to negotiate—

**Mrs GRIMA:** To negotiate.

**Mr GRIMA:** We have attempted to negotiate but they were just stuck on that number and they would not—back and forth and nothing has really happened. Next thing you knew, we were in front of the Valuer General.

**The Hon. DANIEL MOOKHEY:** How much costs have you incurred so far in this process?

**Mrs GRIMA:** It is over \$100,000 already.

**The Hon. DANIEL MOOKHEY:** How have you been able to pay for that?

**Mr GRIMA:** It is just getting onto our loan.

**Mrs GRIMA:** Yes, we have had to actually use our loan to do that.

**Mr GRIMA:** [Inaudible] off our, yes, line of credit.

**The Hon. DANIEL MOOKHEY:** Right. You run a business in the area as well. Is that correct?

**Mr GRIMA:** We have got a market garden at Horsley Park.

**The Hon. DANIEL MOOKHEY:** You sell, what, flowers at Flemington, do you?

**Mr GRIMA:** No, we are vegetable growers. We grow vegetables and sell vegetables at Flemington markets, at North Sydney markets and a few growers' markets that we do.

**The Hon. DANIEL MOOKHEY:** What has the impact of this whole process been on both your family and your business for the last year?

**Mr GRIMA:** It has turned my family inside out. It is emotionally stressful. When you feel like you are going forward with Sydney Metro, within a few days or a week we are back in stage one again. I feel like we are cattle in a yard, and we have been pushed in a big yard and pushed forward into the crush—nothing more. We have not actually come to some negotiation.

**Mrs GRIMA:** They are not willing to negotiate.

**Mr GRIMA:** They have thrown numbers at us. My valuer had put a fair valuation—we are there when they are there—and we have tried to move now to clarify everything but they just stuck to their valuation.

**The CHAIR:** Can I ask—

**Mr GRIMA:** It was not really a negotiation—

**Mrs GRIMA:** No, it was not.

**Mr GRIMA:** —in our case, I feel.

**The CHAIR:** What effort has been made by Sydney Metro to make the process easier on you?

**Mr GRIMA:** We went everything through our valuer and our solicitor. Because of the emotional stress and everything, we found it easier not to deal with Sydney Metro directly, except we would have a meeting with them when it was necessary to have a meeting. At the meetings we felt like we were progressing when we were with Sydney Metro. But as I said before, as soon as that meeting was finished it came back to square one. There were no steps forward, I feel. It was just one step forward and then two steps back.

**The Hon. DANIEL MOOKHEY:** Did you get the—

**Mr GRIMA:** It was like they were not willing to meet somewhere along the line and try and resolve the situation.

**Mrs GRIMA:** Negotiate.

**Mr GRIMA:** And then we were hit with that biodiversity, which was even more a kick in the guts.

**Mrs GRIMA:** Yes, definitely.

**Mr GRIMA:** To me, why should I have a lump in my stomach and sleepless nights—and I get up three days a week to go to Flemington to feed people—and have to deal with this? It is not anything of my fault, you know what I mean? It has turned my—

**Mrs GRIMA:** It has turned our lives upside down.

**Mr GRIMA:** Then we have got to go and try and do something so we can forget about these things, so we can continue working and feeding people. I do not understand where there is a negotiation. There is not. It is not like I was not willing to try to get everything up. When they walked into my house I said, "I need to resolve this to get my family on track" because I knew it would bring my family down—because it brings me down. We are emotional. I negotiate with people every day in the market. What I feel is that it was not a negotiation. How can that be fair? A negotiation is two parties coming together and resolving the situation so both are happy and walk away happy.

**Mrs GRIMA:** It was not the case.

**Mr GRIMA:** It was not the case, in our case. I feel that they just stuck to their guns. How they came to a valuation on the biodiversity—I do not know how they came to that figure. They dropped it down to that much when my neighbour, a fence between us, put it on the market. It is fully bio—

**Mrs GRIMA:** It is semi [inaudible].

**Mr GRIMA:** Proposed, anyway, it is proposed—and then I have got three trees and they have discounted me that much. You know what I mean? It is ridiculous.

**Mrs GRIMA:** It is a kick in the guts.

**Mr GRIMA:** That was the final straw. I just put my hands up and I thought, "All these 40 years that me and Theresa have been getting up at midnight and going to the growers' market and feeding people has been—I'm going backwards!" We are people from the land. We are all people that came from farms. The land is not just land. The house—I can build the house. I can build a home. But you cannot take my land; that is what feeds me. It fed my family. My father was a farmer. That land is more to me than just money. That is something I strived for all my life, you know what I mean, trying to get somewhere—and then I have got to put up with this? That is wrong. These people, the residents that we have here around us, are in the same situation and they have been put through more and more stress. I feel for them, too, as much as I feel for myself because I know these people have been longer than me. How can that be? That is a negotiation. Anyway.

**The Hon. DANIEL MOOKHEY:** Did Sydney Metro ever identify a reason why they particularly wanted your land?

**Mr GRIMA:** They said they needed it for earthworks.

**The Hon. DANIEL MOOKHEY:** At any point did they suggest, or did you suggest, that maybe they should lease it and give it back?

**Mr GRIMA:** Look, I would lease it to them—of course I would! But I did not put that in writing, no. But I would lease it to them.

**The Hon. DANIEL MOOKHEY:** Mrs Vella, did Sydney Metro ever identify the reasons why they needed your land?

**Mrs CHRISTINE VELLA:** Yes. We were identified in the environmental impact statement [EIS] in October for laydown and material handling. We then tried to negotiate construction leases in a variety of proposals through our lawyers, which we were all knocked back on with a meeting with Sydney Metro earlier this year. We did push the fact that there was no permanent structures on my husband, Jason's, and my property. They did suggest that maybe, quite possibly they would put the station car park on our house, but that is yet to be determined and there was no evidence to suggest that at that point. But they did then tell us that no construction leases would be offered over any of the properties in Orchard Hills.

**The Hon. DANIEL MOOKHEY:** Did they ever specify a reason why they would refuse to offer construction leases?

**Mrs CHRISTINE VELLA:** Not an adequate one, no.

**The Hon. DANIEL MOOKHEY:** Given that they are acquiring 65 acres, where I think the equivalent at Westmead is 1.5, what do you think is the reason why they want so much land?

**Mrs CHRISTINE VELLA:** I cannot—it would be an assumption why I would—

**The Hon. DANIEL MOOKHEY:** What do you assume?

**Mrs CHRISTINE VELLA:** I assume that it is heavily advertised that it will become a mixed-use precinct. There are documents to suggest and words to suggest that it will be a developed precinct around the station. I know that it has been done before on the north-west line and I think it is the transport amendment bill of 2018 that gives Sydney Metro the right to develop the excess land around stations. To date, I believe that this station is the biggest construction site that has been used by Sydney Metro. It is in excess of 65 acres. The reason why we do bring up Westmead station so much is because, on par with Westmead station, it is a very similar construction methodology as per their EIS statements on both lines. There is also a higher number of workers and excavated spoil on the Westmead site as opposed to the Orchard Hills site.

I still have not heard an adequate reason why they are acquiring so much land. I think what gets us as well is that this has, as you have heard from the Grimmas, turned our lives upside down. It has ripped this whole community to shreds. I have three children and my husband who have suffered physically and emotionally for the last 3½ years due to this line. But the New South Wales Government does advertise that they minimise acquisitions in every effort that they do. I cannot reason how that has been done.

**The Hon. DANIEL MOOKHEY:** This is my final question before I pass to others. Did either of you have the opportunity to either talk directly with the head of Sydney Metro at any point in time or, for that matter, the Minister or anyone else from Transport for NSW or the Government who might be able to step in and at least ensure that a fair process was being followed?

**Mrs CHRISTINE VELLA:** Over the course of the last 3½ years I have spoken to many government representatives—many people from, first, Transport for NSW. Tanya Davies has been advocating on our behalf, as well as Jim Wilson from 2GB. We have also spoken at times with various people from Sydney Metro.

**The Hon. DANIEL MOOKHEY:** Did you have a chance to speak to—

**The Hon. JOHN GRAHAM:** Can I just ask—

**The Hon. DANIEL MOOKHEY:** Yes, sure, John.

**The Hon. JOHN GRAHAM:** I was just going to follow that point you made about the community because you have each spoken very clearly about the impact this has had on you or your families. The point a range of you have made is "It is very difficult for us to buy back into this area." It is a relatively close-knit community. What has it actually done to the community of Orchard Hills, who have been there for quite some time?

**Mrs CHRISTINE VELLA:** To watch the people around us suffer through depression, anxiety—a lot of us are not sleeping. A lot of us are elderly. I can think of one in particular who has lived here for 50 years. He has been in and out of hospital. His health has deteriorated dramatically. He is 76 years old. He is married. The



toll that it has taken, particularly on their lives health-wise—I hope it has not, but I cannot see how it has not done permanent damage to his health. They are just one. The worry and stress—it is a flow-on ripple effect. Like I said, I can see it in my children, which breaks my heart. But to try and console and to witness this and live in it and be immersed in it, particularly for the last year, has been horrendous.

**Mrs GRIMA:** I would have to agree with Christine. It has definitely taken a toll on all of us. We are a tight-knit community and it is just breaking apart something that we have lived here for so many years. It has made it very difficult and stressful.

**Mr GRIMA:** Yes, it is just unbelievable. I feel that it should not have to be this stressful. It should be a process that flows along. To me, it feels like Sydney Metro have been coming up with one thing after another and prolonging the whole situation, and it is stretching on and on. And they just come up with something different, like the biodiversity now, just to kick you in the guts a bit more. We are losing not only our home and our property; we are losing our friends. If I need something across the road I will just duck across the road and he can fix it for me—he's a welder—or Jason, you know what I mean? We know them. We have known them for 20 years. We are not living—you know?

**The Hon. JOHN GRAHAM:** Yes, exactly. Thank you for your evidence today.

**The CHAIR:** I think you have made it clear that you are not anti-development and you are not anti-infrastructure. This is about, I guess, doing this better. It is very—

**Mr GRIMA:** The process has not [disorder].

**The CHAIR:** It is very unfortunate to hear your experience, particularly the stress that it has created for you. If we were to design a better process, what would it look like? What could be done better?

**Mr GRIMA:** It is hard to say—look, if you are talking about farming, I can tell you. The system is in the Government's hands. But I feel that something that a person does not bring onto themselves—it gets put onto them—should flow. It should be an easier process where it is not a matter of pushing that person down to where he has to cry for his money for the property that he has worked so hard for. It feels, to me, not a negotiation. It feels to me: "This is what you've got and this is what you're going to get," because the Just Terms Act pushes them towards it. You can get the best valuer in the land. "Yes," Sydney Metro said, "you can get your own valuer, you can get your own town planner" and so on and so forth. But if you tie his hands up, because he can only value the property on rural or on recent sales—fair enough. But the recent sales have shown in New South Wales, if not in all of Australia, that the property market has been going up. We are not in that same situation where the valuations—they have just gone silly.

They say, "Well, it's because of the public purpose." But it is not necessarily because of the public purpose, because if it was just off the public purpose it would be everywhere. But in the city they are breaking records. Even here in the west, for a housing block the agents are saying—my niece is looking for a house. The agents are saying, "The property owner—we are quoting the property at a certain amount of price and they are getting 200-plus more, and we are just staying with our jaws dropped." How can we then keep on taking a discount and we cannot use the property next door at a discounted rate? But then it sold for so much money that then my little biodiversity—three trees that I left for the cows for a shade—is a ridiculous amount of valuation on it.

**Mrs GRIMA:** It is a kick in the guts.

**Mr GRIMA:** How can you come to terms with that? Where did they get that number? That is what that tells me, you know?

**The CHAIR:** Mrs Vella, could you respond to that question as well? I guess there is the price issue, but what else could be done in terms of the process?

**Mrs CHRISTINE VELLA:** We found through this process—I can start at the beginning, if you do not mind. When it was first proposed, Transport for NSW—we had a submission period for six weeks. In that time we submitted two alternative paths for this line that minimised home acquisitions. We had a total of 986 signatures submitted for those proposals. In December 2018 we met with Transport for NSW, who stated that they were viable options and at least one of them, which would have seen the line run alongside the M9 and the freight line in government land, would be submitted to the Government, upon which the Government would vote on it. Obviously the Government did not vote in favour, but there was a line there that did not affect as many people as what it does now.

On that point, I would like to say that the Government should be held accountable for not minimising home acquisitions. These are family homes and businesses. People have spent their lives working towards this. We are only one situation, but my husband and I obviously sacrificed a lot to live where we live and to own our

own place and give our kids everything that we could. But also for my neighbours, ultimately it is their superannuation as well. When you are 76 years old and someone rips that in half, it is very scary and terrifying. Everybody has a story and everybody's home should be treated with respect. If the Government can minimise acquisitions and they are not then they should be held accountable. That should be number one.

Number two, going through this process, like we said, the construction footprint of Orchard Hills is absolutely massive. We do not have any adequate answers as to why that is so. There should be regulations in relation to that. If there is not a necessary reason to take someone's home, it should not be taken. There needs to be accountability held for that. As for the uplift, the main problem we have in establishing the valuation of our home is the legislation. I feel and my husband feels—and I think it is a general feeling of the community—that the legislation is heavily weighted towards the Government. It is not until you get into the process—it has been a huge learning curve.

A year ago my husband and I thought we were well aware of the process. We had met many times with Transport for NSW. We felt we were well schooled in compulsory acquisition and the process to come—but we were not. At every turn we were hit with unexpected legislation, which made it very, very difficult to establish even a relatively okay valuation of our property. It is good enough to say that \$100,000 is a lot of money, but \$100,000 is no good to me if it cannot buy me what I have. As soon as government representatives knock on your door you have instantaneously lost your home and are removed from your area because there is no way that you can establish a proper rate. After that happens, because the public purpose has been advertised it can be argued in a court of law that a percentage needs to be deducted from every sale that happens from there in. You will always be behind. There is nothing that can be argued that you can use a like-for-like property for your own.

**The CHAIR:** Why did you then reach an agreement with Sydney Metro prior to the compulsory acquisition? What determined that decision?

**Mrs CHRISTINE VELLA:** My husband and I reached an agreement with Sydney Metro purely for the fact that we did not want to proceed to court. That is the reason why. We have suffered greatly. Our family has suffered. Our marriage has suffered. Our children have suffered. We felt that we did not want to take the risk of going to court.

**The CHAIR:** Is there some relief now with having had the process effectively end? Do you know how much money you have got to be able to look for another place?

**Mrs CHRISTINE VELLA:** There is some relief, in that respect. There is some respite. However, as I said earlier, we are not financially better off. I do not want that to—it was a decision made with the risk factor taken into account and also a mental health factor taken into account. There are numerous reasons. Like I said, I do not think anybody—I can only speak for myself but, no, we are not financially better off or in the same position as what we began with.

**The CHAIR:** Will you be able to now find another property in the area?

**Mrs CHRISTINE VELLA:** We are actively trying but, like I said, it will be to our detriment. If we happen to find another property in the area we will be significantly worse off for it.

**The Hon. DANIEL MOOKHEY:** Mr Grima, you made repeated references to the issue of the biodiversity. Just so I can properly understand that, you have three trees on your property and they discounted the value of the compensation as a result. Is that basically it?

**Mrs GRIMA:** That is correct.

**Mr GRIMA:** Three trees in the biodiversity [inaudible].

**The Hon. DANIEL MOOKHEY:** And you kept these trees, as you said, to provide shade to your animals. Is that correct?

**Mr GRIMA:** Yes.

**Mrs GRIMA:** We have cattle on the—

**Mr GRIMA:** We have cattle and we thought we would leave them there.

**The Hon. DANIEL MOOKHEY:** How much was your property discounted? What was the range?

**Mr GRIMA:** From, say, 200 down to 80.

**Mrs GRIMA:** [Disorder].

**The Hon. DANIEL MOOKHEY:** Sorry? They discounted your value by \$120,000?

**Mrs GRIMA:** That is correct.

**The Hon. DANIEL MOOKHEY:** So \$40,000 a tree?

**Mrs GRIMA:** Sorry?

**Mr GRIMA:** No, they had already docked us—

**The Hon. DANIEL MOOKHEY:** Some \$40,000—

**Mr GRIMA:** No, but apparently it is not just the trees. It is a chunk of land—I do not know if it is the height of the tree. It is the amount of shade that the tree produces, as well.

**Mrs GRIMA:** The shade.

**The Hon. DANIEL MOOKHEY:** You would have been better off just land clearing, basically.

**Mr GRIMA:** Well, 100 per cent! I always thought I would do the right thing. They did not bother me at the time and they looked good.

**The Hon. DANIEL MOOKHEY:** You made the point that there is no part of the Just Terms Act that requires them to do that. It was a discretionary choice of them to include the biodiversity on your property. Is that correct?

**Mrs GRIMA:** Yes, that is correct.

**Mr GRIMA:** Yes.

**The Hon. DANIEL MOOKHEY:** Do you feel like you are being punished because you were a proper land steward?

**Mrs GRIMA:** One hundred per cent.

**Mr GRIMA:** It was the last nail in the coffin, as far as I am concerned. It was just too much money. We still tried to negotiate, even with that. But if I compare it to next door, she put it on the market. It was fully—

**Mrs GRIMA:** Heavily timbered.

**Mr GRIMA:** It is heavily timbered. It has not got—the house we have not got. But it sold for over 250.

**Mrs GRIMA:** A square metre.

**The Hon. DANIEL MOOKHEY:** [Disorder].

**Mr GRIMA:** Our biodiversity is worth 80.<sup>1</sup>

**The Hon. DANIEL MOOKHEY:** Right.

**Mr GRIMA:** That is why I cannot come to the number—how they got to that number.

**The Hon. DANIEL MOOKHEY:** You might have western Sydney's most expensive trees, really, is what you are telling us.

**Mrs GRIMA:** Well, yes.

**Mr GRIMA:** Yes. I might build a house on it.

**Mrs GRIMA:** It is ridiculous. It does not make any sense.

**The Hon. DANIEL MOOKHEY:** [Disorder] way too much, but you did point out to Sydney Metro that this seemed like an absurd decision on their part, did you not?

**Mr GRIMA:** Well, we did not actually—

**Mrs GRIMA:** Our solicitor [disorder].

**Mr GRIMA:** Our solicitor was doing the negotiation—

**The Hon. DANIEL MOOKHEY:** Yes, on your behalf.

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<sup>1</sup> In [correspondence](#) to the committee dated 5 October 2021 Mr and Mrs Grima provided a clarification to their evidence.

**Mr GRIMA:** We were trying to negotiate. Yes, we tried to say that it is an absurd thing and they were saying they are talking about it because it is still in draft form, the biodiversity. So we felt like things were happening in that situation where the government bodies were talking about whether they can actually do that.

**Mrs GRIMA:** Tanya Davies has been trying to help us along with that as well.

**Mr GRIMA:** My solicitor gave them a couple of different, down offers—coming down from our initial valuer's thing—and next we were at the VG. My solicitor got a call from the VG and said we were overlooked and they want to continue on with that situation. Instead of resolving it and trying to get my family back on track—and all this headaches and stress—we have actually added to our sleepless nights.

**Mrs GRIMA:** [Disorder].

**Mr GRIMA:** It is never ending. It is a never-ending story. I can understand why people have actually had enough and just want to get on with their lives.

**The Hon. DANIEL MOOKHEY:** How long do you foresee the Valuer General process taking for your land? Have you had any indication of how long that is going to take?

**Mrs GRIMA:** No, we are not quite sure.

**Mr GRIMA:** We do not know.

**Mrs GRIMA:** We are just waiting for our solicitor to speak with their representative to organise another valuation for them to come out.

**Mr GRIMA:** See, we feel like it is all starting again. This whole year has been just upside down and now it is starting again—our nightmare is starting again.

**Mrs GRIMA:** We have got to go through the process again.

**Mr GRIMA:** I am just trying to keep the family positive and I have not been saying too much—you know, "It'll work itself out." That is why we have put everything through to the solicitor and through our valuer, because you want to try and get yourself zoned away from it for a while and just have peace in your life. That is it. I am sure that is why other people have signed just to try to continue on, because it is just a never-ending process. Like I said, it feels like you are going forward when you have a meeting and then something else comes up. It is ridiculous.

**The Hon. DANIEL MOOKHEY:** Do you sense that Sydney Metro has negotiated with you in good faith?

**Mr GRIMA:** I feel there is a process. I am not sure about "good faith" or not—I do not know. But I do not feel that it is a negotiating system. If one party is willing to negotiate and the other party is holding to its guns, well, it is not going to happen. You cannot meet anywhere.

**Mrs GRIMA:** Yes, that is what is happening.

**Mr GRIMA:** I feel that I did not bring this on my family. Sydney Metro and the Government brought this onto my family and I have got to deal with something that I have never—you know, I can deal with a lot of things.

**Mrs GRIMA:** It is no fault of our own.

**Mr GRIMA:** I can handle a lot of things and I will push forward, but—

**Mrs GRIMA:** At some point, you break.

**Mr GRIMA:** Even the financial side of things: How would you do it if you did not have a way to get the money? It has already cost me over \$100,000. I worry every time I get a bill. I need to run my business. I need to feed my family. Instead of my loan going down, my loan is going up. You know what I mean?

**The Hon. DANIEL MOOKHEY:** That is it for me, Chair.

**The CHAIR:** Just coming back to that question of negotiation and whether, in fact, you can have a negotiation when there is such a power imbalance, what do you think could be done to create a more level playing field for that sort of negotiation? Would it be up-front compensation or a payment for your legal fees?

**Mrs GRIMA:** It would help.

**Mr GRIMA:** I think the process would have been finished six months ago with a lot of residents. If you put me there I would have negotiated 100 times better. You have got to be fair and you have got to say—you are

going to find some people that are hard headed and they are going to want a silly price. Fair enough; well, then, we will go through the system. But if you are willing to negotiate and the two parties are coming together, well, negotiate with these people. It is not like we are saying, "No, we don't want to negotiate with you." You do not come with a silly price. I could have told them I value it at a price in the sky, like they priced theirs very low. I do not understand how they came to that valuation in the first place. It is a process, I suppose, but maybe it is their process. I do not know. But I think you have to be realistic and look at what is happening out there.

**The CHAIR:** As you say, this is something that has been done to you without any sort of agency on your behalf. If the Just Terms Act was instead directed towards you not being in a worse off position after the acquisition, do you think that would create a better process?

**Mr GRIMA:** A hundred per cent.

**Mrs GRIMA:** Yes.

**Mr GRIMA:** A hundred per cent. Like I said, why can we not have a system where they do have some—I think overseas the two parties get together to the benefit of both. So the government goes forward and the landowner goes forward, and then the community is happy because we can get infrastructure done. I did not get the land given to me. It did not drop from the sky and was given to us. This land was worked hard and earned hard, by hands, and the same with the other people, because we prefer—we like people that want to live on property. If we wanted to live in Manly in a unit, that is fair enough, but we do not. We did not come out here for a metro to come through, or thinking that we were going to get rich out of it. But at the moment land is harder to get—the land that you have got in the Sydney Basin, for example. That is the whole issue; it is a totally different thing. If I am in a house block, I can try and find a house similar to mine in a residential area, but it is not so simple to go out there and buy land. And you say, "Well, don't buy land; buy 2½ acres", but why would I buy 2½ acres when I want five? I am a farmer, and these people need it. That is what we need.

**Mrs GRIMA:** We have been disadvantaged all the way through.

**Mr GRIMA:** It is a disadvantage system. Like Mrs Vella said, the Just Terms Act is heavily favoured towards the government. And, yes, you can get your own valuer. But his hands are tied, to a degree. But if their valuer and your valuer are two totally different price ranges—okay, it is here and it is here—well, where is it? In that gap, where is it? Where do we get? It has not budged from there. We have budged, but they have not budged.

**The CHAIR:** Unfortunately, we are out of time. Thank you, again, so much for coming and for putting your stories on the record. It is really incredibly helpful for the Committee, but also hopefully for those viewing and reading the transcript of this session, to see the very human impact that the process can have. Thank you very much for that.

**(The witnesses withdrew.)**

**(Short adjournment)**

**PETER REGAN**, Chief Executive, Sydney Metro, affirmed and examined

**REBECCA McPHEE**, Deputy Chief Executive, Sydney Metro, affirmed and examined

**The CHAIR:** Thank you for attending today's hearing. Would either of you like to make a short opening statement?

**Mr REGAN:** Yes, Madam Chair. I will, if that is okay.

**The CHAIR:** Go ahead.

**Mr REGAN:** Thank you, Madam Chair and Committee members. I appreciate the opportunity to appear today. I would like to make a few opening remarks specific to Sydney Metro before taking your questions. I will just take a couple of minutes. Firstly and most importantly, everything we do in relation to property acquisition is covered by the Land Acquisition (Just Terms Compensation) Act 1991. Since 2011 the property acquisition process for the construction of Sydney's new metro railways has been wholly guided by this legislation. I can confirm to the Committee that on the Metro North West line, 78 per cent of acquisition was by agreement with property owners or tenants. On the City & Southwest project, 82 per cent of acquisition was by agreement. For the Metro West project between Bays and Westmead, that figure is 72 per cent. For the Western Sydney Airport project, Sydney Metro has reached 71 per cent of acquisitions by agreement.

Madam Chair, it goes without saying and I acknowledge that property acquisition and the process around property acquisition can be a very difficult one for those directly affected—for individuals, for families, for businesses, for people whose property has to be acquired to build infrastructure like metro lines. I understand their concerns and I acknowledge their frustrations, and I do apologise to them on behalf of Sydney Metro for any stress that they feel. Our job at Sydney Metro is to build railways using the least amount of land possible and as efficiently as possible for the taxpayer. In designing major projects, we make every possible effort to avoid the need to acquire private property and to use existing State-owned land. In some cases, however, there is no alternative but to purchase properties to allow for construction.

In relation to the Sydney Metro Western Sydney Airport project, I can confirm that we are acquiring one commercial building and 19 residential buildings. Also being acquired are four properties that are vacant as well as partial land acquisitions of 14 properties. We are going through a process set out clearly in legislation. Independent valuers are required to assess the value of freehold property in accordance with the Just Terms Act using the appropriate valuation methodology applicable to each property. Madam Chair, each Sydney Metro railway project is unique due to many factors, including geographical location and topography. These railway lines are designed to deliver fast and efficient metro services, and preferred station locations are determined to get the best customer and community outcomes. They are designed to service communities for the next century and beyond, and they are designed to grow with them.

Finally, I would like to correct one assertion that the Committee may be aware of: the comparison of Orchard Hills to Westmead metro stations and sites. Orchard Hills and Westmead are an apples-and-oranges comparison. Westmead is an underground station in a highly urbanised environment at the end of a line. Orchard Hills is in a low-density area; will be built in a cutting, open to the sky; and will be a major construction site, also required to launch two mega tunnel boring machines. Comparing the construction methodologies of the two is misleading. Sydney Metro West is about 25 kilometres long and completely underground. The 23-kilometre Sydney Metro Western Sydney Airport project has 10 kilometres of twin tunnels in two sections and 13 kilometres of railway tracks at ground level or elevated on a skytrain viaduct. It also goes through the international airport site.

For the Committee's benefit, a more accurate comparison is Orchard Hills with Bella Vista on the Metro North West line, which has now been an operating railway station for more than two years but was used in the construction of the North West Rail Link. Both sites are about the same size and, importantly, both sites are similar in how they are used during construction—namely, launching two tunnel boring machines, running tunnelling support operations, storing thousands of concrete tunnelling segments as well as crushed rock from tunnelling, a grout-batching plant, construction sites for the stations themselves, railway dive structures where the railway goes from the surface into a tunnel, and road bridge construction over both sites. It is a fact that most Sydney Metro construction sites are larger than the final station footprint. We need to be able to build the stations safely and efficiently, and we do that using the least amount of land that we can. I thank the Committee in advance for your time today. I am happy to take any questions.

**The CHAIR:** Thank you very much. I will start with Opposition questions. Mr Mookhey.

**The Hon. DANIEL MOOKHEY:** Thank you, Chair. Firstly, good to see you again, Mr Regan. Thank you for joining us. Ms McPhee, thank you as well for joining us. Could I establish just a few more preliminary details about the scope of Sydney Metro's acquisitions? On the Western Sydney Airport line, how many properties, again, are you acquiring?

**Mr REGAN:** Nineteen. [Disorder].

**The Hon. DANIEL MOOKHEY:** And how many of them are in Orchard Hills?

**Mr REGAN:** I believe that number—just bear with me. We are acquiring 19 in Orchard Hills.

**The Hon. DANIEL MOOKHEY:** So all the properties are coming from Orchard Hills. Is that correct?

**Mr REGAN:** No, sorry, I apologise. Metro Western Sydney Airport—in total, there are 19 in Orchard Hills. The broader number—Ms McPhee will have that number to hand. She may be able to help me find that.

**Ms McPHEE:** Absolutely, Mr Regan. There are 21 buildings in total across the alignment, but that is 62 interests that we are acquiring. That includes leasehold as well as freehold interests across those 21 buildings. Of those interests, 21 interests are in Orchard Hills.

**The Hon. DANIEL MOOKHEY:** Okay, thank you. On the western Sydney Bays to Westmead link, do you have the similar numbers?

**Ms McPHEE:** I can answer that one. For Metro West Westmead to the Bays, there are 115 buildings that we are acquiring. In total that is 417 interests, freehold and leasehold.

**The Hon. DANIEL MOOKHEY:** Do you have the breakdown of those 417 interests by residential versus commercial or business?

**Ms McPHEE:** I will have to take that question on notice; I do not have that information with me.

**The Hon. DANIEL MOOKHEY:** But presumably that encompasses the Hunter Connection and others, so I presume it is quite a lot of business.

**Ms McPHEE:** No, in fact, those properties are being acquired as part of a separate acquisition process for Pymont and the CBD. The Metro West acquisition was in two parts: Westmead to the Bays, which is the 417 interests that I gave you; and the Pymont and CBD acquisition, which is ongoing at the moment. That is 13 buildings, but that is 573 interests over those 13 buildings.

**The Hon. DANIEL MOOKHEY:** Will you just take us through—I think Mr Regan covered where you were up to in respect of the Western Sydney Airport acquisitions, but have you started on the Westmead to Bays? How many of those 417 are completed and how many are not?

**Mr REGAN:** Yes, I can answer that. For Westmead to the Bays, as Ms McPhee said, there are 417 properties. To date, 72 per cent of those properties have been acquired by agreement, and the balance will be going through the compulsory acquisition process. For the—

**The Hon. DANIEL MOOKHEY:** Sorry, Mr Regan, just pause there. Seventy-two per cent have been acquired by agreement. When you said the balance will be going through the compulsory acquisition process, do you mean the Valuer General process?

**Mr REGAN:** Yes, that is right. I am happy to give you more context if you wish.

**The Hon. DANIEL MOOKHEY:** No, that is okay. But you have completed all negotiations; it is not like there is another category of people who you are still negotiating with in respect of that part.

**Mr REGAN:** There is a small number of properties where we are still finalising those negotiations. But for the most part, in that section from Westmead to the Bays, we have been through the commercial process. Where we have been unable to reach agreement, those properties have been gazetted for determination by the Valuer General.

**The Hon. DANIEL MOOKHEY:** Yes, so it is roughly a bit more than a quarter. And where are we up to in the Pymont to CBD? What is the time scale for that?

**Mr REGAN:** Pymont to the CBD, at this stage—that was announced earlier this year, in May this year. We have commenced discussions with relevant property owners and interest holders. At this stage we have not completed acquisitions in Pymont and the CBD.

**The Hon. DANIEL MOOKHEY:** What is the time scale? When are you required to have this resolved in order to permit construction?

**Mr REGAN:** We are in discussion with each of those property owners and interests. We are working through next year to seek to reach commercial agreement, with the potential towards the end of next year to be looking at gazetting those properties for construction commencement in 2023.

**The Hon. DANIEL MOOKHEY:** Okay, thank you for that. Can we just return now to the matters of Orchard Hills, if you do not mind? Did you have the opportunity to see the evidence that was given by the Orchard Hills residents?

**Mr REGAN:** I have not seen all that this morning, no.

**The Hon. DANIEL MOOKHEY:** Did Ms McPhee?

**Ms McPHEE:** I have not seen that, no.

**The Hon. DANIEL MOOKHEY:** Okay, but presumably you are across the matter?

**Mr REGAN:** Yes, we are certainly across the process that we have been undertaking at Orchard Hills over the past couple of years.

**The Hon. DANIEL MOOKHEY:** Have you at all times negotiated in good faith with those residents?

**Mr REGAN:** As far as I am aware we have, yes.

**The Hon. DANIEL MOOKHEY:** We had residents tell us this morning that the difference between the first offer made by Sydney Metro and the second or the final offer made was 70 per cent, which is a pretty dramatic turnaround in property values. Will you tell us why that is?

**Mr REGAN:** Yes, so perhaps if I could start by explaining to you the process that we undertake. I think it is very important that we do talk through the process as it exists. Firstly, we act under the policies of the Government and the legislation, the Just Terms Compensation Act. Under that Act, we are required to take into account factors on the market value of the property and also look at other areas where we can contribute to assist property owners. In the case of Orchard Hills, as is the case across all of our acquisitions, in doing so we engage independent valuers to assist us in determining the appropriate price for those discussions. Those independent valuers are required to take into account all of the reference points that they can, including other property sales and market value data, to try and assess the appropriate level of offer and compensation. It is particularly challenging in an environment such as exists at Orchard Hills, where there is not a significant number of data points or where the market is moving quite rapidly.

To enable us to continue to operate the process, I guess it is fair to describe it as a dynamic process. During that process, we take into account additional information as it becomes available—other property sales, other market data. We have offered each of the property interests there the ability to have an independent valuer appointed for them, as well, and we ask if they wish to share the outcome of that or make any other representations. That can be facilitated and the two valuers can talk. What actually happens in practice is that, as there is additional data available, we continue to have that taken under consideration by the independent valuers and they continue to update us. I think your question was why there is a significant difference between the initial offer and the offer further down the process, and that reflects that additional information that has been taken into account—based on feedback and discussions with the owners, based on other property sales, based on other relevant data. So it continues to remain a dynamic process until it is completed.

**The Hon. DANIEL MOOKHEY:** Mr Regan, the additional data point that caused Sydney Metro to revise its offer by what the residents say is upwards of 70 per cent—when did Sydney Metro get that data?

**Mr REGAN:** As I was just explaining, there is a process that is a continuous process that has taken place since the initial discussions, and data as it has been available is considered by our independent valuers and taken into account. I think it is probably fair to say that each of those properties is also treated separately and independently of each other. They are obviously linked geographically, but there are different factors in play with different properties. We have continued to go through that process based on the individual factors and through discussions with owners and our own data and research.

**The Hon. DANIEL MOOKHEY:** I appreciate that, but I will press for an answer because the residents told us that a huge amount of stress and pressure would have been saved had Sydney Metro come to the table originally, last September, with a value that was closely aligned to their final position. In light of those residents telling us about the huge stress that they have undergone—which you accept that they have as well, to be fair—I do want to press: When did you become aware of the fact that your initial valuation was out to the point of about 70 per cent? Or alternatively, an additional data point arrived that caused you to say, "Well, actually, you know what? We can go back to the table and get a better offer to these residents." When did you become aware of that?



**Mr REGAN:** I think all the way through the process there has been additional data, and the residents and the other property owners in the area have been advising us of their views as to data. There is not a single data point that we have relied upon or that our valuers have taken into account. As the process has evolved, whenever there is more information, that is taken into account—for all the properties and for each property individually. On the way through, as that data has become available, we have taken it into account.

I agree that actually, with the perfect foresight, the process would be different. But we do not have perfect foresight. We have to work through the process as the information becomes available and to try to do it as quickly as possible. In doing so, we have offered each of those property owners the ability to have their own valuers to assist in that process and to help make the case for the individual aspects of their property and the overall market. We have actually strived throughout this process to reach agreement and to be able to pay the owners of the properties as much as we can in favour of trying to reach an agreement. But we are limited by the Act and so we can only offer them what we have the evidence base to offer them for, and that is the process that we have been working through. I do appreciate, as I said at the start, that that is not going to be a stress-free process, but we have done everything we can to try and get to an amicable resolution.

**The Hon. DANIEL MOOKHEY:** Mr Regan, I invite you to take on notice if you can provide us with any particular time when you got that evidence point, because I just understood your answer to be that you always had evidence points and then you were talking to residents. But the point that I want to put to you is that the residents have said to us that they were making repeated offers to Sydney Metro and Sydney Metro were not negotiating at all until effectively last week or the week before, when you came to the table and increased your offer by 70 per cent. How is it possible that we can reconcile what you are telling us—which is that you have followed a diligent process—with what the residents are telling us, which is that they could not even get Sydney Metro to the table to seriously negotiate? And I will just say that was not just one resident; it was effectively five of the 19 who have told us this morning, and the submissions indicate that it is far more than that.

**Mr REGAN:** We have been open to reaching agreement throughout that process, and we have reached agreement with just shy of half the owners at Orchard Hills and 71 per cent across the Western Sydney Airport line. During that process we have attempted to reach agreement where we can, but it is a negotiation process where there may be quite different views as to the particular factors of a property or its worth. We have tried our best to understand that and to use the data points that are available. I might ask Ms McPhee if she would like to add any further detail on that process, as she has been quite heavily involved all the way through.

**The Hon. DANIEL MOOKHEY:** Yes. But, Ms McPhee, the point that I particularly am interested in is that we have at least a third of these residents telling us that they could not get you to negotiate with them. Will you tell us whether or not there were any meaningful negotiations in this period?

**Ms McPHEE:** Yes, I can confirm that we have met with the Orchard Hills owners and tenants throughout the process. We did even offer them the opportunity to meet with the deputy chief executive, so I did personally meet with a number of those owners and tenants through this process to discuss both the construction requirements for those properties as well as the acquisition process. I am also able to say that there were recent important pieces of information we were able to take into account in making those revised offers to the Orchard Hills owners. I can take on notice specifics around those recent data points, but we were open to negotiations and we did have multiple meetings with the owners through the process.

**The Hon. DANIEL MOOKHEY:** But one of the very simple ideas that the residents said that they put to you—two of the residents told us that they suggested that rather than acquire their land as freehold you would take a lease over their land, particularly if you are using it for construction. This is a practice that other agencies, including Transport for NSW, have adopted in other policies. Why is it necessary for you to permanently acquire these people's lands when you are only intending to use it for the construction phase?

**Mr REGAN:** I will give you some context on that. We do go through a process on every piece of land of looking and considering firstly how to minimise the land take and then the form of acquisition or tenure. There are a number of factors that we consider: firstly the extent to which there will be permanent infrastructure as opposed to construction or temporary infrastructure, how long the land will be occupied with the construction and what level of improvement or buildings on the land would then need to be demolished, whether the land would be similar in shape and form, and potential use thereafter. The profile of the land, the earthworks and the drainage are all taken into consideration.

There are cases where construction leases are used; it is less common than acquisition. Particularly where there is a short-term requirement to acquire land that does not significantly alter that land is one of the circumstances where that is looked at. However, it is often not actually just terms practical or necessarily financially beneficial if the land has been legitimately changed and the purpose of the land is changing as well. In the circumstance at Orchard Hills, some of the land will be permanently part of the railway infrastructure. Other

parts of the land will be permanently part of the broader infrastructure that is built around the railway station and the railway itself, including utilities—so power, water, telecoms, the like—and some of it will be not in a form that could be returned because it is then part of a public domain or it is part of [disorder].

**The Hon. DANIEL MOOKHEY:** Mr Regan, I appreciate that. But we did a site visit to one of the properties, to the property that was owned by Mr Jesse Vella and Mrs Lauren Vella. They told us that they got told by Sydney Metro that their land was being used as a turnaround bay for trucks. That is it—it is being used as a turnaround bay for a truck to come in, to rotate through the site and then leave. They make a good point that if that is the point of their land then it does not meet any of the criteria that you just described, yet they are losing their land permanently for what will effectively be a relatively short-term turnaround for trucks. I am struggling to reconcile the process that you have described with the lived reality of what these residents are telling us. Can you shed light particularly about Mr and Mrs Vella's case as to why, given that they offered you or would like a construction lease for their land, that was not entertained by Sydney Metro?

**Mr REGAN:** The whole of the land that is being acquired at Orchard Hills is required for extensive construction activities. Those activities—which will take place over four to five years—include storing spoil, removing spoil, construction and storage of the cast tunnel segments, a grout-batching plant, significant site spoil facilities, dive sites, construction and launching of boring machines and very significant alteration to that land. All of the land that is being acquired is being used for the construction purpose. Within that construction purpose on that site, yes, there are different uses within that site. But they are all part of a broader construction, which is a massive construction exercise. It will utilise all of that land and will considerably change the land from its current form.

**The Hon. DANIEL MOOKHEY:** Mr Regan, I want to pass to my colleague in a second about this, if he has any questions. I accept your point that you say that the like-for-like comparison here is between Orchard Hills and Bella Vista, and you make the point that Bella Vista was equally the site for construction. But equally, the residents of Orchard Hills have told us multiple times, including this morning, that they suspect that part of the reason why so much land is being taken is to facilitate precinct revival and property development. I am looking at what has happened with Bella Vista after it has opened and I am looking at your website, for which there are plans for 8,000 to 10,000 residents' homes to be built in Bella Vista on the sites that you compulsorily acquired for construction. Given that you are capable and you are legally authorised to do development, when you finish with this land, is Sydney Metro planning to build any homes on the Orchard Hills properties?

**Mr REGAN:** Thank you for that question. The land that is being acquired at Orchard Hills will all be used for the construction of the Metro Western Sydney Airport line.

**The Hon. DANIEL MOOKHEY:** But I am asking about what happens afterwards, Mr Regan.

**Mr REGAN:** Yes, similarly, the land at Bella Vista that was acquired was used for the construction of the Metro North West line. In the case of Bella Vista, there is a precinct development that is taking place around that area involving a number of government departments, Sydney Metro and Landcom being part of those. At this stage, at Orchard Hills, I repeat the comment that the land that is being acquired is for construction. Yes, the Government has announced that there will be commensurate change in the land use around the station and that there will be a high-amenity precinct built in that area. The actual land use has not been determined, other than that there is an intent to have that kind of mixed-use precinct developed around the transport infrastructure.

The parties involved in that are cross-government. There is no rezoning, at this point, in place. It is not Sydney Metro's decision as to what those planning arrangements and land use controls are. That work rests with the Department of Planning, Industry and Environment and the local councils. We would clearly work with them, but the actual land use has not yet been determined. I think it is early in that process and the comparison with Bella Vista, I would say, actually stands in terms of what was acquired for construction purposes. It is very similar in terms of the size and the activities that will take place on those two relevant bits of land. Sydney Metro acquires the land for construction. There are broader government decisions around the land use and the planning. Some of that undoubtedly will include public space, public amenity and the like. If there is development of that land, then that is not something that financially accrues to Sydney Metro.

**The CHAIR:** If I could just pick up on that, then, from what I hear you saying, this land that is acquired at this point—in particular the land that Mr Mookhey was talking about for the trucks' turning bay—will be essentially trampled all over. We will have potential for contamination and all sorts of things to occur during the construction, but presumably that will be managed in a way that then allows that land to be developed afterwards. Is that correct?

**Mr REGAN:** Firstly, yes, absolutely. Any contamination on the land or any construction impact will be addressed during construction, so there will not be contaminated land thereafter.

**The CHAIR:** Okay, so it is not that it is dangerous after that; it is just that it would not be returned in the same state in which it was—

**Mr REGAN:** Correct. I do not know whether I actually can table documents, but I am happy to provide it on notice—I have some various pictures and things of what it would look like during construction and what the layout of it would be. It is a very intense construction usage, so I will look at whether I can perhaps table those on notice or respond on notice with those. It is quite intensive usage of the site during that time. Thereafter, the Government has announced that around the station, as is good and usual practice around transport infrastructure, it will look to provide additional transport infrastructure—so for interchange from other forms of transport, active transport, kiss-and-ride facilities. All of the things that you would expect around a train station will be provided, and then there will be further amenity provided both in terms of public space and some kind of mixed use from commercial or residential. But those decisions have not been made as yet.

It is not a case of all or nothing, if I can say that. The centrepiece of that area would be the station and the interchange and the ability for people to access the public transport and connect via the metro—both north to St Marys and to connect to the main Sydney Trains network or down south to the airport, the aerotropolis. That is the intent around each of the stations under the airport itself—that the stations are servicing the growth of that area for the next 50 to 100 years. It is not a straight development play; it is about transport infrastructure.

**The CHAIR:** I understand that in the future it may be developed into something else. It probably will, given what we have seen in other equivalent sites. To the extent that the Vellas decided, though, that they would with eyes wide open—knowing exactly what will happen to that land—still prefer to lease it than have it acquired, on what basis are you refusing the lease from a Sydney Metro perspective?

**Mr REGAN:** The challenge is that the site and the transport infrastructure and the development subsequently of that precinct around it may not naturally fit with the individual property lines or the alignment of what is there in the first instance. It is quite a long period of time—five or six years of construction—that there will be such significant change to the land that actually, on balance, the practicality approach is that we acquire that land and we compensate for the market value of the land and the additional support that we are able to give to the property owners. It is something that we, as I said, looked at in certain circumstances where there is a limited use of land or land is returned but in a similar state to where it was at first, where we have looked at construction leases. But on balance, the construction approach and the land acquisition approach has been where the land does have that significant alteration. With a change of land use, it is more appropriate to compensate that land value, because we do not know what that future land use will be but we do know that it will change.

**The CHAIR:** If we are looking at the acquisition of this land for this project by Sydney Metro, it is not necessarily the case, is it, that at this moment in time that land has to be acquired? From what I think you are telling me—and please correct me if that is not correct—it is because you envisage that in the future you may need more of that land permanently, or there may be other reasons. Is that why you will not do a construction lease.

**Mr REGAN:** No, sorry, the other way around. All of the land that we are acquiring will be used for the construction of the line. Some of the land—post-construction, post-opening, once the construction is completed—would not be needed for the ongoing operation of the line, but it would all be used intensively during the construction period.

**The CHAIR:** But from Sydney Metro's perspective, there is no need to acquire that land.

**Mr REGAN:** Acquiring the land gives us the ability to do the construction in the most effective and efficient way and to have then the opportunity for the broader precinct use in the future, however the Government may determine to do that—to have the flexibility to be able to do that in terms of the other infrastructure that it needs to connect the public space and the other facilities and the appropriate planned land uses, which could include development at the time. But the difficulty is each individual site is not individually separable through that process, and that has been the challenge that we have been working through. I understand the point that some property owners have been pushing there, but that is not something that we have been able to accommodate, given the intensity of the use of the land.

**The CHAIR:** But would an alternative not be for Sydney Metro to have a construction lease over that land and in the future, if the Government does decide to use it for other things, it could then do a compulsory acquisition process at that time?

**Mr REGAN:** From Sydney Metro's point of view, the compulsory acquisition powers that we are using under the Just Terms Act relate to construction of infrastructure and are not there for other purposes such as property development. Our powers are limited to compulsory acquisition for construction.

**The CHAIR:** That is right. So again, if we look at the Just Terms Act and the stated policy—and you said this in your opening statement—of trying to reduce the amount of properties acquired and to do it as a last resort then why could we not have in this process, for the purposes of the construction of this particular site, a construction lease instead of an acquisition of the Vellas' land?

**Mr REGAN:** Because the site itself—and depending on the final alignment and the final construction, all or part of that site may or may not be available post-construction. It is not just the station and the railway infrastructure they are going to see there; it is all the supporting infrastructure including new roads, other facilities. It is unlikely that land in that area would be completely untouched or unused in the future, and so the approach taken is to consolidate the land through that construction period and utilise that land as efficiently as possible to minimise the amount of land that is required. And then there is a decision for government thereafter around the future land use.

**The CHAIR:** Yes, and some might argue that at that time there might be a need for compulsory acquisition of the land as opposed to a construction lease. I think the question is why you are pre-empting that as Sydney Metro.

**Mr REGAN:** I guess that would be a decision in the future. Whether that land was compulsorily acquired is not something that would be part of Sydney Metro's remit in that regard, so we are using powers for construction and not for any development.

**The CHAIR:** Given, as we have heard, the significant impact on these families who through no fault of their own have effectively had this done to them—there is a power by the government to be able to come in and compulsorily acquire their properties—if we could preserve their right to at least have a lease over that land so that then they can choose what to do with it later and they can enter a negotiation later on when it needs to be actually acquired, would that not be fairer?

**Mr REGAN:** It is probably not really my place to say what is fair. We are working within the terms of the Act and the requirement to pay the market value now. What you are describing is a different set of scenarios. From our point of view, what we are trying to do is to compensate for the market value and for the additional costs and the disruption that those parties are put through—and for the difficulty that they have gone through—and to do that now, based on what we know, rather than an uncertain land use decision for the future.

**The CHAIR:** I guess if we were to allow the Vellas to have a construction lease over the property and then to consider acquisition of that land for future use at a future time, the valuation of that land at that time would be much higher, would it not?

**Mr REGAN:** It depends what the condition of the land and the planning requirements and the rezoning at the time is, but that is very different to the market value now. One of the challenges is that, yes, the land value does change when new infrastructure is built and when the land use changes, but at this point in time the process around the market value looks at the market value of the land now. It has been a challenge in this circumstance because the market values have been growing very rapidly, and you do end up in quite a circular situation as to what is driving the land value increase. Is it entirely the infrastructure or are there other factors driving that as well? In this circumstance, clearly, there are multiple factors that are driving the land use change, but the development of the transport infrastructure is creating a future expectation of value. Yes.

**The CHAIR:** So this current acquisition by Sydney Metro is done at prices based under the Just Terms Act that are, as we have heard, not necessarily of the amount that would allow these people to relocate effectively. But by acquiring now, we are effectively denying these families the possibility of realising fair value for their property later on down the track. Is that not right?

**Mr REGAN:** I think the challenge is the length of time involved and the change in the use of the land and the nature of the property. It is not like the property that is there today would be returned in five or six years' time in the same form.

**The CHAIR:** But it would be their choice.

**Mr REGAN:** But the Act sets out for us a process where we worked through to compensate for the market value—the fair market value now—and the additional areas of support and payment that we are able to do so under the Act. It is as I said very difficult, for a small parcel of land as part of a bigger site, to work that through on a case-by-case basis in terms of determining whether one piece of land can be returned or not. The level of change in this land is very, very significant.

**The CHAIR:** Thank you. Mr Banasiak, I will pass to you if you have questions at this time.

**The Hon. MARK BANASIAK:** Thank you, Chair, I have a few questions. Mr Regan, during your opening statement you spoke about the number of properties that were acquired through negotiation versus the actual compulsory acquisition process. I want to break down those figures a bit, if you could. How many people accepted the first offer?

**Mr REGAN:** I do not have to hand how many people accepted the first offer, noting that it is quite an ongoing and iterative process.

**The Hon. DANIEL MOOKHEY:** Did anyone?

**Mr REGAN:** I do not have that number to hand; I am happy to take that on notice for you.

**The Hon. MARK BANASIAK:** And perhaps you will take most of this on notice. How many people accepted on the second or third offer?

**Mr REGAN:** I will take that on notice. As I said, it is an iterative process, so it is not just limited to those offers. Unless my colleague Ms McPhee has the answer to that, we are happy to come back to you with more detail on that.

**The Hon. MARK BANASIAK:** What was the maximum number of offers made to a landholder? What was the average number of offers made, as well?

**Mr REGAN:** Yes, I will come back to you on that. Are you referring—just so I make sure I come back with the right information—to the Western Sydney Airport line?

**The Hon. MARK BANASIAK:** Yes, specifically with the Orchard Hills residents.

**Mr REGAN:** Yes, that is fine.

**The Hon. MARK BANASIAK:** Picking up on some of your comments, you talked about paying the landowners a fair market value for what it is now, but we heard evidence from witnesses this morning that stipulated that some of the reasons why the valuation was lower than they expected was for things that were potentially going to happen in the future. One resident spoke about biodiversity issues where they told us they have lost \$360,000 in valuation because of three trees. Another set of witnesses spoke about a change in the town planning around Cumberland, and that was being used to essentially offer them a lower than ideal valuation. How do you reconcile your comments that it is fair market value now when you are taking in potential future impacts, particularly when they will not actually own the property when those impacts come into play?

**Mr REGAN:** I think this is part of the complexity of the issue so you are taking into account the facts. As I was explaining, we have the independent valuers, who do use as many data points as they can to get to fair market value and, clearly, to the extent that something is in the future and has not happened it is a lot harder to take that into account with the degree of certainty to something that is actually announced or committed or is actually a planning use that is in place. And so certainly at no point have we attempted to low-ball or try and underpay. What we have been actually trying to do is find ways to support us getting closer to the positions that the existing property owners or landholder interests were seeking. So, actually, that has been quite an important part of the process for us—is to get those, to take on board the views and try and find ways to be comfortable that we can justify a higher price. Now, we rely on independent valuers to do that—to help us justify that—and under the Act we must be able to justify the price that we are doing. So there is a balancing act to be found in all of that in trying to take those things into account and to make it justifiable under the terms of the Act but to try and get as close as possible to what the landowners may believe that it is worth.

**The Hon. MARK BANASIAK:** But there is nothing in the Act that actually prevents you from low-balling landowners, is there?

**Mr REGAN:** Well, we are required to pay fair market value and that is what we are absolutely trying to do.

**The Hon. MARK BANASIAK:** We heard evidence earlier that the place managers or, as I think they are badged, relationship managers were not really helpful at all during the process. They did not have any technical expertise or knowledge specific to the particular landholders' process and, essentially, the best way to describe them would be, I guess, as a buffer between Sydney Metro and the landholder. Can you tell us what process or what level of training or knowledge these people go through to be a relationship manager? Do they actually have detailed knowledge of the individual case that they are managing? The evidence that we have heard suggests that, really, they do not.

**Mr REGAN:** Well, certainly, that would be a concern to me if they had not been useful because, certainly, the intent is that they do help with the process and that was something that was brought in after the

Government did undertake reviews into property acquisition—that role of the place manager. I might ask Ms McPhee to talk a little bit more about the role and how that works through the process because, certainly, the intent of that is to be useful and, certainly, the suggestion that there is a buffer between Metro is certainly not the case.

**Ms McPHEE:** Thanks, Mr Regan. I can confirm that, as part of the process, each of the landholders and tenants is actually provided with dedicated personal managers and dedicated acquisition managers, so they have two separate contacts. The acquisition managers are trained as per the Centre for Property Acquisition standards in accordance with the Centre for Property Acquisition guidelines. They have that standard training process that they all go through so that they can provide that informed advice to the landowners about the property acquisition process. The personal manager is there to be another counterpoint and they are employed by Sydney Metro—so they are representatives of Sydney Metro—to provide, I suppose, more of a shoulder to lean on in the process, to understand what their rights are.

They support, for instance, like relocation support, helping affected landowners look for alternative properties, look for alternative schools. So they are intended to provide support. I am extremely sorry to hear that that may not have been the case in this instance and they are certainly not a buffer. As I mentioned before, we have met on multiple occasions and our staff are available 24/7 and, as I said, I have also personally met with a lot of these landowners and we offered that to them all. So I do not think it would be fair to say that we have not engaged through the process. We absolutely have.

**The Hon. MARK BANASIAK:** Okay. My time has expired so I will throw back to the Chair.

**The CHAIR:** Thank you. I will check if the Government members have any questions at this point. Mr Mallard?

**The Hon. SHAYNE MALLARD:** Thank you for your attendance at the inquiry today and hearing from the members. I am interested to tease out this discussion around your obligations under the Act in terms of payment of compensation. I mean, I have been involved in this debate all my public life, from Labor's disastrous metro rail right through to this project, in terms of compulsory acquisition of properties and no-one I have ever met has been happy about their property being acquired: one, because there is a lot of personal and emotional investment and financial investment, perhaps, if it is a business; and, two, they always feel that they did not get the price they expected or should have got. That led to our reforms—some of the disputes around that with regard to the WestConnex, I think it was—so I am interested in that dual responsibility you have got. You have a responsibility to get value for money for the taxpayers. We are here representing the taxpayers, not one family. You also have to make sure that it is just compensation and it has to be evidence-based. I am interested to just flesh that out and explain your legal obligation—how that works.

**Mr REGAN:** Yes, sure. As you described it, there is very much a need to balance those objectives and to try to take into account as much as we can, and our valuers can give us, in terms of ways that we can justify making higher payments to particular individuals based on circumstances unique to their property or in the overall context of the market. But there is a real balancing act, also, in doing that. Yes, we have to be able to justify the use of taxpayer funds and we need to follow a process that is quite a strict process as to how we do that. And we have lots of checks and balances in place around the process and the role of the independent valuers, the role of the place managers and the acquisition managers to sort of help people understand the process. But, ultimately, as you say, it is very difficult. Particularly, there is always going to be significant sort of tension or stress when you are talking about people's homes or their businesses and we understand that. That actually does make this a very difficult place to be in because, ultimately, the infrastructure that were building, particularly for Sydney Metro, is something that will provide a broader community benefit for a very long period and is generally infrastructure that people want to see built, and they welcome the infrastructure investment.

Trying to limit wherever we can the amount of private land that is acquired can have its own challenges and certainly we do not always have the right land in the right places or broader government land. Where it is available, we do try and use it. But the process itself sets out this concept that we are talking about, which is the fair market value, and also sets out the other areas where we can contribute, including payment of stamp duty for a new property, including disruption, including some other costs on the way through—the legal fees, the valuation fees—and there is plenty of flexibility in that process for us to be able to support owners and affected property parties through that process.

We generally offered different types of support on the way through, including advanced payment of costs to assist. It is not always taken up. Some people approach it very differently to others and that is understandable because everyone has a different view. Property is one of those things that it is not uncommon for the owner of the property to have a different view as to what it is worth than the buyer of a property. In our case we are trying to set ourselves aside from that. We will work on the basis of the independent valuations that we get and

particularly at Orchard Hills, where we gave the property owners the opportunity to have their own independent valuation and asked them to share that with us or with our valuers, if they wanted to—they did not have to. We are trying to give people as much information and support to justify, particularly when the land value has been moving around so quickly.

Certainly, in western Sydney there has been a lot of change and some of that is clearly related to the level of investment in infrastructure, so there is an element of circularity in that process. Certainly, we work very hard to try to ensure that what we are doing is both justified and that we are not—that we are keeping within the need to deliver the project overall within budget, but we do set budgets with different aspects that include contingency to deal with the fact that the market could move. I think that the key challenge in the legal construct that you describe is that the land that we acquire must be for the public purpose. It does get difficult with the concept of betterment where broader landholdings also go up in value because of the investment into the infrastructure. That is where I think there is often disagreement as to, sort of, the extent to which that betterment and the investment for the public purpose should be attributed to the original landowner or to the fact that that is something that comes once that infrastructure is developed. That is the challenge that we sort of are working through and understanding. We do have differences in view, of course, but the process is there to try and reach agreement.

I would add as well that the process is also very clear that if agreement cannot be reached through that commercial process, there is then the opportunity for a further independent party, the Valuer General, to make that determination. That removes it from Sydney Metro. At that point it is the Valuer General making the determination as to the worth and then, beyond that, if that is unacceptable to the owners, they do have the right to further appeal that to the Land and Environment Court. So it is a process that is designed to have constant checks and balances. Certainly our objective is to get agreement before it gets to that point, and certainly 70 to 80 per cent is a good outcome in that regard but it is still not a perfect outcome where we are unable to reach agreement with all parties.

**The Hon. SHAYNE MALLARD:** We need to recognise that with compulsory acquisition the State pays for—correct me if I am wrong; this is from my local government days—the valuations, pays for the legal fees, pays the stamp duty that might be in the transaction—

**Mr REGAN:** Yes.

**The Hon. SHAYNE MALLARD:** —and will pay, although I think this is a discretion, relocation costs for the property.

**Mr REGAN:** Yes.

**The Hon. SHAYNE MALLARD:** So it is more expensive to compulsorily acquire property than it is to wait for it to be on the free market, not that we can spend the time waiting around, but that is the situation. I think it is 20 or 25 per cent dearer.

**Mr REGAN:** Look, that is absolutely right. We do have those additional costs and we pay. I think it is important that we do contribute to the owners' costs in that regard. That continues throughout the process. If they are uncomfortable with where we get to in the commercial stage, we continue to pay those costs through the Valuer General phase and even into an appeal. So it is designed to try to mitigate that disturbance as much as possible, but it is a last resort for us because it is more expensive and it is also less certain for both parties and it takes longer to resolve.

**The Hon. SHAYNE MALLARD:** And government acquiring the land, particularly a government that is so engaged in a major infrastructure boom in our State—it is happening all around the place. I mean, Randwick hospital being expanded—that was quite difficult, the acquisitions there. But you have got oversight, like the Auditor General, the Minister himself or herself, our Committee, so you need to balance that right—the two competing tensions of what the owner wants and what the taxpayer should be making sure and what the Act says to make sure it is balanced correctly. So you have got the Auditor General always watching over what is going on. I mean, the Leppington triangle had nothing to do with the State and it has been cleared now, but that was the Auditor General and some significant concerns around overpaying for the land.

**The Hon. DANIEL MOOKHEY:** Camellia as well.

**The Hon. SHAYNE MALLARD:** I beg your pardon?

**The Hon. DANIEL MOOKHEY:** Camellia as well.

**The Hon. SHAYNE MALLARD:** You had your chance to ask questions, Mr Mookhey. [Disorder].

**The Hon. DANIEL MOOKHEY:** Just pointing out [disorder].

**The CHAIR:** Order! I do not think that was a question. I think it was an interjection.

**The Hon. SHAYNE MALLARD:** My question was the observation that it is a serious responsibility to get that balance right.

**Mr REGAN:** And it is a responsibility that we take very seriously. The key aspects of these processes also that we have really tried to continually improve over time is trying to give people as much visibility and notice as to the process and to be able to work through and to try and address issues early in the process and try to find alternatives. As Ms McPhee mentioned before, that can include things like assisting in relocation, finding new schools—all sorts of things to try to mitigate the impact because it is a big impact. We see that and it is a matter of trying to minimise the disturbance on the way through. But that issue of also protecting the taxpayer dollar goes right back to the start in terms of the way that the alignment works in trying to find the right combination of the alignment of the projects itself. We do try. We are very considered and very detailed in the analysis as to where different parts of infrastructure would be located to try to minimise the overall impact but to provide the best transport outcome long term. That is a trade-off that we need to work through case by case.

**The Hon. SHAYNE MALLARD:** There are two more lines of questioning, but if my Government colleagues want to jump in, just yell out. Sorry, I do not want to actually take up all the time. Is your team that does the compulsory acquisitions within the Sydney Metro team, which is a subset below Transport for NSW?

**Mr REGAN:** Yes. So it is a separate team although operating on a fairly consistent basis. I might ask Ms McPhee to comment more.

**The Hon. SHAYNE MALLARD:** Does the acquisitions team operate across Transport for NSW, or are they isolated silos, each one? I mean, they probably have unique skills they need for each type of transport, but is that where we are going?

**Ms McPHEE:** Yes, if I can answer that one. Sydney Metro does have our own property acquisition procedures and our own property acquisition teams. The property acquisition procedures provide the framework for Sydney Metro's land acquisition programs and they do comply with the Property Acquisition Standards and Just Terms Act and we do review them in accordance with any policy, procedural or legislative change. And I think it is also worth noting that we undertake fairly regular assurance reviews and audits of those processes to ensure that they do comply and that they are applied in a way that their application is in a way that still continues to meet those standards and policies of government.

**The Hon. SHAYNE MALLARD:** It is not a reflection upon your team but I have heard talk that "Oh, so-and-so's team has learned their lessons and is better; this team hasn't", or whatever. Is there peer engagement? Is there learning shared between—Metro had some problems. People still complain about Metro. At the Balmain Leagues Club site the other day, they were complaining. Then you have hospitals, schools, roads and water infrastructure—all those things. Are there crossovers or learnings between the different teams?

**Ms McPHEE:** There absolutely are and there has been a recent process undertaken at the request of the Secretary of Transport for us to ensure that we do work together and align the processes and procedures. The teams are learning from each other and they are also learning from the centre of property acquisition, who set those standards and provide guidelines, advice, support and training to our staff.

**The Hon. SHAYNE MALLARD:** The last thing I want to touch on is that I heard you saying that the acquisitions you are doing for transport construction and related use—what the future of that land and whatever form it comes out in—as you observed, it might not be the same sort of parcel in terms of boundaries and usages—it is a matter of Government policy. I spent two years working for the mayor of Liverpool and was very involved in the planning issues around the railway extension, which we finished and Labor half built, to Leppington. I am just looking for the name—Edmondson Park. The contrast between those two rail centres is really stark. Edmondson Park largely was Federal government land or State government land. Landcom managed it. It is a dynamic and working transport interchange hub with a diversity of housing that supports it, right? Leppington, which is fragmented, privately owned land, is just a dog's breakfast. It is terrible. Even Mark Latham talks about it in the Chamber all the time, you know. It is just not coherent because different landowners are not ready to go to market and are not really interested in selling. This is a sensitive point but there is, in terms of the logical planning for these transport infrastructures and the billions of dollars that we are investing, a point to having a more overall coherent plan for the precinct. Do you agree with that?

**Mr REGAN:** Yes. I think that the broader precinct plan is really essential for an [inaudible] outcome and to delivering not just a single mode of transport outcome but particularly the integrated transport outcomes and everything from the accessibility of the station by walking and cycling through to new forms of transport going forward. You know, we are providing here for something that is for the next 100 years and certainly a well-designed precinct with a coherent timing of development and coherence of place making approach and



wayfinding and a coordinated approach to the way that people can interchange and interact with that precinct is a much better outcome than one that is kind of fragmented or a railway that opens with nothing around it in terms of broader activation of that precinct for a public purpose. I think we have seen that on the development so far with the two you mentioned. If you look at the activation around the precincts on the Metro Northwest, you can see how much this kind of infrastructure positively changes the broader environment for the community because it is planned.

In this case, that planning is not just Sydney Metro. We are involved in that, but the Department of Planning, Industry and Environment, the local councils and also in this case the Federal Government, who is contributing to this project as well—all of those have an interest in the overall outcome and a lot of engagement with the Western Sydney Parklands city authority as well and the Greater Sydney Commission. There are a lot of different views that get taken into account in determining what those precincts should be and where they should be located. So it is much more than just the initial construction that is in play and certainly that longer term determined outcome clearly works better when it is done in an integrated fashion.

**The Hon. SHAYNE MALLARD:** And the one thing the community, the commentators, the so-called experts, the planners have been saying to us for 20 years is that they want government to do coherent strategic planning and deliver infrastructure in a timely manner, and it does not work if the land ownership—and Leppington is a good example—is fragmented, stagnated and not coordinated correctly.

**Mr REGAN:** Certainly the intent here is that each of the stations has a precinct plan that is addressed with all the broader stakeholder groups and that that would move forward. And Metro will deliver the bits of that that we are asked to deliver to assist in that broader precinct.

**The Hon. SHAYNE MALLARD:** Thank you. That is the end of my questioning, Madam Chair. Thank you for that.

**The CHAIR:** Thank you. Mr Mookhey?

**The Hon. DANIEL MOOKHEY:** Thank you. I have just a couple of quick questions. If you have the answers now, it will be great; but if you do not, feel free to take these on notice. Just how much has been spent on acquiring properties in Orchard Hills?

**Mr REGAN:** I do not have that to hand. Obviously we are still—

**The Hon. DANIEL MOOKHEY:** Ms McPhee—

**Mr REGAN:** —working through that process.

**The Hon. DANIEL MOOKHEY:** —do you have a number or estimate? How much are we talking about?

**Ms MCPHEE:** I do not have those numbers.

**The Hon. DANIEL MOOKHEY:** Is your acquisition budget around Orchard Hills circa \$100 million? Was that it at the outset?

**Mr REGAN:** We have not set out individual property budgets [inaudible].

**The Hon. DANIEL MOOKHEY:** I am talking about the collective across all these properties. Was it circa \$100 million?

**Mr REGAN:** The budget, like we do across the project—so for construction and for property, for all of our costs—we have initial estimates and we have contingency and additional funding. As time moves through the process, we adjust those, based on information.

**The Hon. DANIEL MOOKHEY:** Sure.

**Mr REGAN:** With construction, it is to do with tenders. With property, it is to do with progress. So, we have not sort of put out an individual budget allocation [disorder]—

**The Hon. DANIEL MOOKHEY:** [Disorder] Mr Regan.

**Mr REGAN:** —the overall project.

**The Hon. DANIEL MOOKHEY:** Yes, sure. On notice, then, can you tell us what the cost has been of acquiring the 72 per cent by agreement for Orchard Hills; equally, the value of the remaining 28 per cent, if it was to be paid at Sydney Metro prices? Can you do the same for the Metro Westmead-Bays precinct? Of the 72 per cent acquired of the 417 interests, what has the cost has been? If you do not mind taking that on notice, that would be great.

**Mr REGAN:** Well, to be clear, we will see what we can provide but the concept of [inaudible] projects, the property [inaudible] is with the Valuer General. It is for the Valuer General to determine.

**The Hon. DANIEL MOOKHEY:** I am talking about the ones—

**Mr REGAN:** It is not actually a concept of a Sydney Metro price.

**The Hon. DANIEL MOOKHEY:** Sure, fine. So maybe give us the data for what you have paid by agreement, then?

**Mr REGAN:** We will see what we can provide but, you see, this is the Valuer [disorder]—

**The Hon. DANIEL MOOKHEY:** Mr Regan, you have been talking about value for the taxpayers. You have been talking extensively about value for taxpayers in response to very good questions from Mr Mallard, so I just want to understand how much have we paid for these acquisitions. But I will move on. Sydney Helicopters, which is gone public—and I have asked you about this before, Mr Regan, at estimates, if you recall. At the time you were not across it. I presume you are now. This is a helicopter business and among its major clients is included the rural firefighting service, for whom it spent most of last year putting out bushfires. They have said that they have not been in a position to negotiate with you in good faith and that, in fact, the actions of Metro have effectively destroyed the business. This is a slightly separate category to the other residents and we will be hearing from Sydney Helicopters tomorrow, but I want to ask you to give us an update as to where Metro is up to when it comes to this particular western Sydney business.

**Mr REGAN:** Sure. Thank you. I will give a little bit of information and then Ms McPhee, who has been involved directly in those discussions, can further update you. We have again been applying the approach that we are required to apply through the Just Terms Act and we have sought to reach agreement on that particular site for some time. There has been extensive engagement. We have not been able to reach agreement. There is a significant gap in expectation, which is probably the best way to describe it, but we have worked through the process as best we can. That particular property owner, I understand, is not comfortable with the position that was offered and has gone through the Valuer General process, which has also come up with a value that that property owner is not comfortable with. I understand they have taken the alternative, which is their right, to appeal that process. We have [inaudible] at all times to try and compensate for the interest in land that they had—the leasehold interest that they had—and to assist them in finding a new site. We have paid a significant amount to assist them in that process to try and find a new site and to compensate them as required and to go as far as we can.

**The Hon. DANIEL MOOKHEY:** The thrust of their position, Mr Regan, is that they need enough money to build a helicopter base proximate to where they can use it to, among other things, help the RFS. Their view seems to be that none of these factors are relevant to you and, to be fair to you, it might be that legally they cannot be. But the gist of their position is they will move, but they have to build another helicopter base because it is not like running eight helicopters from a backyard is easy, and Sydney Metro has never negotiated with them in good faith about finding either a suitable property or, for that matter, an adequate amount of compensation. So if you wish to respond to that—because I will be asking them some questions and I wish to be fair to you—I am asking if you wish to address their principal criticism of you.

**Mr REGAN:** Yes. I might ask Ms McPhee to comment on that because certainly we have genuinely attempted to reach agreement with them. So, Ms McPhee?

**Ms McPHEE:** Yes, thank you, Mr Regan. I think it is probably worth noting, as Mr Regan mentioned, that the acquisition in question is of a site at 23 Wentworth Street in Clyde. That is actually government-owned land. It is owned by Crown Lands and we have acquired the leasehold from Crown Lands, so this is the leasehold interest. So that lease was set to expire on 30 June this year with one option of five years to extend. So that is the leasehold that we are acquiring. With respect to your question around our engagement with Sydney Helicopters, we did extensively negotiate with Sydney Helicopters over a period of 16 months. We met with them on 11 occasions and I met personally on one of those occasions with Mr Harrold. So we have genuinely entered into a process to try and come to a commercial agreement for that leasehold interest.

**The Hon. DANIEL MOOKHEY:** Can I just—

**Ms McPHEE:** In terms—

**The Hon. DANIEL MOOKHEY:** Sorry, go ahead.

**Ms McPHEE:** In terms of alternative sites, we did pay for both our own civil aviation experts and also we have reimbursed Sydney Helicopters for their own expert advice to identify suitable leasehold alternative places for them to operate their business from and we did identify an alternative site. Our basis of offer to the business was on the basis of relocating to an alternative leasehold site.

**The Hon. DANIEL MOOKHEY:** Mr Regan, can I ask you this: Have you acquired 43a Luddenham Road, Orchard Hills?

**Mr REGAN:** Um—

**The Hon. DANIEL MOOKHEY:** Did you hear that, Mr Regan, or—

**Mr REGAN:** Yes. Sorry. I am just checking my notes. I just want to make sure I comment on the correct property. I will just see whether Ms McPhee knows whether that site has been finalised.

**Ms McPHEE:** All of the Orchard Hills sites did gazette last Friday, on 1 October. So from a legal perspective, yes, we do own the land.

**The Hon. DANIEL MOOKHEY:** So 43a—

**Ms McPHEE:** But in terms of whether we were able to reach commercial agreement, I do not actually have that here [disorder].

**The Hon. DANIEL MOOKHEY:** Can you take that on notice? Can you, on notice, tell us just how much you paid for 43a Luddenham Road, Orchard Hills? That would be good.

**Mr REGAN:** We will see what we can provide. Clearly, if it is not resolved, we will not be [disorder].

**The Hon. DANIEL MOOKHEY:** I think you might find that it probably is, Mr Regan, and the figure might be public already. But, either way, whatever information [disorder]

**Mr REGAN:** [Disorder] I am happy to look into that for you.

**The Hon. DANIEL MOOKHEY:** Thank you very much. I just have some follow-up questions in respect to the evidence that you were giving about Mr Jesse Vella's property. You made the point that you cannot really return it to them in the same state, but it is the case, is it not, that you actually—has Metro ever told those two residents that, actually, after you are done the land is not going to be used by any roads or any infrastructure linked to a public purpose and that, in fact, it is basically going to be the same parcel of land, just without any home on top of it?

**Mr REGAN:** I think Metro has been quite clear that we are acquiring the land that we need for construction.

**The Hon. DANIEL MOOKHEY:** Yes.

**Mr REGAN:** [Disorder] land, post construction, will not form part of the railway but might form part of broader infrastructure, but not all of it will. I think we have been very clear about that.

**The Hon. DANIEL MOOKHEY:** But Mr and Mrs Vella are making the point that they offered you the right to demolish all improvements. They acknowledged that the land would be changed and that the tunnel is 20 metres under their land and, on top of that, they are making the point that Metro has said to them that their land will not be impacted post construction and that, effectively, it will become vacant land. So it returns to the main point, which is that they think that you should have leased it. My question to you is, Mr Regan, you are describing this as basically you looked at it as a whole-of-things approach as opposed to parcel by parcel, but are you not required to look at this parcel by parcel and deal with each parcel of land according to its own individual circumstances about whether or not you can acquire it, what you pay for it, and whether or not you can return it?

**Mr REGAN:** Yes, I think, as per my previous answers, that that is exactly what we have done.

**The Hon. DANIEL MOOKHEY:** Okay.

**The CHAIR:** Can I ask this: Is there a difference in the approach of Sydney Metro when acquiring land from, effectively, a family as opposed to from a corporate interest or from a developer? Is there a difference when somebody is basically residing on the piece of land that you are acquiring in terms of how you deal with them?

**Mr REGAN:** There are some additional elements of compensation for residents as opposed to corporates, including stamp duty that can be paid on a new property. In terms of our approach, the objective is the same: that we are working under the same Act. The Act is not differentiating in terms of our approach in that regard, but there is an additional element of the personal compensation that we look to, to ensure that it is included in that package. But, certainly, overall we are attempting to achieve the same thing—to acquire the land, the minimum amount of land that we need, and to do so in a way that provides certainty. There are particular circumstances where different kind of arrangements are used but they tend to be at the margins or where there is a sort of a relocation of complex businesses where we might look at different types of approach, but you do not

pay the same market value if you are relocating some of those critical business activities. So for the most part it is the same approach that is applied.

**The CHAIR:** So there is no difference between the Government negotiating with, for example, a property developer or somebody who might have their own legal department versus negotiating with a family who have no legal expertise and are relatively—

**Mr REGAN:** Yes. So, as we described before, we pay for legal representation if the party is big or small [inaudible] and we work with them. In terms of large corporates, they are sometimes a different set of discussions because they are not living in those properties: They are business properties. But the intent of the process is the same and certainly we work to try to reach agreement and, if we are unable to reach agreement through that process, then it goes through to the Valuer General to determine. And, certainly, the numbers I have quoted in terms of the percentage where we can reach agreement—there is not a huge difference in those percentages between commercial and residential as to where we are able to reach agreement. So it is always our objective to reach agreement with the owner.

**The CHAIR:** You say that Metro will pay for the legal representation? Is that always after the fact, or is money ever provided up-front?

**Mr REGAN:** Money can be provided all the way through up-front and we have offered, in a lot of circumstances, to do that. As far as I understand, in the Orchard Hills case, that has not been accepted but we have offered to pay advance payments. We do make advance payments on a case-by-case basis and we are very open to that.

**The CHAIR:** Thank you. I will hand back to the Opposition for the last few minutes of my time.

**The Hon. DANIEL MOOKHEY:** Thank you. Mr Regan, residents have made the point that you have been using the draft Cumberland plan view in order to set, I guess, a benchmark. Is it actually legal for you to be using draft plans to inform compensation decisions and your approach to negotiations?

**Mr REGAN:** I think the independent valuers that we use take into account a number of factors around the likely impact on value. Certainly, I would be very concerned if it was not legal for what we are doing. We ensure that we are applying the appropriate terms of the Act and we get advice to confirm that we are. But there is no intent, as I said before, for us to find ways to underpay.

**The Hon. DANIEL MOOKHEY:** I accept, Mr Regan, that it is not intent; you would not be using this plan as an intended effort to reduce the value of compensation that is payable. But at any point did you make inquiries of your valuers as to whether or not they were using that plan?

**Mr REGAN:** I am not aware of the specific details of the case you were talking about.

**The Hon. DANIEL MOOKHEY:** Well, I mean, look, if multiple residents have made the same point across the Orchard Hills matters—

**Mr REGAN:** I am happy to take that on notice. I do not know on that very specific point.

**The Hon. DANIEL MOOKHEY:** Does Ms McPhee know? Clearly, it is not a small part of how they perceive these negotiations have gone. I am wondering whether or not we have any further information about whether or not Metro—Ms McPhee is nodding. You have to answer affirmatively or negatively, Ms McPhee.

**Ms McPHEE:** No. I am happy to take that on notice.

**The Hon. DANIEL MOOKHEY:** Well, to what extent did you familiarise yourself with the criteria that the valuers are using to decide value?

**Ms McPHEE:** The independent valuers are required to take into account anything that could impact the value of the land under the Just Terms Compensation Act.

**The Hon. DANIEL MOOKHEY:** Yes, but at what point in time?

**Ms McPHEE:** At the time of the acquisition—anything that could impact the value.

**The Hon. DANIEL MOOKHEY:** So, Ms McPhee, the residents have this view: that the Cumberland plan apparently was considered by your valuers and resulted in a markdown of the value of the land, yet the obvious property development that is going to take place afterwards was not considered as a factor that would uplift the value of the land. They certainly have made the point to us that they feel like the criteria that are being used as to what creates uplift and what creates a deterioration in value is basically at your discretion. I mean, can you understand the frustration that they would feel if they are told that a draft plan for Cumberland would drop

the value of the land but the Government's intention to do a precinct revival has no bearing on the value of the land?

**Ms McPHEE:** I think that there is another element in play here, which I think it is important. I think it goes to Mr Mallard's earlier question that one of the requirements of the Act to ensure that the Government is not overpaying for the land is that in consideration of the market value of the land the valuers are required to exclude any uplift as a result of the investment. So any uplift that is associated directly with the building of the Metro station must be excluded from the valuation.

**Mr REGAN:** And to be clear, that is not at our discretion.

**The Hon. DANIEL MOOKHEY:** My time has expired. It is the Government's remaining time, Chair.

**The CHAIR:** Yes, thank you. Mr Mallard?

**The Hon. SHAYNE MALLARD:** Mr Farlow, do you have any pressing questions?

**The Hon. SCOTT FARLOW:** Not from me, Mr Mallard.

**The Hon. SHAYNE MALLARD:** Mr Regan, we will have a bit of a history lesson here—a trip down memory lane. Were you involved at all with the CBD metro that the previous Labor Government started in Sydney?

**Mr REGAN:** No, I was not.

**The Hon. SHAYNE MALLARD:** Does any of your team come from that period? We are talking metro [disorder].

**Mr REGAN:** I think there are some in Sydney Metro who were involved in that previous iteration in the late 2000s, I believe.

**The Hon. SHAYNE MALLARD:** Yes. I was involved as a councillor and there was not a compulsory acquisition of the Woolworths building but the building was to be demolished and the process of evicting tenants was underway and some of the sublet offices that the city council owned. Then, when it was cancelled, the city got tens of millions of dollars in compensation and across the whole metro line properties were acquired and people were moved out when the Government acquired them. So they would have had to have been back on the market and that would have been hugely expensive for the Government.

**Mr REGAN:** Yes. I am sorry; I am not aware of the detail exactly of how that panned out.

**The Hon. SHAYNE MALLARD:** Where I was getting to is that your CBD Metro rail is the same basic—

**Mr REGAN:** Different organisation. The Sydney Metro [disorder]—

**The Hon. SHAYNE MALLARD:** No worries.

**Mr REGAN:** —in 2018, so different organisations. But it might be a question worth directing to Transport for NSW.

**The Hon. SHAYNE MALLARD:** All right. I might well do that. I mean, that was very expensive—\$100 million or more in compensation paid by that previous Labor government—so it is not unique to have these difficulties in terms of acquisitions for infrastructure, putting aside the fact that that was cancelled. But these are difficult processes to go through.

**Mr REGAN:** I think it is difficult to find that balance. I think it is very different to procurement of infrastructure itself, where the standard position is that we competitively tender and can get sort of a market price that way. But these transactions are inherently more bespoke because each property needs to be dealt with sort of as a case by case but also taking into account the broader picture of the infrastructure and the precinct that sort of surrounds it. So it is a challenge. We take our obligations here really seriously and we really try to find a way to reach agreement and to use the tools within the Act to do that wherever we can. It is not always possible but there are mechanisms in place under the policies and the legislation that then allow the Valuer General or the Land and Environment Court to further determine that, if necessary, and I would reiterate we continue to pay people's costs and try and minimise the impact on them on the way through. But it is a difficult area; there is no doubt about it. It is one of the big challenges for us at the front end of any of these projects because we also need to acquire the land on a critical pathway to enable construction of the project to be able to meet the broader transport objective.

**The Hon. SHAYNE MALLARD:** We had reference to the helicopter business, which I was reading up on as well. It reminded me of the speedway at Parramatta and the big controversy about that, but that is actually

Crown land and the lease had a mechanism for it to be acquired at some time in the future. It had obviously been leased out for a long time. I am on the inquiry, along with a number of members here, on the northern beaches tunnel and some of the construction sites are remediated former tips that are Crown land still or even a golf course that is Crown land, but they are still difficult processes because the community has a great sense of ownership and passion about Crown land that is taken to be part of the community's land, so it is not as easy as it sounds.

**Mr REGAN:** It is certainly very complex and I think the challenges on the Western Sydney Airport line are different from the challenges on Metro West, which differ from the City & Southwest and the Northwest. They are all case by case and they are impacting communities and businesses in different ways. Certainly, the challenge with a surface railway is very different to a tunnel railway. A tunnel railway has less impact, other than at the stations or those service facilities, but ultimately still has an impact. So we try and limit the impact in the route selection and in the way the project is put together. But there are trade-offs also in the costs and the usability of the railway tunnel [inaudible] in different sections that also need to be taken into account and the journey time overall. So it is not always exactly the case that the quickest way from A to B is a straight line but certainly as far as railways are concerned the topography, the distance between the stations and the overall journey time and the broader outcome are something that is heavily taken into account in those considerations at the time.

Once government has made the decision to go forward with the railway, effectively, in Sydney Metro's case we are a delivery agency. That is our job—to then deliver on what has been decided—and this process is a difficult process, we agree, and we do try to do that with as much empathy as possible and try and get to the outcomes wherever we can to ensure that [inaudible] public transport infrastructure can be built. Long run, the outcome of that public transport infrastructure is fairly city-shaping but I do not deny that there are difficulties in the way we get there.

**The Hon. SHAYNE MALLARD:** In an urban planning context, I would think tunnelling, which is a technology that we have become much more adept at and cheaper at doing, is probably a better urban planning outcomes than a rail line on top or a freeway on top. Is it also economically the same as compulsorily acquiring land to put the line across the whole landscape?

**Mr REGAN:** I think the construction cost of tunnels is significantly higher.

**The Hon. SHAYNE MALLARD:** Okay.

**Mr REGAN:** Surface construction is not as expensive as tunnelling, but, yes, you have got the land take associated with that and the broader impacts. So where we do operate at the surface or on a viaduct, we put a lot of effort into trying to minimise the impact on the environment so that you are not cutting the precincts in half. A lot of effort goes into that and to other things [disorder].

**The Hon. SHAYNE MALLARD:** So the decision of government to tunnel—a big part of that is to minimise the disruption on the surface to lives, businesses and communities by compulsory acquisitions. You are saying it would actually be cheaper.

**Mr REGAN:** Certainly it depends on the route, but under a less built-up or developed area, the rule of thumb is that it is going to be more expensive to tunnel as opposed to, say, coming under the Sydney CBD where tunnelling is really the only option. At Metro West it is entirely underground and it does limit the level of surface impact, but there are trade-offs again because the stations are much more expensive to build and so there is a need to balance that. The Western Sydney Airport line, like the Metro Northwest, has the advantage of going through some areas that are not as developed so it can be built faster and can be [inaudible] machines more quickly by virtue of not all being underground. So there are trade-offs in that that are taken into account at the investment decision and the business case stage, but once those decisions are made then our role is to ensure that we build the railway as efficiently and effectively as possible and acquire the property in an appropriate way.

**The Hon. SHAYNE MALLARD:** Thank you for that. Madam Chair, you are giving me the eye.

**The CHAIR:** Yes. Your time is up, unfortunately. That concludes today's hearing. To the extent that there were questions taken on notice or any supplementary questions that will be forwarded to you, you will have the standard 21 days to respond. The secretariat will be in touch. Thank you very much for your attendance and for answering the questions today. It has been incredibly informative. That concludes our proceedings.

(The witnesses withdrew.)

**The Committee adjourned at 13:02.**