

REPORT ON PROCEEDINGS BEFORE

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

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

CORRECTED

Virtual hearing, Videoconference, Sydney on Friday, 18 February 2022

The Committee met at 9:30 am

PRESENT

Ms Abigail Boyd (Chair)

The Hon. Lou Amato

The Hon. Mark Banasiak (Deputy Chair)

The Hon. Scott Farlow

The Hon. John Graham

The Hon. Don Harwin

The Hon. Adam Searle

* Please note:

[inaudible] is used when audio words cannot be deciphered.

[audio malfunction] is used when words are lost due to a technical malfunction.

[disorder] is used when members or witnesses speak over one another.

The CHAIR: Welcome to the fourth public hearing of Portfolio Committee No. 6—Transport and Customer Service inquiry into the acquisition of land in relation to major transport projects. Before I commence I acknowledge the Gadigal people, who are the traditional custodians of this land on which the New South Wales Parliament sits. I pay respect to Elders past, present and emerging of the Eora nation, and extend that respect to other Aboriginal people present or who may be watching the live stream 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. I would ask for everyone's patience through any technical difficulties that we encounter today. If participants do lose their internet connection and are disconnected from the virtual hearing they are asked to rejoin the hearing by using the same link that was provided to them by the Committee secretariat.

Today we will be hearing from the New South Wales Valuer General and members of Save Our Homes Jannali. Before we commence I will 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. Therefore, I urge witnesses to be careful about comments you may make to the media or to others after you complete your 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 at hand. In those 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, a few notes on virtual hearing etiquette to minimise disruptions and to assist our Hansard reporters. I ask Committee members to identify to whom questions are directed—presumably when there is more than one witness in front of us. I ask everyone to state their name when they begin speaking again, particularly in circumstances where there is more than one witness. Could everyone please mute their microphones when they are not speaking. Please remember to turn on your microphones when you are getting ready to speak. If you start speaking while muted, please start your question and answer again so it can be recorded in the transcript. Members and witness should avoid speaking over each other so we can all be heard clearly, and to assist Hansard may I remind members and witnesses to speak directly into the microphone and avoid making comments when your head is turned away.

Dr DAVID PARKER, Valuer General of New South Wales, on former affirmation

The CHAIR: Dr Parker, do you want to start with a short statement? If so, please keep it to no more than a couple of minutes.

DAVID PARKER: Thank you, Chair. I made a brief opening statement to the last Committee hearing to which I do not have anything to add at this point. There is probably no need for a further opening statement.

The CHAIR: Too easy, thank you. I will commence with questions from Mr Searle.

The Hon. ADAM SEARLE: Good morning Mr Parker. It is good to meet you virtually. Mr Parker, you have given evidence to this inquiry and also to the Joint Standing Committee on the Office of the Valuer General about what I will neutrally call difficulties within the Office of the Valuer General or the public service staff working with you to deliver the valuation services. I think I am right in saying that your evidence was that staff had triggered a process leading to a work, health and safety investigation. One of the consequences of that was a directive, I think as you put it, from the former secretary of the planning department, Mr Betts that you only interacted with a limited number of staff, and you described that arrangement as unworkable rendering the operation of the Valuer General dysfunctional and that it constitutes an interference with your independence. I note that the Minister at the time subsequently rejected those characterisations in budget estimates. We have now gone through two more department secretaries since Mr Betts. Can you update the Committee as to the status of that directive? Is it still in place? How are those working arrangements unfolding in practice from your perspective?

DAVID PARKER: The current secretary is on the verge of issuing, through the deputy secretary and myself, a joint statement to staff whereby the former secretary's letter of 10 May 2021 is rescinded and I have unlimited access to communicate with staff.

The Hon. ADAM SEARLE: Okay, and that is going to happen in the near future?

DAVID PARKER: I understand so.

The Hon. ADAM SEARLE: I think it was also your evidence to the joint standing committee that there was this work, health and safety investigation because of concerns of staff who felt anxious and fearful. I think there was an initial assessment report which I think you provided to a committee. What is the status of that investigation? Has it been completed? Have you been asked to respond to the draft?

DAVID PARKER: It has been completed and I responded to the draft.

The Hon. ADAM SEARLE: Okay, so you have seen the draft, you have responded and a final report is somewhere?

DAVID PARKER: I assume there will be a conclusion of the process by the department.

The Hon. ADAM SEARLE: Do you have any idea about the time frame?

DAVID PARKER: It is linked closely to the joint statement by the deputy secretary on communication so to that extent its completion is imminent.

The Hon. ADAM SEARLE: Imminent, okay. In budget estimates evidence the former department secretary Ms Fishburn indicated that she can confirm that there are a number of investigations underway in relation to matters concerning staff and the Valuer General. Apart from that work, health and safety investigation are you aware of a number of other investigations into your conduct, vis à vis, the staff working to you?

DAVID PARKER: I am not, with the exception of the investigation into a complaint that I made about a staff member which resulted—

The Hon. ADAM SEARLE: That is a complaint you made but you are not aware of any investigations into your behaviour apart from that one work, health and safety one. Is that correct?

DAVID PARKER: Correct.

The Hon. ADAM SEARLE: What has been the impact from your perspective of the directive while it has remained in place? What have been the practical consequences?

DAVID PARKER: It has created a level of confusion in communication with staff as all communications went through an executive director. Therefore, there is the risk that communication is not always as clear as it might be or perhaps that what I said did not quite make it in translation.

The Hon. ADAM SEARLE: Do you feel that impacted the effectiveness of the office and yourself in completing valuations in a timely way?

DAVID PARKER: In the context of the just terms space that this inquiry is focused on, yes, I think it probably did.

The Hon. ADAM SEARLE: All of these matters appear to have occurred in the context where the People Matter Survey from, I think it was about February 2020 onwards, found that there was a lot of negative staff sentiment in relation to the Valuer General. There was also an additional survey of staff sentiment called Teamgage which led to such a degree of negative reporting about staff sentiment in relation to, what I will call, the Valuer General, that, in fact, that level of staff sentiment testing was discontinued. What can you tell us about that?

DAVID PARKER: No more than you have just told me.

The Hon. ADAM SEARLE: So you are not aware of the Teamgage staff sentiment gauging being discontinued because of the level of negativity essentially directed about your behaviours was at such a level that they just stopped taking that temperature?

DAVID PARKER: I was aware that it had been suspended. My understanding was that the suspension also had regard to the impact on my mental health with constant, be it either valid or invalid, criticism by my staff. Teamgage being an anonymous document provided staff with an opportunity to say anything unfettered without any substantiation about anybody in the organisation.

The Hon. ADAM SEARLE: Okay. Just to be clear you are aware of difficulties that you have experienced with staff working to you, and difficulties they have had with you? You are aware of that at least at a general level?

DAVID PARKER: Yes. Now I would appreciate the Committee's guidance as to the relevance of this to the just terms process.

The Hon. ADAM SEARLE: Yes, it is really about the impact that all of this context would have on the operation and effectiveness of the Office of the Valuer General, if I can use that term. The point is rather technical but I am really talking about your discharge of your statutory duties and the discharge by public service staff of their duties in assisting you fulfilling your duties?

DAVID PARKER: I believe you asked that question earlier and I answered it. The department is a service provider to me so it is a matter for the department to provide the services.

The Hon. ADAM SEARLE: Yes, okay. All right. But you are aware that the Teamgage sentiment detected high levels of what was described at least by staff as intimidation and bullying? Are you aware of that at least at a general level?

DAVID PARKER: I was not aware of the terms "intimidation" and "bullying" being attached to it. I would stress, however, they are anonymous—

The Hon. ADAM SEARLE: Of course.

DAVID PARKER: deeply unsubstantiated and staff may write whatever they choose to write in the Teamgage survey.

The Hon. ADAM SEARLE: Okay. In terms of the People Matter, the Teamgage surveys and the work, health and safety investigation, it all suggests an unhappy workplace for some reason. To what do you ascribe that level of unhappiness? Do you have a view about that?

DAVID PARKER: I have a variety of functions to discharge under the Act. In order for me to discharge those functions I choose currently to seek services from the department. Those services need to be provided in full and when they are not then issues with staff may arise. Management of issues with staff is a matter for the department.

The Hon. ADAM SEARLE: Right, but what about once the secretary's directive is rescinded? Do you go back to managing staff more directly yourself?

DAVID PARKER: No, the secretary's directive dealt with communication, not management. The management of the staff is a matter for the department. I will have an unlimited right to communicate with the staff.

The Hon. ADAM SEARLE: Okay. I understand. Are you aware that the Legislative Council has called for papers on the department about these matters—about complaints made about the Valuer General?

DAVID PARKER: I am.

The Hon. ADAM SEARLE: In fact, I think in response to that call for papers, you and your office made a nil return: you did not possess any of the documents?

DAVID PARKER: That is correct.

The Hon. ADAM SEARLE: Would you be surprised to learn that at least at a level of generality a number of the documents returned suggest significant staff disquiet about you and your management of them and the way in which you interact with people in the workplace?

DAVID PARKER: Point of order, Madam Chair. This is an inquiry into land acquisitions. The general management of the Office of the Valuer General is one thing when it is connected through land acquisitions but when it is broadly connected to just the management of the office, I do not think it falls within the terms of reference of this inquiry.

The Hon. ADAM SEARLE: To the point of order: The Committees of the Legislative Council have always taken a flexible approach to these things. I think anything which might impact negatively on staff performance, have a view that does impact on the discharge of the statutory functions of the Valuer General, would extend to the matters that are the subject matter of this inquiry.

The CHAIR: Thank you. I caution members to bring this back to the terms of reference, in particular in this line of questioning, to bring it back to the delays potentially to the offers of compensation that have been made. I will leave that in your hands Mr Searle. If you could connect it back more clearly, that would be appreciated.

The Hon. ADAM SEARLE: I have nearly concluded this line of questioning anyway. I just want to make sure I have understood Mr Parker's evidence clearly. Mr Parker, you are aware of only one substantial complaint about yourself, that is, the work, health and safety investigation? Correct?

DAVID PARKER: I am aware of one investigation. The department has been at pains to say that that was not a complaint-related matter, it was a work, health and safety related matter.

The Hon. ADAM SEARLE: How do we reconcile that with Ms Fishburn's evidence to budget estimates that there were a number of investigations relating to complaints?

DAVID PARKER: I am unable to answer that question.

The Hon. ADAM SEARLE: Okay, that is fair enough. As far as you are aware all of these matters are now either concluded or about to be concluded. Is that correct?

DAVID PARKER: As far as I am aware.

The Hon. ADAM SEARLE: Do you have an idea—I am not asking you to tell us because we will wait and learn that at the appropriate time—or knowledge about how those matters will be resolved or what the outcome of those investigations will be?

DAVID PARKER: The conclusion of the workplace, health and safety investigation is a matter for the department.

The Hon. ADAM SEARLE: Yes, but my question was: Are you aware of what the department is likely to say in that final report?

DAVID PARKER: I have had some discussions with the department but the final decision is a matter for the department.

The Hon. ADAM SEARLE: I think that is probably all I am going to get from you Mr Parker. What has all of this done—all of this turmoil, if I can put it that way—and what impact has that had on delaying the discharge of your functions and the timely completion of the valuations? Has it slowed it down by 10 per cent, 15 per cent, not at all?

DAVID PARKER: It is not a statistic we measure. We measure the average time taken to issue a determination. I am aware that the number of reports of outputs that are issues has gone up very significantly. So the volume of outputs is greater. The quality is relatively unchanged but the volume of outputs has increased significantly since the department restructured its management team.

The CHAIR: Could I just jump in with a question? I know that the residents at Riverwood have been particularly concerned about the process that was applied to their home acquisition. It was reported quite recently that they have finally received an offer for compensation. They were told on 16 February 2021 that they would be

subject to this compulsory acquisition process but have only just—almost a year later—received that offer. Was that as a result of these issues within your office or do you see that as being a fair time for that offer to be made?

DAVID PARKER: Well, my role in compulsory acquisition only arises at the date of gazettal. Prior to the date of gazettal there is a six-month period and a three-month period whereby the acquiring authority may negotiate with the claimant. So, from memory, the three Riverwood matters were all concluded and preliminary reports issued within the 45 days required of the Act from the date of gazettal. Now, I am unable to comment on what may have happened before the date of gazettal, that is, between the claimant and the acquiring authority. But from the date of gazettal we issued the three preliminary reports, from memory, within the 45 days required under the Act. The Valuer General's involvement was extremely, in this instance, timely.

The CHAIR: Would you explain to me why they have only just got the offer of compensation now? Are you saying that is because the prior process was not done in time?

DAVID PARKER: Well, the process starts with a six-month negotiation period.

The CHAIR: Okay, that takes us to August.

DAVID PARKER: During which the acquiring authority and the claimant may negotiate a settlement. The acquiring authority will then issue a proposed acquisition notice [PAN]. There was then a further three-month period for the parties to seek to reach agreement. My understanding is that generally during that period the acquiring authority will make an offer or offers to the party and negotiation may occur. If the parties are unable to agree by the end of the nine-month period then the acquiring authority will ask the Governor to gazette, or to compulsorily acquire the land by notice in the *Government Gazette* and that is the date at which it comes to my office for me to make a determination. Now I do not make an offer, I make a determination. Under the Act within 45 days I am required to provide that determination to the acquiring authority. We will then provide to the claimant in what the Act refers to as an "offer" but effectively it is non-negotiable, that is, the final number, subject to any further court proceedings.

The CHAIR: Understood. So the delay then is really the acquiring authority's responsibility or is it a product of the provisions of the just terms Act?

DAVID PARKER: It is a combination of the two. So you have the framework within the Act and then you have the process between the parties. The critical time period for me that the department has been focusing on on my behalf is the 45-day period under the Act in which the Valuer General is required to make a determination.

The CHAIR: Can you confirm when it comes to the amount that was offered to the Jannali residents that that amount is based on market value two years prior to the date on which you give your determination under the just terms Act? Is that correct?

DAVID PARKER: No, I am not quite sure that is the case. My determination is the market value at the date of gazettal. Now in a period of nine months before that the acquiring authority may make a series of offers. Those offers they may vary if the property market is varied during the period. But if the Act is being followed the whole process should be constrained to a period of nine months. Now we have had, as our recent re-valuation showed, significant increases in value over the 2020-21 year so within the nine-month period it is possible that an initial offer by the acquiring authority may be lower as values moved. They may choose to make another offer or they may not. But my valuation is as at the date of gazettal.

The CHAIR: Okay. There is nothing under the just terms Act that currently provides for this situation where, as we have seen over the past year, house prices have absolutely ballooned and people who are being bought out are now and are trying to find similar housing, find obviously that this housing is much more expensive than what they are being offered for their homes? Is it correct that is a product of the just terms Act?

DAVID PARKER: I think there are two issues perhaps there. The first is that it is entirely open to the claimant during the nine-month period to negotiate with the acquiring authority and if values have risen in the area they can ask for a greater amount of compensation. Now as I mentioned last time I addressed the inquiry, a fundamental flaw in the legislation is that you are compensated for that which is taken away from you; you are not compensated for that which you will then have to buy. So the Act does not say a three-bedroom house in Riverwood and the compensation will be another three-bedroom house in Riverwood. The Act says the compensation will be the market value. It may be in many markets that you cannot find another house that suits you for the money you got in compensation, but that is the structure of the Act.

The CHAIR: Thank you. That is very useful. When you talk about it being within the resident's power to accept an offer during that negotiation period that is a bit reliant on the acquiring authority being open to offers

that perhaps more accurately reflect just compensation. But if they know that your valuation will be as at the date of gazettal, does it in your view then throw out the incentive to make a fair offer based on increasing house prices?

DAVID PARKER: No, because the acquiring authority knows very clearly that if they cannot agree, it will come to me and it will be the market value. So they know exactly where to go post gazettal and there is really in terms of equity and fairness no benefit to an acquiring authority to play games. They are going to have to pay market value.

The CHAIR: Yes, but your previous comment was if people do not want that market value as at the date of gazettal then they do have that opportunity to negotiate. If that is setting the goalposts, if that valuation or the eventual possible valuation that forms the basis of the final offer, what incentive is there for the acquiring authority to offer something better than what they might get for the valuation?

DAVID PARKER: That will be a matter for the acquiring authority. They only have to offer market value.

The CHAIR: It seems like another thing we need to fix under the legislation. Mr Banasiak—

DAVID PARKER: I might just extend that prior point because it is a significant issue on the claimant's side. The claimants, in my experience, tend to approach the negotiation period with a view on the worth of their property rather than the value of their property. The worth to them is invariably higher than the market value. Obviously they have lived there for many years. They have brought their children up there. It has been the family home. It has been the centre of their life. In their minds its worth is greater than its value. The Act is very clear what we are dealing with value. We are not dealing with worth. On my observation the negotiation period is often marred by claimants being unable to contemplate market value when they have an assessment of worth in their mind.

The CHAIR: And, as you said before, when they are looking at a replacement, a like-for-like replacement cost, it far exceeds the amount they are being offered.

DAVID PARKER: Yes, sadly they are not compensated for a like-for-like replacement with certain exceptions such as equestrian centres, churches and things like but generally it is not a like-for-like process.

The Hon. MARK BANASIAK: Mr Parker in the last hearing we asked some supplementary questions of you about comments you made about non-compliance with Valuer General policy, Court precedent or Act. You came back with more specific examples of where you had that non-compliance, for which I thank you. I am interested in what you say are the most common examples of this non-compliance. If those non-compliant determinations were allowed to stand, would they have resulted in a net loss or a net benefit in most cases for the landholder if that was allowed to slip through to the keeper?

DAVID PARKER: If they had, to use your phrase, gone through to the keeper the State would have spent somewhere in excess of \$100 million more than it has since I started reviewing reports.

The Hon. MARK BANASIAK: Am I right in saying that that non-compliance was actually giving landholders potentially more money than they should have been given?

DAVID PARKER: That has been the experience so far to in excess of \$100 million.

The Hon. MARK BANASIAK: Thank you. That is probably not what I was expecting but, nonetheless, it is disturbing. I might pass to the Chair.

The CHAIR: Mr Graham?

The Hon. JOHN GRAHAM: Thank you Valuer General for appearing. I just want to follow-up on some of those issues to which you are drawing attention in the way the Act operates. The Committee has heard from quite a few residents by way of formal submissions or appearing at hearings to really say: "We know some issues have been identified. What changes might be required?" You have just identified some. I ask you to be more specific. When you talk about that conflict between being compensated for that which is taken away, not what people need to buy, do you have a suggestion about how the Act could be changed or how the compensation process could be changed in order to tackle that issue? Do you have a specific suggestion in mind or are you really just drawing attention to that tension?

DAVID PARKER: No, I am just drawing attention to the tension. It is a tension that has not, as I understand it, been resolved in other Commonwealth jurisdictions—the closest regime to ourselves. There is a fundamental public policy issue there as to what dispossessed party should get reflecting the benefit to them and the benefit to the community as a whole.

The Hon. JOHN GRAHAM: I think you also draw attention to another fundamental tension—that idea to which you just expressed about the worth of their home to the individuals might be separate to the market value. How often do you see that? In evidence to the Committee we are obviously seeing that come through strongly. That may be just that we are having people come forward who feel that way. That sounds like a relatively systematic problem but, of course, someone's home means a lot to them. It is where they live and their kids have grown up there. Is it systematic or is it the case some of the time in your experience?

DAVID PARKER: I suspect it would be systematic in the sense that it potentially occurs across the system. In terms of the frequency, the acquiring authority may be better placed to answer that because I only see matters when they have reached the point of an inability to agree. By the time they get to me the assessments of worth generally have become very, very entrenched. They tend to arise very often with different views of interpretations of planning instruments, interpretations of the law and one of the products of nine months of negotiation is each party digs themselves in very deeply.

The Hon. JOHN GRAHAM: Yes and that makes sense having survived the process and its rigours up until then, and dealing with an issue which is quite emotional for them, people have really dug into that sense of the worth of their home. In relation to changes to the system, is that distinction recognised in other jurisdictions in the way that other laws are written?

DAVID PARKER: As far as I am aware the market value concept is prevalent across Commonwealth jurisdictions.

The Hon. JOHN GRAHAM: These are important powers for the State. It is an important ability for the State to do something in the public interest to really acquire land where it serves a public purpose and some of the time that, obviously, will impact on individuals. But if they do not work smoothly, if people do feel systematically that the worth of their home or what the State is taking from them is being under-valued. That undermines the whole system and these important powers. Is that where we are at now, given the level of acquisitions that are going on? Do you see a need for change in the Act or how those two distinct ideas are used in the system or is this just an inevitable tension in the use of these powers?

DAVID PARKER: An inevitable feature of the use of the powers. What I do note is that I understand the vast majority of acquisitions are settled by the acquiring authorities by agreement. A minority of them are gazetted. We have a process whereby each party is able to make submissions, share their views on the value or worth of their property. I make the determination and the number of determinations that are appealed are exceptionally low. So the system, whilst there is a lot of noise, it would appear from an overall community fairness level, to work well. Obviously any system has scope for improvement. Implementation of any processes have scope for improvement but we essentially would appear to have a system that is overall fair to the claimant and fair to the acquiring authority.

The Hon. JOHN GRAHAM: I might just finally ask about a specific proposal. I do not want you to talk about the circumstances around that individual instance but the observations of the group who are about to appear before the inquiry in regard to the Jannali commuter car park project. I want to put to you one piece of evidence. I am interested in what you think this means for the system so do not feel obligated to comment on the specifics of Jannali. The group states: the proposed Jannali commuter carpark project was not carried out in a proper manner and did not meet the regulatory requirements and, therefore, it was ultimately unjustifiable. That is not what stopped it. It would have gone ahead. The current regulatory framework is deficient. What it stopped it was the effective public protest, they were able to mount. That is the view they are about to put to the Committee. Do you have any reflections on that? In your view, is the current regulatory framework deficient? Are there concrete improvements we could make as a part of this process?

DAVID PARKER: No, I do not have a view on those comments. As I mentioned earlier, the current framework would appear overall to be effective and being fair to most claimants and the community in general.

The CHAIR: Mr Banasiak do you want to ask a question? I will then ask if members of the Government have any questions and then come back to Mr Graham if there is time.

The Hon. MARK BANASIAK: Going back to my previous questioning, have you taken any steps to ascertain how many mutual agreements were made in recent years that would have potentially been non-compliant had they come to you for adjudication? I want to try to understand the scope of potentially this poor decision-making by valuers within DPEI?

DAVID PARKER: No, I have not reviewed the decisions of prior Valuer Generals.

The Hon. MARK BANASIAK: Considering the concerns you have raised about non-compliance, are you considering going back and reviewing some of those mutual agreements that were made to get a sense of the scope of the problem?

DAVID PARKER: I have no, as far as I am aware, statutory power to revisit previous determinations. I have, however, taken very significant steps to address the issues going forward as soon as I became aware of them.

The Hon. MARK BANASIAK: Do you think it is a training and education problem or a cultural problem? Where is the breakdown happening in this non-compliance with policy and legislation?

DAVID PARKER: That is a matter for the department. I do not provide services to the department. It is a matter for the department to provide those services and so where the main essence of the problem may lie is a matter for the department.

The Hon. JOHN GRAHAM: I would like to continue pursue a little of that line of questioning but I am happy for you, Chair, to intervene if you have something first.

The CHAIR: No. I understand Government members do not have questions.

The Hon. JOHN GRAHAM: Valuer General, I might just put an alternative view to you about the state of the system and ask for your comment. Many of the submissions contained the view that because of the contradictions to which you have drawn attention—I think that is fair to say. I think you have really characterised the tension in the system well. Because of those tensions, elements of the public—the affected members of the public, a small number but deeply affected—feel the system is not working and that is impacting on the credibility of this important power, this necessary power for the State. Secondly, the Committee has received relatively strong evidence through the Committee and frankly outside of the Committee process, the culture of acquisition with the metro agency is causing significant community concern. That is a cultural problem, not a legislative one. Those are at a level which is real concern. That is the view that has been put to the Committee. I ask you to comment on those things. If you choose to add anything, given the evidence you have just given that there are tensions but the system is working well.

DAVID PARKER: I am unable to comment on individual acquiring authorities because I have no knowledge. I know that fundamentally is by nature it is a compulsory acquisition. Therefore, it is not something any of the claimants necessarily want. It is something that is forced on them for the overall community good. So human nature would be to resist and be unhappy with anything that is compulsory, in which fundamentally you have not right to say no.

The Hon. JOHN GRAHAM: Yes, but it is not compulsory that people are upset by the process or agree to the process or put through an incredibly tumultuous process by the process. None of those things should be compulsory. Why do we not recognise the principle? You are saying that almost across the board people will feel that their home is worth more than the simple market value for all the reasons that you have articulated. I think anyone in the public would understand. Why cannot we tilt the system to recognise exactly the principle you were outlining?

DAVID PARKER: Well, that is entirely a matter for the Government. The Government may choose to. One scenario that is often posited is that there should be some kind of premium paid—so market value plus 10 per cent, market value plus 15 per cent. It is entirely a matter for government whether it wishes to do that. Consequently we have no problems. Whatever government wishes to do, we will implement it.

The Hon. JOHN GRAHAM: Are you aware of discussions in government about consideration of moving towards some sort of system such as that—market value plus 10 per cent—given the scale of the acquisitions that are going on at the moment?

DAVID PARKER: No, I was unaware of that.

The Hon. JOHN GRAHAM: Are there other jurisdictions which do recognise that with a market premium?

DAVID PARKER: Not that immediately spring to mind. It was a feature of the very early private Acts in the United Kingdom in the mid-1700s for the canals and the railways where it was market value plus a percentage. But then as the various Commonwealth jurisdictions matured the "plus a percentage" faded away and it became market value with compensation for other things like, what used to be known as, solatium, the loss of your principal place of residence, severance, injurious affection and other things.

The Hon. JOHN GRAHAM: Fast forwarding from the 1700s, do you have a view about what an appropriate market premium might be? How much of a distinction do you see between these two ideas? I know that is a difficult question.

DAVID PARKER: I do not have a view because it is a matter for government how much it wishes to benefit the dispossessed.

The Hon. JOHN GRAHAM: I accept that. I think that is fair, and I do not want to put you in the position where you have to give evidence about which you are uncomfortable. Let me put it to you this way though, with your knowledge of the system, how much of a gap is there when people assess the worth of their own home compared to what is being paid out in the market value in the cases you have experience of—that is a better way.

DAVID PARKER: I have not analysed that.

The CHAIR: Thank you Dr Parker for attending again and responding to our queries. I do not believe you took any questions on notice but if you did you have 21 days to respond.

(The witness withdrew.)

Mr TOM RICHARDS, Member, Save Our Homes Jannali, affirmed and examined

Mr WILLIAM "LIAM" MULHALL, Member, Save Our Homes Jannali, affirmed and examined

Mrs WILHELMINA "HELMA" MULHALL, Member, Save Our Homes, Jannali, affirmed and examined

The CHAIR: Do you want to make a short opening statement?

TOM RICHARDS: Thank you for the opportunity to be here and talk to you all today. Believe it or not, we are the lucky ones—the group of families that managed to reverse the decision of Transport for NSW to compulsorily acquire nine family homes here in Jannali in 2021 all for the sake of a commuter carpark. We say "lucky" as we are fully aware of communities like Orchard Hills and Riverwood that have not been afforded the reprieve that we have. We supplied a robust overview of our case and recommendations for the Committee back in July 2021 but wanted to just lead out with a few key areas we think are in need of urgent focus.

To reiterate to you all today we are not a group of anti-infrastructure and development and we fully recognise the complexity of the job. But we do, however, feel that in our case Transport for NSW, the State Government and our local member could have done a far better job. I will not touch on timing perhaps in the pack we have provided but for clarity the date on which doors were knocked in Jannali was 11 February 2021 and Transport for NSW withdrew the compulsory acquisition orders on Thursday 4 March. So it was around three weeks we were kind of going through this process.

Our experience in the acquisition process here in Jannali was one that was severely lacking in planning and consultation. The interaction between key planning legislation and the compulsory acquisition powers afforded to Transport for NSW to ensure proper and full assessment of impacts from a proposal involving acquisition must be complete prior to commencing acquisition process. Our experience was that the acquisition process was the start of this process with all required planning approvals to be commenced at the conclusion of acquisitions. We were encouraged to commit to review the due diligence processes that should be put in place to ensure that prior to acquisition taking place Transport for NSW ensures that: there is clarity in what would constitute a major infrastructure project, and whether carparks should fall within this category with justified and valid public purpose has been established; that there has been an opportunity for transparent and meaningful community engagement and options; and that there is credible evidence of the benefits to the public outweigh the hardship to those affected.

It is our firm opinion that our homes were used as a wedge by Transport for NSW to expedite negotiations with the Sutherland Shire Council for the pre-existing carpark in the Jannali shopping precinct. Once acquisition orders were given, within weeks Transport for NSW had given the council a seven-day ultimatum to hand over an existing carpark or risk losing the homes. The media were briefed in advance of the community of the commuter carpark with accompanying quotes and artists' impressions provided and there was a lack of engagement and response from our local MP, despite phone calls, emails, letters and requests for meetings. We were concerned during the process there was a conflict in position as her role as the Parliamentary Secretary for Transport and Roads meant that she could not engage with us thoroughly.

My final point is: It is clear that the impacts of the commencement of the process on those directly involved is considerable. From the moment doors are knocked it is our firm opinion that Transport for NSW has no process for emotional or mental supports to protect citizens' welfare. Instead they are afforded a case manager under the employment of Transport for NSW and the option to privately fund legal support. The minimum standard of support, including mental health support, required to be provided by agencies when commencing these decisions is missing. A genuine intermediary process is required rather than a Transport for NSW employee marshalling affected families through the desired process at a pace at which they dictate. Transport for NSW case management standards and duty of care for affected homeowners once the process is enacted is sorely missing. The Transport for NSW requirement to specifically plan for affected homeowners' circumstances and ongoing support requirements, for example, constituents living with disability or an even wider support prior to the enactment of the compulsory acquisition process, we feel would be beneficial to the community.

So finally, although we have a sense of relief that the compulsory acquisition orders were withdrawn on our homes, the impact that is left on our community is profound. There has been significant loss of anonymity for some; for others, a clear deterioration of trust in State government; and for the majority feeling that we are both underestimated and unnecessarily used as part of a wider deterioration of the relationship between Transport for NSW, the member for Miranda and the Sutherland Shire Council. In a process that can often feel bereft of compassion, there needs to be a renewed standard to help impacted communities feel respected, informed and cared for. I believe Liam may have something to say as well.

The CHAIR: Thank you. Mr and Mrs Mulhall.

LIAM MULHALL: As previously said, my wife and I are owners and residents of 7 Mary Street, Jannali, still, I am very pleased to add. Just over a year ago persons from Transport knocked on our door and announced that our home would be compulsorily acquired to make way for a commuter car park. That began a traumatic and life-changing episode with permanent repercussions. We were therefore delighted when this inquiry was announced and gave us the opportunity to provide a direct victim's perspective in our submission. I would just quickly like to emphasise a few points regarding that submission.

Firstly, as the euphemistically named opening letter says, the decision to evict us had been made and the process actually started. That is, in effect, an eviction notice masquerading as a negotiation. Also, there is no prescribed or practical process to challenge or appeal the decision. A lot of emphasis in inquiries is about the process of calculating proper compensation. I would like to focus more on the process as to how the decision is made and justified and how landholders' rights in this regard are protected. We understand infrastructure development is essential and forced evictions are sometimes necessary. Nevertheless, they are a violation of the fundamental human right to adequate housing and as such require particular consideration and full justification prior to the decision being made, as laid out in the United Nations report *Basic Principles and Guidelines on Development-based Evictions and Displacement*.

Those who decided that this car park in this place at this time was the right thing to do have never felt the need to explain or justify why. They did not even have the common decency to acknowledge the greater harm being inflicted on us, let alone explain what greater good clearly outweighed that harm. They did not treat us with dignity or respect; they treated us with contemptuous disregard. We were powerless victims of unscrupulous, powerful people. Fortunately, our neighbourhood had the resources to mount an effective protest campaign in mainstream and social media. The public immediately saw this for what it was: an unprincipled betrayal of Australian values, a moral outrage, and they were certainly outraged.

Potential political damage from the resultant scrutiny and the unstinting, unanimous support of the shire council is what stopped this project. To date there has been no admission of wrongdoing, no consequences for such reprehensible behaviour, no personal price to pay, and therefore no incentive not to do so again. What is to stop such similar unacceptable behaviours against others less able to effectively protest? As a lay person, I do not understand why we do not legally mandate that all compulsory acquisitions in this State must follow international best practice as defined by the UN. Thank you.

The CHAIR: Thank you very much. I had the pleasure of meeting with you last April and with a couple of other residents who had been impacted and what really struck me was this sort of emotional impact, and I know that, as Mr Richards said, you were the lucky ones: this was a three-week process for you. But your experience really gives an insight into what hundreds of people are going through across the State. Could you give us a little bit more of an understanding of exactly what happened when you were first told that your homes were going to be acquired?

LIAM MULHALL: Yes. Would it be okay if my wife responded?

HELMA MULHALL: Can I just do my little introduction too?

The CHAIR: Of course. I am so sorry, I did not realise. Please go ahead.

HELMA MULHALL: No, that is fine, and then I will continue on with that question. Thank you for raising this inquiry. We really appreciate it. Members of the Save Our Homes committee have forwarded you an outline of the emotionally and financially traumatic experience we were put through by two elected government officials and Transport for NSW to announce the compulsory acquisition of our homes. I am horrified that two elected government officials felt they could bully, harass and intimidate families, the community and local council to try and achieve an outcome that would result in their party's election promise being met, in the hope that these two individuals would be re-elected. There was no concern for the emotional, mental and financial stress for us, the community and the Government. The amount of taxpayer money these two uncompassionate individuals wasted must be exorbitant, not to mention the financial cost to us and our neighbours to fight this event and pay for our medical expenses.

I hope this inquiry can come up with a solution so changes are made according to the guidelines in place, that results in the genuine good for the community and individuals' emotional needs are considered and fair monetary compensation is made. I understand things need to progress and change, but no Australian citizen should be subjected to this unethical behaviour as displayed by these two individuals and Transport for NSW.

We were away on holidays and at 9.30 our house-sitter rang us up and told us that a man from Transport for NSW had knocked on the door with his scribe and asked "Who lives here?" They then proceeded to tell our house-sitter of what was happening, who then had to ring us and tell us. I am flabbergasted that an organisation such as Transport for NSW would do such things in that way, that is just horrific. The neighbour next door—she

is a single mum with two boys—she was putting her sister's children in the car, all under seven, she got a tap on the shoulder. She had no emotional support with her. They said they were from Transport for NSW and they asked if she wanted them to come back later. Well, of course, something official like that, no. So she walked into the house with four young children under seven, where they proceeded to tell her she was going to be evicted from her house. She had nobody with her.

The two people who live behind us—an elderly, sick brother and sister—while the elderly sister was undergoing chemotherapy, they knocked on their door. No emotional support. These people could hardly look after themselves. It was unbelievably cruel.

The CHAIR: They say that in terms of stressful life events, the death of a loved one, divorce and moving home are the three most stressful events that you will experience. Did the people who knocked on the doors seem to have any understanding of how stressful the message they were delivering was?

HELMA MULHALL: Sorry, I am taking over all of this, I know Mrs Singh, she was absolutely horrified because the man was smirking at her while he was saying it. She was horrified. She was in tears.

TOM RICHARDS: I think the common experience—to answer the broader question—the experience we have on the ground is that when the doors are knocked it is a very isolating experience for the home owners that are most affected. So the nine homes, there was no period of consultation—we are in an R2 zoned residential area—never a conversation about a car park being here, never an assumption about a car park being here, never an assumption when you buy property here that that would be coming. These things change, we kind of understand that, but when doors are knocked, the individual home owners are left on their doorstep on their own to contemplate what they do next. So I think that is the cruellest part of it, that there is not any kind of linkage outside of what we did as a community to bring people back together.

My home is directly opposite the houses affected, my driveway leads onto where the proposed car park would be. I never had a knock, a phone call, a conversation. I was informed about it by the press; that was the only way I found out. Someone sent me a WhatsApp message going, "Is this a picture of your house?" and there was an artist's impression of a five-storey car park directly over the road. So the feeling was that this was happening over the road from me. I had no idea that conversation had taken place; there was no formal conversation. The next point of communication was a pamphlet stuffed in our letterbox the following Monday—that was a Thursday—the following Monday we had a sales brochure put in, telling us about the electric charging points and solar panels the car park is going to have and an innovative façade, so do not worry about it. But we really found from that first kind of interaction with Transport that, going out on our driveway, people were completely devastated. And it is a knock; it is a quick 15-minute conversation—"Here's a letter. See you later"—and then they are left to pick themselves up.

We were lucky in our community that we are a very tight-knit community, so we could kind of step in and help support people and we got together quite quickly and, to credit, the mayor from the Sutherland shire came and saw us on that Sunday and spoke to us. But it is devastating news to get and it is even more devastating when you are kind of given a letter and then they just disappear and the next conversation starts being about valuation. I think that needs to be looked at.

The CHAIR: So there is this devastating news delivered in circumstances where people are not expecting it all. So it is just a real shock out of the blue. Should these people really be turning up with some sort of, I guess, counsellor or psychological support?

HELMA MULHALL: We asked. We asked so many times. It should not have even happened; they should have followed proper procedures to get to that stage to knock on the doors.

LIAM MULHALL: If I may just interject? It is absolutely outrageous that the first thing we hear is a done deal, a fait accompli: "We're taking your house. You're going to be evicted." That is the very first thing we heard about this; nothing prior to that. They had been working on the project for six months and they talk about consultation. It was not consultation; it was deliberately done in total secrecy. We were not—and this dawn raid, surprise, shock and awe attack, was a calculated tactic to put us off balance and accept what they wanted—for us to comply with this process. That is my view.

TOM RICHARDS: I will give just a really quick example. One of the homes affected have a son with cerebral palsy, who had gone through a government grant process to add a ramp and electric door for their son so he can access the property. That was all government funded and that would have been on record somewhere. When they knocked on the door to tell them that they were compulsorily acquiring the home, there had been no consideration around, "We will help you maintain this grant and move to another place." They had to go through that process and then go back to them within a couple of weeks to say, "Hang on. If we need to find somewhere

else, we have needs within the family that need to be met, so we have to find a very specific property or we have to go through the government grants process."

And only then did Transport kind of switch on and go, "Oh yeah, actually we should. Yeah, we'll look into that and we will let you know if that's something we can replicate somewhere else." That is not hard information to find. I think there is a due diligence here that if you are knocking on someone's door and you are going to pull down their lives in 15 minutes in the morning, I do not think it is much to ask to spend an hour or two the day before to go, "Whose door are we knocking on? What might their needs be and how can we best serve those needs in the coming weeks to kind of guide them through this process?", outside of appointing a case manager who is trying to complete the process efficiently.

The CHAIR: Thank you. Mr Graham, did you want to ask some questions?

The Hon. JOHN GRAHAM: Thank you, Chair. I might just pick up on exactly that point, just while you are making it, Mr Richards, just to say yes, these are predictable problems. You might not know exactly what the circumstances are but you know that of course people are going to have many of these individual circumstances. But in your feeling these just were not predicted at all or there was not that sense of wanting to know exactly what needed to be done to deal with the individual lives of the people impacted here.

TOM RICHARDS: Yes, that is completely my view. I think there is obviously a planning process that takes place unbeknownst to us before, and it is really when it gets to the point of knocking on the door they are stepping through their plan and the plan is "How do we just get past this acquisition process and begin development?" There is not a clear process that we were either shared or felt party to that was managed by case by case: "What is the impact we are making on lives and how are we going to mitigate that impact?" The main conversation shifts quite quickly to valuation, and I know you guys have heard a lot about the valuation question. That luckily did not happen to us too much, but that is really the question they think that you want to ask, and ultimately that is where you get to, right? But there is a whole period in that six-months period, those first few weeks you do not even want to talk about valuation, you do not want them to call you up and say, "Hey, can we come round next Tuesday? We need to value your home because we need to get going with this paperwork."

If that is the first interaction or if that is the first stage of the interaction you get, that they go from "We're taking your home. We need to come and value it. When can we come?", there is a whole piece in the middle there that is completely missing and I think that when it happens in a community like ours, where there was no assumption, no understanding that something like this might happen—we do not back onto a freeway, we do not have a hospital right on the boundary line where they might need to expand—this kind of definition of major infrastructure I think was really poorly applied to this and the way in which they stepped into it really let people down and I think that is what caused a lot of the community anger. That is why we kind of fought back so hard.

The Hon. JOHN GRAHAM: I just wanted to thank you for your written submission and the evidence you have given today. I think it really does provide a very important picture that we need to add to what we are dealing with in this inquiry. You have put your case very strongly. You have been lucky in some ways, having headed this off, but you have also clearly gone through a very difficult time. So I did really want to thank you for the effort you have put into your submission. That motive for why this happened is doubly upsetting for you though, that really you feel like you were used to put pressure on the council. That is really what you think was going on when this pressure was applied. Is that correct?

LIAM MULHALL: If I may speak to that? I think there are two aspects. Yes, I do think we were used to put pressure on council, but I think the fallback that they would have gone ahead with anyway if that had not happened is the project that was proposed: the car park. So I think they saw it as a nice Machiavellian approach here: "We'll use these people to blame council if they do not come to the party. But this is why we have to do this other project."

The Hon. JOHN GRAHAM: And dealing with the specifics of the proposal, this was clearly an election announcement. It was announced in February 2019; the former Premier came down and made this commitment. In your submission you say it was subject to winning the election. So it was a conditional commitment. Tell us about the business case though, what you feel was taken account of—what was in the costing, what was to go in the costing and how that affected this individual case?

LIAM MULHALL: We have no insight to that business case; we never saw it. We would have loved to have seen it. We did not.

TOM RICHARDS: I think what we could see was the budget that was being provided for the car park was definitely not costed, on the basis that there would be a compulsory acquiring of nine homes and building on a block, rezoning. I think when we started trying to piece together and looking at what the budget they had kind of saved up for this versus what we would expect, even as lay people, what it would cost it was far out of whack.

The Hon. JOHN GRAHAM: But how could that be the case? It was \$17 million announced. You say, "It would have cost at least \$10 million to acquire our homes." How could you not take that into account if you are planning this project, this commuter car park?

TOM RICHARDS: I think that is where we come back to what is the value for the community here? If this ends up costing \$60 million, what value does that give back to the community? And I think that is what we found. As residents who would have been kind of stuck remaining around this car park, we could not even use the car park. I think the council, and I am not sure who was the deputy mayor at the time in the council, really eloquently put it that it is even more galling that you are displacing nine families to build parking spaces for people who do not even live in the community. To drive and have a marginally quicker walk to the station feels really out of whack with how we should be kind of spending public money. The money never stacked up.

I think on your point around the Transport for NSW and the council, I think the overriding feeling that we had is that we were really being used as collateral. I do not think that there was this big scheme where they said, "If we threaten these homes the council will give in." I hope that is not how they would work, but I think it is pretty clear to us that there was a view to go, "This would be an option that gets this done in a time frame that we want to get it done." And bear in mind, think back to 2021, we had gone through one round of lockdowns and COVID—I, for one, have not been back into the office full-time since then—so commuter numbers were down. We are giving 200 spaces, which is probably about not even a third of one train capacity, so we are not really solving a problem here.

So we are really questioning why is time the biggest decision that you are making here? And the only outcome we could come to there is that it needed to be complete before the next State election. So we were really the quick option. When we kind of stood up and said, "We're not happy about this and we're going to get together and kind of try and force a conversation with you", we became quite hard basket, and that is when they went back to say to the council, "You have seven days to give us land or we'll take the homes." But the question we are asking the whole way through is, if you were that happy to do it quickly, why not compulsorily acquire the car park? Why not take the Jannali car park off the council and compulsorily acquire that and move at a speed that you want and deliver a better outcome? I think because that would have caused probably a bit more of a headache; they thought they could roll us a bit quicker, and I think that was really disappointing.

The Hon. JOHN GRAHAM: Also a bad misjudgement.

TOM RICHARDS: Yes, I would like to think so. It probably did not do them too well for three weeks.

The Hon. JOHN GRAHAM: I might just finally ask you, you are clearly uncomfortable with the role that Ms Petinos played, just what you described as the conflict between the fact she was the local member but also at the time the Parliamentary Secretary with responsibility in this area. I might just give you the chance to spell out your views—you refer to it in your submission, but anything you want to put on the record in relation to that.

TOM RICHARDS: I can jump in on that. Do you guys want to say anything?

LIAM MULHALL: No, please do.

TOM RICHARDS: I think if you look at the base expectation, and I kind of said this in the media at the time, when something like this hits a community, and, like I said, it is isolating, the process forces separation, it is kind of "This will be good for you but bad for them, but focus on what's good for you", you need someone to kind of show leadership in that and I think if you do not have your local member representing the constituents and when something like this happens, if you have made the decision and you support it, it is still your job to turn up and put your arm around people and say, "I'm sorry this is happening, but this is going to be the benefit and this is what I am going to do to support you."

I think what I found totally unacceptable in the process was the feeling that they could wait us out, that in us writing letters or making phone calls—and we were making phone calls every day; personally I made a phone call every day to her office to say, "Could we have a meeting? Could we have a conversation?", the only time I was responded to effectively on that—bearing in mind I was really heavily involved with Liam and Helma and others in our community in kind of forcing a dialogue on this—the only time they wanted to speak is when they had devised the ultimatum. So they wanted to talk to us when they had the ultimatum to try and shift the conversation; outside of that, we were not afforded a conversation, and I think that just built a kind of building sense of resentment. It is a tough job, and I appreciate that; I know everyone in this Committee has a tough job and there are times where you are not going to be popular, but it is just as important to stand up and put your hand up and own the decisions you are making when that happens. And there is nowhere there was not a conflict of interest in this, right?

If you are that close to the transport department and it is within your constituency and you are building transport infrastructure, you knew this was coming, so, again, why not put a plan in place? You can make the decisions you want, you are elected to do that, but you have to own them and you have to engage with the community. But if there is no consultation coming from Transport, the first place we are going to go is our local member and if they are not talking to us either it is just going to build this resentment, and that is what happened here: the lid was going to blow on this thing and it is lucky it ended within three weeks because the stress and the torment within our community was palpable; it was a really, really tough time.

HELMA MULHALL: Can I just also add, Eleni turned up on our doorstep unannounced on a Wednesday afternoon around two o'clock. Liam was home by himself. She had a scribe next to her; Liam was not allowed to take notes. I mean this is just clear bullying and intimidation. When she was going to ask for council to hand over the car park, she had organised a TV crew to film her.

The Hon. JOHN GRAHAM: And when you say Liam was not allowed to take notes, how did you react?

LIAM MULHALL: It just gives you a flavour of the tenor of the conversation. A knock on the door, I answered, two people there, one was a representative and the other was an assistant, and there had been no forewarning. I said, "What's this about?" and she said, "I want to talk to you about this." I said, "Why wouldn't you speak to us as a group? We've been trying to get a meeting with you." Again this surprise tactic, this shock surprise, "Get them off balance." So I was floundering, quite honestly. I had lots of arguments but I was trying to marshal my thoughts and one of the things that I asked her was, "Who is this young lady with you?", and she said, "She's here to take notes", and I said, "Well, I haven't got anyone here to take notes." That is what my wife was referring to. But the conversation went on from that and we were very unhappy that we were not given a proper, reasonable chance to have a proper dialogue. It was all this media posing, this "I've come to talk to the people. Look, this is on camera. I'm doing the right thing. What do you mean we're not talking to them?"

The Hon. JOHN GRAHAM: Has it got to the stage where you are hesitant to open the door, given this series of shocks?

LIAM MULHALL: Yes, it did for a while, that is for sure.

HELMA MULHALL: No, it has made me a lot stronger. The total injustice—I have always been a believer, my parents always said people do the best, I am just very disillusioned with what people who we elect, who we pay for with our taxpayers money, and they are just total narcissistic bullies.

The Hon. JOHN GRAHAM: Thank you very much for your submission to the inquiry. Thank you, Chair.

The CHAIR: Thank you, Mr Graham. Mr Banasiak, did you want to ask a question, or any of the Government members?

The Hon. SCOTT FARLOW: I might just follow up from Mr Graham there just with respect to the prohibition on taking notes, just to clarify that point, Mr Mulhall. Was it that you were stopped from taking notes or you just did not have that opportunity necessarily? There was no order on you not to take any notes of that meeting with your local member?

LIAM MULHALL: No, it did not come to that sort of a clear-cut yes or no. It was just sort of pooh-poohed, the notion that I would want to take notes.

TOM RICHARDS: I can give some clarification on that as well. We have been requesting numerous times and, like I said, calling every day, and none was afforded to us. So I think it was irresponsible to just knock on people's doors and wander around the neighbourhood trying to do it. Whether the notes were taken or not, I think the point is we were looking for structure and we were looking for a conversation that residents can prepare for, right? A highly emotional, supercharged time, they want to kind of make sure that they can emotionally be stable and talk through the points that are really concerning them. When you knock on their door cold it is not going to do that. We did call the office, the member for Miranda's office, afterwards and request the notes that were taken by her and her team and those were not provided to us.

The Hon. SCOTT FARLOW: But, of course, in terms of any meeting—and I have got to say, we are all elected officials here, so we have all had meetings—we often like to take the notes because we want to actually have that information to go back and act on, effectively, and perhaps when we are in the middle of that conversation we do not have that ability to do it. So having somebody there to take notes is not necessarily for nefarious purposes but it is in order to assist you in being able to do your job as well and to take up those actions that community members might raise with you. And of course in these situations it is a very emotionally charged experience and I can really understand the position you are being in and how distressing that would be, but just

being able to go and follow up on your actions as well can be important for a local member, particularly when you got to the outcome where there was not, as arduous as it was in terms of those three weeks, that thankfully you did not have the position of having those homes acquired. Sorry, Mr Mulhall, I saw you putting your hand up there.

LIAM MULHALL: Yes. I think this note-taking issue is a bit of a furphy. I only mentioned it in the context of giving you a flavour of the exchange.

The Hon. JOHN GRAHAM: But I think you made the point well that it is the structure that you need, the structured engagement. I think that has really come across.

The Hon. SCOTT FARLOW: That is it from me, Madam Chair.

The CHAIR: Thank you. I guess just picking up on that point, it makes me question whether this whole process of knocking on the door at all right at the beginning of the process is appropriate because I do not know about you but I do not think there is ever a good time for someone to knock on my door—I am always either wrangling the children or in the middle of a conference call or doing whatever. This idea that someone arrives when unprepared, whether it is a local representative or whoever, do you think that is ever a good idea and would it create a better balance between those being acquired and those acquiring if there was a more structured process of meetings being held outside of your home?

HELMA MULHALL: I just cannot imagine that this would not even be in guidelines to knock—I cannot even understand why we are going through this. This would not even be in guidelines. A government organisation that size that they even thought of doing it.

The Hon. DON HARWIN: May I ask a question, if that is alright? Would you have perhaps preferred to receive a letter, as was the previous practice, or would you perhaps prefer a telephone call calling you to a meeting to discuss it as an alternative practice? I might just add by way of comment before asking you to respond, actually visiting people and talking with them was something that was put in because it was felt that a letter or a telephone call was too impersonal. So I just wonder if you would basically respond as to the other possible ways of initiating this conversation so that we could get a better understanding of what you think might be a preferable way to go.

LIAM MULHALL: May I respond to that?

The CHAIR: Please do.

LIAM MULHALL: What I would think would be a better way to do it would be to involve, consult and communicate with us prior to the decision being made, to tell us that there is a possibility that we will be evicted from our homes, to explain why this would be necessary and to give assurance that other alternatives would have been looked at. The fact that you are presented with a fait accompli: "You are leaving this house. You are going to be evicted", whether you get that in a letter or someone knocking at the door, it is going to be a huge shock.

TOM RICHARDS: Can I give my view there? I think I would not focus so much on the input, I would focus on the output. I think whether someone calls you up, knocks on your door, sends you a letter, I am more worried about is that person that has then been notified feeling comfortable they are aware of what is going on, aware and consulted on the decision process, or are they left with the information that makes them start to process and understand what happens next? I think at the moment whether you call someone up and spend 15 minutes saying, "We're going to compulsorily acquire your home", or you knock on the door and tell them, the abrupt nature of that dialogue and then the feeling that you are then left to kind of sit and dwell on that on your own is a bad output.

It sounds like if they have done telephone calls before, those people who are paid far more money than any of us, I am sure, on this kind of process and the semantics and how it is best delivered, I think what we would really want to focus on is really considering instead of, "We've hit the date, we've knocked on the door, so the process has started, so let's get to the next plan", thinking about, "When we knock on the door, let's focus on the people whose door we are knocking on and make sure that they are looked after in that time and they are fully aware of the decisions. Because there is a common practice, and I am sure you would have all experienced it, that when this is announced and doors are knocked on there are a stream of ambulance chasers who turn up on your doorstep or in your street the next week, saying, "We will offer you support. We've done this before. We are legal advisers, we can help", and that is where communities go to get the help because there is no other position. I think that is where we are looking at that intermediary kind of support to go, is there someone that you are afforded to talk to who is not someone who is trying to expedite the process, who can give you that support? And whether

that first interaction is telephone call, letter or knock on the door, I think that is up to Transport to kind of find the best formula and make that decision based on the people who are you contacting.

The CHAIR: It sounds to me then like there are sort of two elements to this: there is the having some sort of understanding that this might happen, so that you feel that it is not just a done decision by the time you get notified out of the blue, so some sort of notification that this may be something and, perhaps even better, some input into the decision as to whether or not it happens; but then on this point of how you get notified, I can imagine people thinking that people turning up at your door would be good because they could look after you and help you, but if what you are getting is actually people turning up at the door who just tell you and then leave, you may as well have a phone call or a letter. So again, Mr Richards, is that sort of outcome focus what—

TOM RICHARDS: Yes, exactly.

The CHAIR: How do we leave people after it.

TOM RICHARDS: In terms of the consultation process for those who are not having their door knocked, we were desperate to consult and go, "What's happening?". We were just told, "That will happen in six months once the compulsory acquisition process is complete." I think that lack of consultation just causes a swell within communities that means it is separated, different people have different motives and intentions. I think it is purposely designed to create a bit of chaos to get through that process quickly. You can lose three months in a compulsory acquisition process in a blink. When you are in that emotional state and you start trying to be a backyard lawyer, the time will disappear and it is against you.

The CHAIR: I will give the Government another chance, but I just wanted to ask one more question before I do. You mentioned before, Mr Richards, this kind of focus on compensation amounts and on how much you are going to get paid out for your house, in a similar way, I guess, to how you might do a business acquisition as opposed to actually buying someone's home. You mentioned before that money is not what you are thinking about in that first period of time and in your case presumably you were thinking about "How do we stop it?". But also I remember when we spoke in April and the Mulhalls' neighbour was talking about having to work out what she would do with the children and which schools they would go to, and trying to plan the school year. Can you give us some examples of the types of things that people are thinking of in those first few weeks that they really need help with?

HELMA MULHALL: Well, for me, Liam and I have planned to be here in our retirement. We have organised our home, we have done the renovations, because we love it here. I have also got my neighbours, I have got my beautiful community which I just love. There is no way with what we would have been compensated with, and there were not at that stage any houses to buy in Jannali—houses just do not last here at all—I was going to be displaced from my community, everything that I have known, and I would have had to have started anew. For me, that was the most devastating thing. We are a very close-knit community—I go over and look after the kids across the road—it is a beautiful thing, and we could not have lived here. I would have had to have moved and I would not have got what I have got here.

TOM RICHARDS: When you look at the brass tacks of the market rate and valuation I think you are quite often left with the feeling that it is going to be very, very difficult to buy something comparative in the same area. Number one, stock is an issue, but there were nine families potentially having to find the same house. So there was a very real scenario that nine families would all be turning up to the same auction to buy the same house, which is even worse of an outcome. Then, number two, the money you are getting at fair market rate is not necessarily going to get you a like-minded property somewhere else because that is not the market, and I think back in February 2021 the market was crazy; it is even worse now. So I would feel awful for anyone—and in Riverwood there are some people this week who are going through that process now—when you are given the value of your home six months ago and cashed out six months later, you are never going to be able to go and buy that property for the equivalent value in the market as it currently is, and I think that is a real concern.

People, when they start looking down the barrel of this is going to happen and the compulsory acquisition process is going to happen, straightaway you are looking at "How do I stay within the catchment area of the school? How do I stay within the community? How do I replicate the life I have?", and I think that is near impossible in a community like Jannali—I do not think there would have been the stock or the opportunity. So if there was a way to help that process, I think that needs to be looked at in terms of is there an addition to the fair market value given as almost an opportunity to help you get back into the market, even if that is slightly more than your home is currently valued at? Is there a penalty rate for the Government to come in and displace you in this way? And then is there a support in which the Government or Transport can help you acquire that property?

Here in Jannali, one of the homes to kick off the process was actually bought outside of auction by the Government; they kind of shut down the auction and put a claim on the property, caveated the property and said,

"We're going to buy that." Is there a way in which the Government can help find people equivalent accommodation? I think that is a preferable route, but I think there is more that could be done to look into that, and again focus on the outcome of the individuals. Like, the car park is down the road; think about the first two months of this process, how you are going to help people understand, because bear in mind they are living their life at the same time, right? We were all going to work every day, we were all taking kids to school, we had our lives continuing around this; we could not just spend three weeks mulling over a compulsory acquisition process, we were still doing what we needed to do and then worrying about this on top of that. So a few suggestions, but I think you guys will have a firmer view on that.

The CHAIR: And as you said right at the beginning, it is not about being anti-development or anti-change; it is about being made whole in the process, and that is more than money, it is a lot more than money. Would any of the Government members or the Opposition like to ask a final question? Some shaking heads. We are incredibly running on time again for this session as well.

TOM RICHARDS: There is someone waving. I am not sure if they are waving no questions.

The Hon. MARK BANASIAK: Sorry, that was me, Chair. I have been waving for a while now.

The CHAIR: I cannot see you, I am sorry. Go ahead.

The Hon. MARK BANASIAK: I just wanted to ask a clarification question to Mr Mulhall. When Ms Petinos came to your door, where was the cameraman in relation to your house and what capacity was she actually talking to you as? Was she talking to you as your local member or was she trying to talk to you as the Parliamentary Secretary for Transport?

LIAM MULHALL: The latter question, I have no idea; the conversation did not proceed on that basis. It was somewhere on the street, I cannot recall precisely where.

HELMA MULHALL: Opposite, across the road.

LIAM MULHALL: Across the road, yes.

HELMA MULHALL: They were sitting in the car waiting for—yes.

LIAM MULHALL: And they did get out of the car at one stage, but at this stage a lot of fellow residents had come together and I saw the camera crew on the street, but they were not at my front door, if that is what you are asking.

HELMA MULHALL: I think they were waiting for a nod from Eleni.

The Hon. DON HARWIN: Despite the impression you sought to give earlier, there was no camera crew on your property?

The Hon. MARK BANASIAK: I was just trying to get clarification as to where they were and what they were doing. That is fine, thank you.

TOM RICHARDS: If it is beneficial, it was a Channel 7 news crew and I think there is a YouTube clip of it, so we can supply that. Obviously it is edited by news and media, so it is kind of their take on the events, but that will give you proximity, if that is useful to you.

The Hon. MARK BANASIAK: Thank you.

The CHAIR: I think that would be very useful actually. If you could send that through to the secretariat that would be great.

TOM RICHARDS: No problem, yes.

The CHAIR: Apologies again, Mr Banasiak, for missing your waving hand and your message saying you wanted to ask a question. Were there any other final questions before I conclude our hearing? I cannot see any waving hands. Thank you very, very much for attending and for giving such compelling evidence to us today about the very human impact of these acquisitions on people. It has definitely given us some direction for our recommendations, so thank you very much. That concludes our hearing for today. To the extent you have taken any questions on notice—I do not believe you did—the Committee secretariat will be in touch.

(The witnesses withdrew.)

The Committee adjourned at 11.00.