

REPORT ON PROCEEDINGS BEFORE

PORTFOLIO COMMITTEE NO. 6 - TRANSPORT

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

CORRECTED

At 814-815, Parliament House, Sydney, on Friday 27 May 2022

The Committee met at 10:00 am

PRESENT

Ms Abigail Boyd (Chair)

The Hon. Mark Banasiak (Deputy Chair)

The Hon. Wes Fang

The Hon. John Graham

The Hon. Chris Rath

The CHAIR: Welcome to the sixth public hearing for the inquiry into the acquisition of land in relation to major transport projects. I acknowledge the Gadigal people of the Eora nation, the traditional custodians of the lands on which we are meeting today and I pay my respect to Elders past, present and emerging, and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of New South Wales. I also acknowledge and pay my respects to any Aboriginal and Torres Strait Islander people joining us today or watching us live. Today we will be hearing from a number of stakeholders including local action groups, the member for Balmain, Mr Jamie Parker, Councillor Pauline Lockie from the Inner West Council, and local residents from Leichhardt and St Peters. I thank everyone for making the time to give evidence to this important inquiry today.

Before we commence I will make some brief comments about the procedures for today's hearing. Today's hearing is being broadcast live via the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. In accordance with the broadcasting guidelines, media representatives are reminded that they must take responsibility for what they publish about the Committee's proceedings. While parliamentary privilege applies to witnesses giving evidence today, it does not apply to what witnesses say outside of their evidence at the hearing. I therefore 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. If witnesses are unable to answer a question today and want more time to respond, they can take a question on notice. Written answers to questions taken on notice are to be provided in this case within 14 days. If witnesses wish to hand up documents, they should do so through the Committee staff.

With reference to the audibility of the hearing today I remind both Committee members and witnesses to speak into the microphone. For those with hearing difficulties who are present in the room today, please note that the room is fitted with induction loops, compatible with hearing aid systems that have tele-coil receivers. I note that two members of the Committee will join us remotely: the Hon. Shayne Mallard and the Hon. Daniel Mookhey. Finally, could everyone please turn their mobile phones to silent for the duration of the hearing.

Mr IAN CHOUDHURY, Founding Member and Secretary, Appin Orbital Motorway Support Group, affirmed and examined

Mrs FIONA EVANS, Founding Member, Appin Orbital Motorway Support Group, sworn and examined

The CHAIR: You now have the opportunity to make a short opening statement, if you like.

IAN CHOUDHURY: I might do that on behalf of the group. I have 14 pages to run through. I know you guys are very pressed for time so I am just going to keep this to one minute, if I can. I just want to outline our position so you get a bit of an idea where we are coming from. I would like to first state that we are not opposed to the building of new housing in Appin. We are not opposed to any new infrastructure which is necessary and we are not opposed to property developers. And, of course, we are not opposed to Transport for NSW. We just don't want people hurt, both financially and psychologically. What we hope to show today, if we can, is that people are hurting. The actual land identification process has been less than transparent and compensation may not be sufficient to allow residents to acquire an equivalent property. I will hand over to you for your questions.

The CHAIR: Did you say you had a 14 page—

IAN CHOUDHURY: No, I was just teasing.

The CHAIR: Right. I was going to say—

IAN CHOUDHURY: These are quite serious matters and we are nervous because we haven't been to one of these before so just bear with us.

The CHAIR: I was just going to invite you to table it if you had such a thing.

The Hon. WES FANG: It was so deadpan it was awesome.

IAN CHOUDHURY: Thank you.

The Hon. JOHN GRAHAM: Thanks for your submission that you did send in. Along with some other evidence we'll hear today, one of the views that has been put forward is that there's a bit of a difference in the way the law works depending on whether you're a small resident or a big property speculator. That's one of the distinctions that has been drawn, and the law doesn't necessarily fall equally for both. Is that the sort of distinction that you're trying to draw our attention to?

IAN CHOUDHURY: Can I just quickly answer that before Fiona goes into it? The answer is: absolutely correct. To our view, the most serious question this Committee should be looking at is what to do so residents are not hurt. And I think this is vital to get this right this time around. Fiona?

FIONA EVANS: Yes, I think basically you've got to remember that there are people involved on Macquariedale Road, as well as all other places where there are plans to put motorways and infrastructure and housing. But, if there's an alternative, why hurt the people who are already living there in their own homes?

The Hon. JOHN GRAHAM: One of the things that you say is that you believe that compensation should be based on the property value prior to the infrastructure proposal being gazetted. Some of the time that's actually quite important—to have a gazettal date—so that if there's an uplift the public can capture that uplift and it is not just automatically going to private interests. That's true for some development but, in your case, if you've got a motorway or a freight rail corridor coming nearby, it might actually be decreasing the value of some of these properties and that's where your view would really come into place. That's actually the situation you're trying to grapple with in your area.

IAN CHOUDHURY: Yes, absolutely correct, but we're not just talking about our area. We are talking about the whole of New South Wales. Because I think this Committee has got the chance of getting this right. Unfortunately, it hasn't been addressed before and maybe this is the time for it to be addressed. The answer is that what we are really pushing forward is no different from what the Commonwealth Act is in regard to acquisition law and no different from what other countries—I have lived in Canada, which I've used as an example. That is, people are just simply reinstated to a position so that they can buy the equivalent property. If you did a pub test on that I would say most people in the pub would say that's fair, whereas now it's based on a market value, which really is an artificial value because you're asking people—which are very certified values—to basically do an artificial value of the property. Why don't you just simply arrange it so that people are compensated at such a level they can buy the equivalent property? That's a very fair system and that is what is in most jurisdictions in Australia as well.

The Hon. JOHN GRAHAM: Accepting that—and you put that in your submission—how do you feel though about unhooking this decision from the moment of gazettal? That risks in other places where properties are

going up that this benefit—this value—will be captured by private individuals and not have the opportunity to be captured in the public interest. If we moved away from that moment, which is often the moment where information then becomes public—often the agencies keep things quite private up until that point or close to that point.

IAN CHOUDHURY: You're absolutely right. When this is gazetted—and let's assume it is gazetted—and just say that the option is not the blue option but the yellow option, which is where we live by the way, our values will go down because nobody is going to go and buy a property there not knowing what is going to happen by 2040.

The Hon. JOHN GRAHAM: Yes.

IAN CHOUDHURY: But, if buyers knew that that property in 2040 is going to be valued based on the reinstatement value of that property at the time, we would not be held ransom in our own properties for the next 20 years. We'll be able to sell by telling the new buyer that the law is the law in New South Wales—which will have to, of course, be changed—which allows the person who has got that residence to at least be reinstated. That would be wonderful for us because then we are not stuck where we are until 2040 or whatever year it is it happens in. Is that what you meant?

The Hon. JOHN GRAHAM: Yes.

IAN CHOUDHURY: Exactly.

The Hon. JOHN GRAHAM: I think that is a really good point. If one of the discussions in the transport agencies is, "Let's do corridor planning earlier." That's good for everyone. There is a little bit more certainty. It means the State makes sure that the transport corridors are preserved. If that's the direction in which they head, then your point is even more important, isn't it?

IAN CHOUDHURY: Absolutely.

The Hon. JOHN GRAHAM: Because it deals with the significant uncertainty that residents in those corridors might face.

FIONA EVANS: Consequences, yes.

IAN CHOUDHURY: It is not just the residents buying a new home or being able to move, but you have to bear in mind that the residents in this area run businesses from some of these properties, and they rely heavily on overdraft facilities from their banks. Can you imagine what a lender is going to do? They are going to sit back and say, "Wait a sec. This property may be subject to acquisition," because it has been gazetted that way, "and it's going to be based on market value." The bank is going to sit back and say, "That equity amount you think you've got is going to come down." The second one is if somebody needs to sell the house, getting close to retirement. Under superannuation law, they are allowed to contribute up to \$300,000 each into super without being taxed. But they have to sell the property fairly. The third one, which is one of our group's that came up, and it is a very good point, is that they have thrown all their money into their property so there is an inheritance for their children. These are three factors that will be affected if the acquisition date is not a reinstatement value as per the Commonwealth Act.

Can I also just add, when Russell did the review in 2014, which the New South Wales Parliament released in 2016, recommendation 17 was for reinstatement. At that time, the Minister went to the House for the second reading of the bill for it to be changed and conveniently forgot to mention this, and referred to the Pratt review only. The Pratt review, I don't think, was very transparent. The bottom line was that I don't think most people in that Parliament realised that market value is really an artificial value. That is why we are having problems today in different areas of New South Wales, because of that compulsory acquisition. People are saying, "I can't move to the same property I've got now."

I think it's very important that Parliament notices that. Have a look at the second reading of the Minister at the time, who said that 80 per cent of the people were very happy to agree with the department. The department is not evil. The department is a good department, I'm sure, but they have to work within the law and the law states the agreed value, and the agreed value is an artificial value based on a certified value of getting there and trying to work out, "Okay, what was the impact?" Let's just get rid of that. It is simply reinstatement. Put these people back in another property somewhere close by. It is very straightforward.

The CHAIR: It is coming out quite clearly from your evidence—

IAN CHOUDHURY: I'm not being too harsh, am I?

The CHAIR: No, you're not being harsh enough, I think. When we look at the just terms Act and look at the objects, the first one is around that market value point and then the second one is this kind of nebulous just

terms for acquisition. You said before what the average person would expect to happen. I think you nailed it when you said they would expect a person to be made whole if they were to have their property acquired.

IAN CHOUDHURY: Yes.

The CHAIR: Do you think there should be a different approach, though, for small business owners and people who are losing their homes versus property developers and large businesses?

IAN CHOUDHURY: Fiona, do you want to answer this?

FIONA EVANS: I think you can have that one.

IAN CHOUDHURY: We are meant to share, by the way.

FIONA EVANS: Yes, we are. I'm the emotional one today. I'm the one who wants to stay in my home.

IAN CHOUDHURY: We have an indication that when I point like that, cry. In all seriousness, to answer your question, we think everybody should be done fairly. We're not opposed to property developers benefitting from their uplift. What we're opposed to is that they benefit from the whole lot. What we are recommending, as you saw in the submission, is that there is some sort of capital gains levy attached to them so that some of that uplift goes back to the New South Wales Government, allowed to pay compensations to the residential people affected and also to the State. I read somewhere that \$600 million or \$900 million has been lost by this Government by not having a capital gains levy on major property developers, who have huge land banks. The distinction I'll make is between the ones holding huge land banks, against business owners and residents. Does that sort of answer your question, Chair?

The CHAIR: It does, thank you. Mrs Evans, can you tell us about your experience? The Act is quite clinical in a lot of ways and we have heard from other people that the way it has been implemented can at times be quite harsh. Can you tell us about the impact?

FIONA EVANS: Yes. Initially, the first letter that we got was dated 16 November, so obviously didn't arrive with residents at their homes until after that date, with a deadline of 14 December to come up with submissions. We considered that grossly unfair and not enough time to put together a whole story about why you would want to stay in your home, because there is just too much emotion involved, turmoil, angst. A little bit more time would have been a good start. Also, various residents had heard or got wind of information before the letters arrived, which put a big question over what was going on initially. We did get an extension until 29 January but then it took until 1 September to even get a preferred option, which was a long wait, and we are still, obviously, hanging. We still don't have a definite answer.

I think one of the things that upset most of the residents was how much consideration was given to the actual home owners. I think the Hon. Mark Banasiak—in one of your hearings you did quote, "The yellow line goes straight through farmland." It doesn't. That's where our homes are. That really says it all: how much was given to the homes and the people, the lives that are affected on that yellow option. There were lots of studies done for lots of other reasons, but there was very little mention of the people who actually lived right under that yellow option.

The CHAIR: So the impact on people was devalued in that decision-making process?

FIONA EVANS: Yes, completely.

The Hon. MARK BANASIAK: I will pick up on one point. In the questioning of the department staff, they said they were reconsidering the yellow and blue line options. Have they come back to you to talk to you about that reconsideration?

FIONA EVANS: No.

The Hon. MARK BANASIAK: From the evidence that we have seen, the yellow and blue line options are putting a lot of heavy weight on the environmental impacts rather than the human impact of its two options. That is concerning. There is one question that I will ask all witnesses today. During this hearing the Valuer General gave evidence that he found the valuers were not following legislation, regulation or policy and he was concerned about incorrect valuations. Would you like to see a recommendation come out of this inquiry that we request that the Valuer General undertake a proper audit of valuations done previously so we can get a sense of how out of whack the valuations have been on some of these acquisitions?

IAN CHOUDHURY: Mark, we haven't heard that before, but that is an absolutely outstanding comment you just made. Yes, we will actually support the concept of looking backwards at how the valuations were determined and were they actually fair for those people who have been adversely impacted.

The Hon. WES FANG: I will pick up on some of the things that the Hon. John Graham has raised. He spoke about when the Government has an impact on land through an acquisition, there is an issue about the valuation either going up or down depending on the project that is proposed to impact the land. We have discussed a number of ways to address the valuation issues that you have raised. I was curious as to, in your circumstances, how you would propose not only the way that you've sought to have it addressed, that is, a like for like issue, but also if there are any other ways that you would see it being feasible to address that valuation. The reason I ask that is that there will be, perhaps, people who, instead of having a house that is purchased for them that is similar, may wish to perhaps downsize if they are older or perhaps relocate altogether, maybe even overseas. While I understand your proposal is a reasonable one in the circumstances that you are both in, it may not be suitable for everybody who is affected. I was just curious if you have given some thought to that.

FIONA EVANS: I think regardless, really, of whether you are going to downsize, it is the financial value of the property that you have invested in for your future. The equivalent financial value would be the same.

The Hon. WES FANG: I understand that but that almost seems in conflict to the answer you gave originally, which was that you are asking people to give you a valuation and it is artificial, and I think that is where I am trying to process what you have said. You want a like for like scheme, and I understand that. However for the people who do not wish to have a like for like, they may perhaps wish to, for want of a better word, cash out. There has to be that ability to have that valuation. The Hon. John Graham has indicated that there perhaps are a number of ways to do that. I am wondering if you have given some thought to that and what you would see as the most equitable solution in that circumstance.

IAN CHOUDHURY: The group has looked at that, Wes, and I should have raised this earlier, so I thank you for raising that point. The answer is section 56 of the Act, clause 1 (a). It talks about "increase or decrease" and there can be cases where there is a decrease because can you imagine what would happen to everybody in Appin if a nuclear depot was built there—everything is going to collapse. What we say in that clause is remove the word "increase". All the Parliament has to do is remove one word basically from the Act and we have solved the problem. To answer your question, if it decreases because of an incinerator being built there, that is a bit unfair. But if it increases, we should be compensated for it. Are you saying, "Are we having a bet each way?" The answer is, yes, we are, but more people are hurt because of the uplift so they cannot buy a like for like than the other way around.

The CHAIR: Can I just clarify then on that point, I understood from your opening remarks—

IAN CHOUDHURY: It was 14 pages by the way; I just cut it down.

The CHAIR: —that really it is about providing a like for like. If you were to be effectively kicked out of your home without you having planned that and it not being your fault, and we are all accepting that these projects need to happen, and another home can be found in an area that is effectively of a similar nature—as close to schools or whatever it is that you require—if the amount to basically relocate you was a lesser amount than the value of your property, would the result then be that you would be looking for that additional amount based on market value? Would it be acceptable then for that additional amount of compensation to be based on the market value two years before?

IAN CHOUDHURY: The market value again is a concept which is misleading. It is really an artificial value. Let's just get the facts right here. It is an artificial value because during this period the values are going to drop because of uncertainty, so let's not go there. If we are talking about perhaps residents getting enough compensation to buy a property somewhere else, that's not what we are asking for. We are asking for like for like, which means if they live in Appin they should be compensated enough so they can buy another equivalent property in Appin. That's what we are talking about—not out in Bourke or something, but in Appin, in the same area. Now, if the compensation they get is lower than what it cost to go and buy a place in Bourke, so be it. That is the market. They should be able to at least buy like for like.

The CHAIR: I am with you there, and I agree. But in circumstances where you can get like for like and it does not actually cost as much as what you would be entitled to if there was to be a market value compensation, are you saying that that amount should be—what I am asking? I am asking what should that additional amount be based on? Should it be based on the amount as if the project had never been announced, or should it be based on the amount that the property would be worth with an uplift because the project had been announced?

IAN CHOUDHURY: I will answer that in two parts. The very first part: If the infrastructure is going to cause a down price—developers would not be very happy with that of course—but if the infrastructure causes an uplift, we would like to receive that, and that I think is fair. So to answer your question, if someone is going to build a nuclear depot on our street, where the whole lot is going to come down, and if we are just going to stick with one concept, it is like for like—and so be it because not everybody is going to win out of this.

The CHAIR: What if it goes the other way?

IAN CHOUDHURY: Either way we just have to wear it.

The CHAIR: I understand what you are saying if there was a nuclear facility to be built there and the values actually go down. In the case where the values go up around that particular project, at the moment you would be offered a market value based on before the project was announced. But if, instead, we were to look at more of a like for like, would you be arguing that if you were to still be able to live in Appin and basically have like for like, and it turned out to be cheaper than the amount based on the market value, would you be arguing for the compensation to include the difference between the like for like and the market value two years before, or the market value with the uplift?

IAN CHOUDHURY: Sorry, I did not quite understand the question before. Now I understand where you are coming from.

The CHAIR: I don't think I said it very well the first time.

IAN CHOUDHURY: I am sure you did. I am a bit nervous, so I did not quite click to it. The answer to yours would be that the uplift we would expect to go to the residents, but if there is no uplift, for example—I do not know why there would be no uplift—then they should not be paid extra compensation.

The CHAIR: Understood.

IAN CHOUDHURY: You can't have everything both ways because we as taxpayers have to pay for this in the end and I think that would be unfair to reward somebody who normally would be taking that risk, by the way. If you buy a property, or properties, you take the risk that sometime in the future it may be worth less than what you paid for. But everybody else around you will also get less. Do you see what I am getting at?

The CHAIR: Yes.

IAN CHOUDHURY: That's what I think is fair. Did that answer the question?

The CHAIR: That did answer the question. Thank you very much. Unfortunately we are out of time. Thank you very much for attending. We may have some supplementary questions for you. If that is the case, you will have 14 days to respond. The Committee secretariat will be in touch if that does occur.

IAN CHOUDHURY: Can I make a closing remark, please? We did start a bit later and I did cut my remarks down to one minute.

The CHAIR: You did, instead of the 14 pages. Go ahead.

IAN CHOUDHURY: What we wanted to say—and very seriously—is that we want to thank you all for being on this Committee. We think the job you have is very difficult. We greatly appreciate this. We greatly appreciate the Government has been brave enough to even open this up. This is a can of worms and I think this is a very difficult question. You folks have one chance of getting it right in our lifetime. Please don't let it be wasted. Thank you.

The CHAIR: Message received. Thank you.

(The witnesses withdrew.)

Ms JO O'BRIEN, Private citizen and Member, Outer Sydney Orbital Macarthur Action Group, sworn and examined

The CHAIR: I now welcome our next witness. Thank you very much for joining us. Would you like to make a short opening statement?

JO O'BRIEN: Yes, I just have a one-page statement. Thank you for inviting me to speak today and for including the Outer Sydney Orbital in this inquiry. I am not speaking here as a representative of any group, although I've been actively involved with the Outer Sydney Orbital Macarthur Action Group for over four years. The announcement and intended path of the OSO in March 2018 was a complete shock to most locals. Staff from Transport were sent to knock on doors and drop off an envelope, and they were not keen to stay and discuss what was happening.

Hundreds of people were confronted with the unexpected future acquisition of their homes and given only a few weeks to assess this large-scale project and make a submission. It is unacceptable to leave people confused and distressed like that, especially without any prior warning that an acquisition was even a remote possibility. No neighbours to the corridor were notified at all. There was no expectation of development in this metropolitan rural area. Such a large motorway—eight lanes, two freight rail lines—would completely change the area and impact us all.

Consultations should have begun at the earliest stage with everyone who could potentially be impacted. We should have all have been directly notified of the 2015 consultation, which was unclear and poorly advertised. In 2015 the process of determining the route of the OSO was outlined, consisting of a number of steps including a long list and a short list of options for public consultation. This never occurred, with only one final option presented in 2018—an option which did not even appear feasible from an engineering viewpoint. There were also meant to be further community consultations, which have not occurred.

There must be full consideration that this is more than a planning exercise—that this seriously impacts people's lives. These are our homes, our livelihoods and our communities, as well as our biggest financial asset. There must be time and assistance for people to understand and assess the proposal and all relevant documents. Locals read, researched and shared information to help each other try to make sense of what was happening. As we researched, we realised there were big plans for western Sydney that locals had been unaware of. However, these plans, including the OSO, had been widely discussed at various industry organisation meetings where developers, major landholders and lobby organisations were briefed by Government officials and Ministers.

After a huge public response, in June 2018 a long tunnel was announced from Cobbitty to Cawdor, despite "long tunnelling required" being said to be a fatal flaw of any corridor option. Since then, there has been no public communication on the OSO. Landowners were advised they were no longer under the threat of acquisition, but no correspondence was sent to many of those who made submissions. There have been no answers to the questions and concerns of the community. There is no report of any type on either the 2015 or 2018 consultations, and the submissions have not been made public. The community is still in limbo, the process unresolved. The threatened gazettal and acquisition has not occurred. There have been no further public consultations. It has been four years.

The community does not believe this is over, and the shadow of the OSO is not forgotten. It is impossible for those affected to heal. Trust has been destroyed, and rumours of alternate OSO paths persist. There have been life-changing, long-term impacts. It has changed our community, and there has been no support. I am here today to share my experiences, my observations and my research with the hope that such a process will never happen again and that our community may finally get some answers. Thank you.

The CHAIR: Can I just clarify with you that it was four years of not knowing what will happen with these properties?

JO O'BRIEN: Four years, that's right. While the tunnel removed hundreds of properties from the corridor, there are still properties within the Macarthur area, in Menangle and Cawdor and Cobbitty, that are still in the path—and also all the properties that are north of there as well. I've only really looked at the Macarthur region, particularly. But all those other ones, as far as I know, have not been gazetted either.

The Hon. JOHN GRAHAM: Thank you for your submission. I found it excellent and really helpful.

JO O'BRIEN: Thank you.

The Hon. JOHN GRAHAM: These are obviously really important projects, but you've really spelt out the impact they have on local residents as they come to terms with this.

JO O'BRIEN: It did.

The Hon. JOHN GRAHAM: The point you are making about the fact that the law might be equal but it falls differently on different people really comes through. It's different if you're living your life, trying to work and manage at home compared with a property developer, who might be studying carefully all the documents that come out.

JO O'BRIEN: That's right. I think that's the thing, not so much that the law is different but the consultation process falls differently. If you've got an interest in these things, you're looking out for all these public consultation periods. While a lot of larger landholders and organisations were directly consulted, smaller landholders didn't get that opportunity at all. I'm a fairly aware person—I watch the news and read newspapers—but I had no idea the 2015 consultation occurred, as many other people didn't.

The Hon. JOHN GRAHAM: The thing that the agencies would say to defend themselves is, "The law is equal and all of this was made public," but your point is that's not how it works in practice for ordinary people living their lives.

JO O'BRIEN: No, it isn't. Since then I have spent a lot of time looking at public consultations. I actively write submissions for things and I also try to help other people understand what's going on—raise awareness through Facebook groups and things—so that people know that this is the first round of this consultation, you can comment now and make a difference. Whereas by the time people found out about this, it was just one option, not multiple options. People weren't led to believe they could alter that in any way.

The Hon. JOHN GRAHAM: You're now watching this closely and some of this isn't public. For those 2015 and 2018 consultations—

JO O'BRIEN: No, I look quite regularly and there's no report. The people who were just here on the OSO2—I also put in a submission on that—had that resolved within a year. So that whole process has come and gone, and there is still no report and there is no gazettal. We'd been told there might be a gazettal in 2018 and 2019, but it never happened.

The Hon. JOHN GRAHAM: You refer in your submission to:

... "gazettal" – a concept that was promised long before now ...

JO O'BRIEN: Yes.

The Hon. JOHN GRAHAM: In the community's mind, when was that promise made, who made the promise and where did that idea start?

JO O'BRIEN: That was promised by Transport and local State MPs, that we would have gazettal by the end of 2018. A few of us went to see our local member and sent some questions through that went to Transport and came back again. I think then it was meant to be the end of 2019 or possibly the beginning of 2020, and it's now 2022.

The Hon. JOHN GRAHAM: So in the community's mind, you were told this would happen and were given some dates.

JO O'BRIEN: Yes.

The Hon. JOHN GRAHAM: But you've heard nothing.

JO O'BRIEN: No, nothing. There's just no response. I know that various people have contacted Transport and they get a noncommittal response. If you ask where the reports are, they say, "That will all be made public when there's a gazettal." "When will the gazettal be?" "When it's finished."

The Hon. JOHN GRAHAM: Have you been given any credible explanation for the delay?

JO O'BRIEN: No.

The CHAIR: I want to talk a bit more about that delay and the limbo. We've already heard in this inquiry from businesses that have been subject to this kind of threat of acquisition and not knowing what they're going to do year on year. I know we've heard a lot about trying to keep things equal between big developers and big business and everyone else, but it strikes me that the impact on a home owner when they're in that sort of limbo is actually a very different thing.

JO O'BRIEN: It is.

The CHAIR: Would you agree with that, and can you talk us through the real-life impacts of not knowing when your home is going to be acquired, or if it will be?

JO O'BRIEN: I can give you a second-hand experience because I was not under threat of acquisition. I was not in that position; I just had the opportunity to observe everyone else. It means you cannot enjoy your property and that you are reluctant to do anything to improve it. This threat of acquisition—it is hard to know whether it is this year, next year or decades away, so you have no idea how you can enjoy your home and whether the value might suddenly plummet because it is under threat of acquisition. What I have noticed is that properties have sold. Properties that were in key locations in the former corridor, before the tunnel, have sold. In this area, people live in these places for decades. People in the Camden area in particular quite often stay in Camden for generations. So there are multiple houses on the same property, and these properties are being sold and people are moving on because they are worried about what the future holds and they have no clue what it might be and when it might be.

The CHAIR: So even though they have this acquisition notice hanging over their heads, they are still able to sell the properties?

JO O'BRIEN: I am talking more about the properties that were once in the corridor. People do not believe in the tunnel, to be honest, so they think it is going to come back.

The CHAIR: I can imagine that things like decisions on which high school you might send your child to are going to be up in the air if you do not know if you are going to be living in the area.

JO O'BRIEN: I think everything is up in the air, and it affects such a large area. Circuiting around Camden, it affects a lot of people in the whole area. It is not just a case of, "If your house is under acquisition here, you can go over there," because this whole area will change. I think we all live there because it is a semirural area and it is on the outskirts of the city, and no-one expected any of this development. When this was announced, we had never heard of an aerotropolis or a city around an airport. None of that seemed to be in the future. Everything has really changed in this four years in the area.

The CHAIR: When we talk about making people whole and making sure that they are able to live in a like-for-like property as being the ideal objective of the Act, do you think that people should also be compensated or made whole for the emotional distress and inconvenience et cetera of the acquisition in a way that takes into account how long they have been under the acquisition process?

JO O'BRIEN: Yes. I think there should be compensation for the delay because it has been in limbo for this many years. The ones that are still in the corridor I imagine would be very difficult to sell in any way, but they may not get compensation for 20 years. That is a long time to be on hold.

The Hon. MARK BANASIAK: Just picking up on that, how do you think we would be able to quantify that mental anguish? I appreciate the mental anguish but in the back of my mind I am asking how does one even quantify that?

JO O'BRIEN: I am not sure I am qualified to even guess, actually.

The Hon. MARK BANASIAK: I don't think anyone is. How do you put a figure on that? I think it is a fairly difficult thing to do.

JO O'BRIEN: I think it is a difficult thing to put a figure on, and I do not think I am qualified to have even a guess at that, particularly not having been through the process.

The Hon. MARK BANASIAK: Sure. Do you think enough is done by the various government departments to look after that mental health impact?

JO O'BRIEN: No.

The Hon. MARK BANASIAK: Do you think that more support needs to be offered at the point of someone knocking at your door saying, "We are taking your home. We are taking your property."?

JO O'BRIEN: That's right.

The Hon. MARK BANASIAK: Should there be more offer of that emotional support, as well as this offer of financial compensation?

JO O'BRIEN: I think so. From the point of view of a lot of these residents, they had absolutely no expectation that anything like this could happen. If we had heard about an outer Sydney orbital or a road from the airport, we all assumed that it would go north of Camden, following the path of The Northern Road and Spring Farm Parkway around that area, where the rail line was. In the consultation in 2015 a lot of the publicity was about the passenger rail line, which was going through homes. So the idea of an outer Sydney orbital was just not there. There was absolutely no expectation, and then one morning they—I think they were often junior officials from Transport—came knocking on a door, handed over an envelope and, from what I hear, often did not stop and

explain at all. They just said, "Oh, it's in the envelope." And then it says, "Your home will be acquired." It does not say, "Would you like to participate further in this process?" They just walk off, and then people are left in quite a lot of distress with no support. We supported each other. I think that's why I've continued to remain involved, to try and help other people because it just seems so unfair to do that.

The Hon. MARK BANASIAK: Picking up from the previous witness, they explained that like for like is not necessarily the same house but in Bourke or Broken Hill, but it is like for like in the same area. Given the nature of Camden—that it is semirural and that is what a lot of people move out there for—and given the nature of how it's all changing, do you think that like for like is even achievable, given the unpredictability of what is going to happen in that area?

JO O'BRIEN: It possibly isn't. Some of these properties are several acres, you know. They're not small suburban properties where you could buy another house at the same size. And if it's a family property that has been in your family for over 100 years, this is quite a big deal to leave it. I don't know that you could quite get like for like, and I don't quite know how you solve that. No.

The Hon. MARK BANASIAK: I will be asking all witnesses this question. The Valuer General admitted in a previous hearing that the valuers weren't following legislation, regulation, or policy in terms of doing the valuations. Would you like to see a recommendation out of this inquiry that we request that the Valuer General go back and have a deeper look at past valuations to get a sense of the extent to which valuers have got this wrong?

JO O'BRIEN: Possibly. But, again, I don't feel I'm qualified to answer that one.

The CHAIR: Looking at this kind of emotional wear and tear on people through this process, which we have heard a lot about from a lot of different communities, in most of the areas that we've looked at there have been groups that have come together of like-minded equally affected people, and good people like yourself who are neighbours and helping. Do you think that there is perhaps scope for the Act to be changed to allow more of a group of residents to deal with the acquisition with Transport, or whoever the acquiring agency is? Instead of being only dealt with as individuals, would it help if there was transparency over the entire acquisition process?

JO O'BRIEN: Yes, I'd agree with that. I think Transport were speaking individually to people, and apparently still are speaking individually to landholders on a private basis, but that means that people don't know what's going on between each other. I think the greatest strength of our group—and we don't have a formal structure or anything; we just came together as individuals to provide the support that was not given elsewhere, I guess.

The CHAIR: So perhaps if the acquiring agency was to provide some sort of support for the coming together of that sort of group, and perhaps to even encourage it and then to provide that transparency over the acquisitions as a whole, rather than it being individual versus the agency?

JO O'BRIEN: Yes. I think transparency is definitely a key, for sure.

The Hon. WES FANG: Thank you for coming in today. I have one short question. Obviously, we have spoken a bit today about the emotional toll that an early announcement around corridors and the like creates for the landowners, the residents et cetera. I wonder, is it a worse outcome if it was to be, I guess, sprung on people that their properties are being acquired without that ability to process, consult et cetera, that an early announcement provides? There's always that flipside with these issues. I am just curious as to how you think there's a better way to do it, given that there's often complaint about the way that it is done when it is announced and, you know, it is quickly sprung on people.

JO O'BRIEN: Yes.

The Hon. WES FANG: But at the same time, obviously as you have said, that long tail of announcement, consultation, resolution does create anxiety for people. How do we best manage that, do you think?

JO O'BRIEN: I think there's no easy answer. If you're going to take someone's property, that's always going to be difficult. But I think that this long saga is actually harder to deal with because you're sort of left in limbo for a long time so you can't emotionally move on, especially when it's your home. You're in that limbo for a long time. This process in particular—I can understand why it was done, why they wanted to reserve a corridor before the development overtook that area—but in some ways they kind of missed that a little bit anyway, certainly with the rail line. But I think leaving people in limbo for two decades is quite ridiculous and certainly four years without any certainty at all, not even gazettal, no opportunity for it to be acquired and to move on at all, I think it is a difficult process for everyone to go through and I think perhaps one of the answers to that is better consultation up-front.

So at that very early stage, the 2015 consultation, everybody that was in that great big wide purple swoosh should have got a letter to say this was a possibility and then you have that chance to input, and I think that at least you know you had a chance to have a say and to have an input and make a difference to whether your property was in that line or not. At least you could feel some sort of satisfaction in that. But this was actually sprung on people as a complete shock.

The Hon. WES FANG: Yes. Thank you.

The CHAIR: Under the legislation, there's a six-month period of time from gazettal to having negotiations before the property is acquired and then there is a provision in there that the property then should be acquired as soon as possible, but prior to gazettal there's no real sort of time period.

JO O'BRIEN: No.

The CHAIR: Do you think perhaps that these acquiring agencies are sort of hedging their bets a bit by saying, "We probably want this land but we don't know when we want it, so we can't buy it yet. We're just going to kind of let you know and hold onto it." Do you think there should be basically a put up or shut up period of time where you've done your consultation, you've worked out which route you're going to use and then they should just be obliged to buy that land.

JO O'BRIEN: Yes, really. I know it's a bit different in a corridor to a lot of the other land acquisitions where they're closer to knowing the exact path and I know that there are still a lot of refinements to do on the path—I guess, subtle refinements—but you can't leave people in limbo like that.

The CHAIR: It's about who bears the risk, I guess.

JO O'BRIEN: Yes. You know, people could be—I don't whether—how the legislation works exactly, whether buyers of properties are being notified that this is a possibility. And then there's even things to do, like anywhere that's underneath or above this tunnel is not being gazetted, so people in the future could end up with an exhaust stack right next to them and the implications of having a tunnel under their home, and have no idea.

The CHAIR: So, right: If the government agency was to say, "Look, we're probably going to take this. We're not sure in what form yet, but we're going to take the risk. We're going to put these property owners out of limbo and allow them to get on with their lives."

JO O'BRIEN: Yes.

The CHAIR: We then decide further down the track, we're not going to use this land, well, we can sell it then. But at least then it's the acquiring agency taking the risk rather than the burden being on the landholder.

JO O'BRIEN: Yes. I think that would be fairer. I mean there's a possibility of the value going up, like they were saying before, but I think that, yes, that being in limbo when it's your home, it's not an investment portfolio. It's your home.

The CHAIR: Thank you. Did you have another question, the Hon. Wes Fang?

The Hon. WES FANG: The Abigail Boyd "put up or shut up".

The CHAIR: Put up or shut up.

The Hon. WES FANG: Like it.

The CHAIR: Very good. Did anyone else have any questions? No. That brings us to an end. Thank you for your evidence today and for your submission; it was very good and very detailed.

JO O'BRIEN: Thank you very much.

The CHAIR: We will take short break and be back at 11.15 a.m.

(The witness withdrew.)

(Short adjournment)

Mr JAMIE PARKER, Member for Balmain, affirmed and examined

Ms PAULINE LOCKIE, Councillor, Inner West Council, affirmed and examined

The CHAIR: I welcome our next witnesses. Mr Parker, would you like to begin with a short opening statement?

Mr JAMIE PARKER: Thank you very much to the Committee for this opportunity to speak to this inquiry. I've been the member for Balmain for close to 12 years and before that I was a councillor and mayor of Leichhardt Council for 12 years, so I've dealt with scores of residents and also a council that has faced acquisition and significant hardship. In my electorate, the major transport projects underway include WestConnex, the Rozelle Interchange, the Western Harbour Tunnel and the Sydney Metro West. Obviously there's a need for compulsory acquisition when it comes to progressing major transport projects and I do, of course, acknowledge that there has been improvement. I worked on that under former Premier Baird as a result of Mr Russell's review.

I'm here to be very constructive and to make six key recommendations: one, that we reform the process around negotiations with landholders; two, that non-disclosure agreements should not be imposed; three, that we should reform the basis on which compensation is calculated as per the reinstatement recommendation, recommendation 17 from the Russell review; four, that we need to review the hardship application process as these are people whose homes, most often, have been damaged or have been made basically unlivable and they have to beg Transport to buy their property from them; five, to pay fair compensation for substratum acquisition, a form of acquisition that actually does have impacts on the market value of a property; and, six, reform disposed-owner rules, so these are people that have been dispossessed—reform those rules and return surplus land to the community. I look forward to taking questions on those matters. Thank you.

The CHAIR: Councillor Lockie, do you have a short opening statement?

PAULINE LOCKIE: I do. I thank the Committee for inviting me to give evidence today and for holding this much-needed inquiry. It has now been almost five years since my family finalised our compulsory acquisition and I still find it very hard to relive what we went through. It really was that traumatic and I know the Committee has heard from many others who also found the process to be brutal. It should go without saying that a government should not treat its citizens that way. I believe many of the issues with the current system lie in the huge imbalance in negotiating power that exists between the person whose property is being acquired and the government agency acquiring it. The impact of this can be seen in the consistent and extreme lowballing of offers made to people whose properties are being acquired for transport projects. This happened to my family and many others in my community.

There is an urgent need for further legislative reform to level this playing field so that people whose properties are being acquired are treated fairly and compassionately. Introducing a truly independent mediation service with the power to make acquiring agencies genuinely negotiate early in the process would help, as would providing people with the up-front funding they need to access legal advice and support. Residents should also be offered reinstatement value so they receive enough compensation to buy a similar property in their community. As well as legislative reforms, there is also a need for deep cultural change in the way the New South Wales Government and its associated agencies approach compulsory acquisitions.

Back in 2016, when the last reforms to the just terms Act were introduced, I was a spokesperson for the WestConnex Action Group. I said back then that there didn't seem to be anything in the reforms to stop government agencies from making people fight for their entitlements and that, unless that culture changed, the reforms would be meaningless. It is clear from the evidence given to this inquiry by people who have gone through the acquisition process since then that this is still an enormous issue. People are still having to fight for their entitlements and suffering significant financial and emotional trauma as a result. I encourage the Committee to look at how the Government can reform the culture that allows this to happen as well as the laws that enable it. I've also noted my concerns with the way properties were acquired for the WestConnex project well before planning approvals were granted as well as, as Mr Parker has noted, the lack of compensation for substratum acquisitions. I would be happy to answer any questions the Committee may have on those topics as well.

The CHAIR: Thank you very much. To the extent that you have your opening statements in a form that you could table, it would be really useful for Hansard. I will start with the Opposition.

The Hon. JOHN GRAHAM: Thank you for both your submissions. I acknowledge the fact that you are both living in areas which have been heavily impacted by transport projects, meaning that you have a disproportionate amount of experience in this area. I will first ask Mr Parker about one of those signature acquisitions, which clearly went badly wrong, and just any of the lessons that have been learnt out of that, and that is the Balmain Tigers incident.

Mr JAMIE PARKER: Yes.

The Hon. JOHN GRAHAM: The Committee took evidence; it has been quite public. What are the lessons out of that experience that you would like to put in front of the Committee?

Mr JAMIE PARKER: We've seen a similar situation to that in Darley Road in Leichhardt, where the EIS is developed for a project and there is an indicative tunnel route which is determined. That indicative tunnel route will then lead to decisions about dive sites. That is where they actually build the acoustic shed, the header machine goes in the ground and the trucks take the spoil out of the dive site. What happens is that the EIS is done and Transport says, "We think this is what the route will be," but of course the contractor is the one that determines the route. The contractor will come in after a very prolonged bidding and tender process and then will say, "Actually, we don't need that because we're going to use this type of way forward."

What that means is that Transport can sit on a property for months and months and years, and what that means for someone like Heworth—and I have no relationship with Heworth apart from them just being a developer in the community—is that they can't get finance, and they can't move forward. It just means that they have these huge holding costs and opens up the State for significant compensation claims. It is completely unsatisfactory, and there needs to be a process where at least when it comes to the route and how the dive sites are determined happens earlier on in the process so that people aren't dragged out for a long time. It also reflects, as Councillor Lockie said, the psychology of Transport, which is "Everyone else comes second and we're first." We see that in so many instances, and that has to change.

The Hon. JOHN GRAHAM: Do you think there is potentially an issue with significant compensation, given what has happened on that site?

Mr JAMIE PARKER: I think there is no doubt that Heworth has had significant pecuniary losses. We talk a lot about non-pecuniary losses for residents, but significant pecuniary losses, holding costs, unable to get finance, lost income—my strong suspicion is that there will be a very proactive campaign by Heworth to seek compensation. You can understand why that would happen.

The Hon. JOHN GRAHAM: I am interested in your view on the culture of some of the agencies over time. We've had some evidence about—there is the law, but there is also the culture that the agencies approach these land acquisitions with. One view that has been put to the Committee was that while there were clearly significant issues with some of the RMS acquisitions related to WestConnex, that improved a bit over time and the culture in Sydney Metro at the moment in some ways is more of a problem than what had become of the RMS culture. I am not sure, given your experience, whether you are in a position to comment on that.

Mr JAMIE PARKER: I can comment about that, yes. I think the first point I would make is how does it manifest itself? One of the points that I've made very clearly is these non-disclosure agreements are a very clear manifestation of their approach, which is a purely commercial approach. I will give you an example: For residents, both RMS and Metro have the same approach. You will fight it out and negotiate with Transport and come to an agreement, and you can't even tell your neighbours. The reason for that is you are wanting to deny other people the opportunity to have that fact, deny them transparency, so you can negotiate hard when it comes to costs. That, in my mind, is appalling. This is public money for a public project. They should not have NDAs. There should be the free flow of information. That, to me, is one of the manifestations of the cultural problems.

We have seen some improvement in Transport over time, but again, it is an example of the black-box approach. At the moment we have a situation—I will keep this very brief—where if you have damage to your property, you have to go to a multinational construction company and seek compensation from them. The people who are alleged to have caused the damage are the ones who decide whether you get compensation. It is a remarkable conflict of interest. People are often stuck in a situation where they are begging to have their homes acquired, because they can't get the damage resolved.

There has now been a so-called Independent Property Impact Assessment Panel. No-one knows who goes there. No-one knows what the results are. No-one knows how many appeals are positive and how many are negative. It is completely impenetrable. The only reason that has been developed, Mr Graham, is because of the experience of WestConnex. There were reforms, reforms, reforms. Metro has never had that. Metro has never seen the benefit of those processes.

The Hon. JOHN GRAHAM: Councillor Lockie, do you want to comment briefly on that? Do you have a perspective you want to put to us?

PAULINE LOCKIE: Yes. I would agree with Mr Parker's comments, particularly around things like the non-disclosure agreements. The only reason I was able to be as frank as I was in my submission about the very large gap that existed between the first offer that we received from the RMS, at the time, and our final settlement,

was because we weren't required to sign a non-disclosure agreement. I don't like putting that out there. It's horrible. It is one of the taboos in society that we don't talk about money. But I feel it is really important for people to know that if you can hang in that process you can get a life-changing difference. That should not be the case but it clearly is under the current system.

I would add, with the Independent Property Impact Assessment Panel that Mr Parker noted, I have known some residents who have gone through that and I haven't had very positive feedback about the process, I must admit. It feels to those residents like—the feedback I have had is that the people who are appointed to that panel know what they are talking about, they genuinely want to do good work and help residents, but it then gets stuck in the process with the government agencies.

The Hon. JOHN GRAHAM: Mr Parker, I can understand the view you are putting about substratum acquisition—that if it impacts on someone's value, there should be compensation. But there is also another principle, which is that, essentially, in New South Wales any of the value below the earth is owned by the public. Given the view you are putting, how do you avoid getting yourself into trouble about how that principle is applied, say in the west of the State, where someone might discover gold or lithium? At the moment that is owned by the public and the public gets a return if someone wants to exploit that. I can reasonably see why your residents want to do that, that they might own the property to the core of the earth.

Mr JAMIE PARKER: I think the issue here is let's first of all see what the Government says. The Government says it has to acquire substratum because that is required in order to put the tunnel through there and it needs to own it. The Government says that there is no impact on the residents, so that is why it is not giving them any compensation. But we know that there are two key things. First, there is market value impact. Even the layperson would say that if you have an eight-lane motorway six metres—in some cases—below your property, that is noted on the—

The Hon. JOHN GRAHAM: I accept where you are heading on that. That is a commonsense principle. How do you distinguish between that and the other valuable principle that the wealth under the earth in New South Wales is owned by all of the public?

Mr JAMIE PARKER: That is an interesting question. I can make a further submission on that. I don't think in the 60 second answers we have got I could do it justice. I mention the issue of the notation on the title and the impact because there is a direct connection between substratum acquisition and the value of the property. I think that connection is different to a minerals connection, because you are actually degrading the value of the property on the surface.

The other point I make, which really riles people, is that actually this purpose is not really a public purpose, it is a private purpose, because they are selling it. The State is doing something that a private company could never do because they would have to negotiate on a market value and buy people's homes and houses just for it to be handed over and sold to a private company. In a sense, the State is profiting from that acquisition, which is a role only the State has. There is a lot of concern about that as well in the community. I know that other residents have spoken about that to the Committee.

The Hon. JOHN GRAHAM: I might finally give you the chance to put your view on the way that a betterment levy might work on record, perhaps in more detail than you have in your submission. You have pointed to the ACT's scheme. How might that apply to New South Wales?

Mr JAMIE PARKER: That is an interesting issue. One of the challenges that I know you have to deal with is that the Russell review made a recommendation, recommendation 16, about not just buying back at market value but, if there is an uplift, paying the person whose property has been acquired that uplift. Value uplift is a significant issue in New South Wales. We are in a very unusual situation internationally where the landholder receives the full benefit of value uplift. All it needs is the council or a State government to rezone or introduce an aerotropolis and there is huge value uplift. The State, basically, is incapable of gathering that public benefit.

I know it is a different system in the ACT, but 75 per cent of the value uplift goes to the State for libraries, roads, hospitals and all those issues. We know that some of the modelling demonstrated that around \$8.5 billion is lost to New South Wales. Finally, you will know that in Victoria, the Victorian Government introduced a betterment levy, a value uplift or value sharing mechanism, which is generating significant income. Rent-seeking land bankers do not deserve, in my view, to have that huge increase in value. It should be shared by the public and used for the infrastructure that we all benefit from.

The Hon. JOHN GRAHAM: In your view, how transferable are either the ACT or Victorian schemes to New South Wales?

Mr JAMIE PARKER: The Victorian scheme is instantly transferable. If you look at other jurisdictions around the world, value capture is something that is commonplace. We have only just started that process in New South Wales. The Parramatta Road transformation plan had a very small value capture mechanism. There are some, but obviously so much more needs to be done. Councils are carrying the weight of so much of this infrastructure while developers and landholders are pocketing huge sums of money through no work of their own but because they managed to lobby effectively to get land rezoned.

The CHAIR: Could I just pick up on a couple of the comments that you both made in your opening statements around the attitude of acquiring agencies? I think, Mr Parker, you referred also in one of your answers to this sort of purely commercial approach involved with acquisitions, and Councillor Lockie you referred to the need for deep cultural change. I think that has come out really clearly from the evidence we have received in this inquiry so far. I do not have much hope in relying on the Government to change the culture within its own agencies.

The Hon. WES FANG: So negative.

The CHAIR: What could we do from a legislative perspective, do you think, to try to drive that cultural change?

PAULINE LOCKIE: I commented that having some sort of independent mediation service come in that had the power to compel agencies to genuinely negotiate is important because certainly what my family found was that once we entered the court process—the Land and Environment Court—and began that mediation process, we suddenly started seeing resistance to some of the claims that we put forward drop. You can see that in the final amount that we received. That \$1.85 million was nearly \$350,000 more than the offer we had had at \$1.5 million. But that negotiation process did not really start in earnest until we were a few weeks out from when our property got gazetted and we would have had to go to the Valuer General.

I know the Committee has heard similar testimonies from others through this process. The issue at the moment is that there is nothing in the legislation that compels agencies to genuinely negotiate. I think the reason that changes once you enter the court process is that a lot of the rights that landowners have to various elements of compensation are actually in case law. Unless you are in a process where a judge will call you out if you are not awarding compensation that you are required to, there is nothing to compel the agencies, as it stands, to do that.

Mr JAMIE PARKER: It is an interesting question. I kind of approach it from a different angle. I do think that what Councillor Lockie has raised is particularly important. You will note in my submission that for a lot of people, a letter about a compulsory acquisition of your home is like a bolt of lightning; it is absolutely devastating for people. People do not understand the legal system, nor should they. They do not know who to turn to. The evidence is not clear. Some people do not have English as a first language. It is a really terrifying situation that people find themselves in.

One of the proposals that we have suggested—very similar to Councillor Lockie—is there should be some kind of independent legal advice. That could be delivered through Legal Aid or by providing specific program funding to the network of community legal services because all of the lawyers are out there letterboxing, all of the class action lawyers are saying, "Come to us, come to us," but people don't really know what to do. It is very difficult. But even if the transport authorities had a very commercial approach to it, and an adversarial culture, the problem is that they can only get market value. That is why I am a strong supporter of the Russell review's recommendation about reinstatement because reinstatement is subtly but critically different. The issue of reinstatement would resolve a lot of these issues because, even if the departments were particularly culturally adversarial, reinstatement is a step above the existing arrangement, even with the compensation measures.

I might say one thing very briefly, though. We are talking here about compulsory acquisition, and that is particularly important, but there is another type of acquisition and that is hardship acquisition, which I want people to know about. What we have seen in so many circumstances, especially around WestConnex, is that you are the last building left standing, and they will put an eight-metre wall next to you and you will have a massive motorway next to you. Now, that has a huge impact on the value of the property, yet they are not being compulsorily acquired. Or you have someone who has significant damage to their home and they can't get compensation, so they come to Transport begging for an acquisition—and I have seen people literally begging for their house to be bought from them—even though their children have been brought up there. The impact is just so significant. That type of acquisition needs to be reformed as well.

It is so incredibly difficult to get a hardship acquisition. In that set of circumstances, with hardship acquisitions, you don't get the benefit of a moving allowance or funds for other costs. So what they sell their houses for is remarkably low. The final point about that is, WestConnex or Transport will say, "We are not going to acquire your property because there is no impact on it," but then, when they do a hardship acquisition, they

give an incredibly low price because they say, "You are next to a motorway." I mean, both of them can't be right. I encourage you to look at hardship acquisition as well.

The CHAIR: Do you think there is a need for the legislation to deal with different types of property owners differently? This is a question I have been asking a few witnesses to try to tease it out. Clearly there is a big difference between a land banker and someone who is clearly speculating on the property—and that is why they have bought that property in the first place—versus somebody who has lived in their house for decades and whose property is now being acquired. Do you think the Act should try to deal with those two groups of people differently?

PAULINE LOCKIE: That's a tricky one to answer because I hear what you are saying, absolutely, but I also know of people whose properties were acquired through the WestConnex project where they were not property moguls or developers by any measure—they simply had a property that they had bought some time ago and they were planning to use that property to retire in, to support their superannuation and so forth. Whatever you may think about that system, if that is somebody's main investment for retirement and suddenly it is taken away and they are not reimbursed with the compensation they need, that has major impacts on the rest of their life. I think to some extent the legislation as I understand it does have some differences there. For example, you are not entitled to certain types of compensation if you are not an owner-occupier versus other types. That is my view on it.

Mr JAMIE PARKER: I think obviously more care needs to be taken with the owner-occupier and the rental tenant who will get evicted. That, to me, is very important. The issue that I raised earlier about some form of independent, third-party legal advice for someone who feels they do not have to spend \$5,000 to get advice about their rights would obviously be taken up more quickly than by an owner living in their home. I note the same publicly listed company in my electorate took Transport to court on the issue of an acquisition. Some of these large companies obviously have the money and the capacity to take on Transport, so I think mostly they will just get their own independent advice. But there does need to be more compassion and care shown to a person for whom, quite frankly, their home is their biggest investment and it has a dramatic impact on their lives.

The CHAIR: One last question if I may. Especially you, Councillor Lockie, have spoken about this kind of power imbalance, and I think it comes clearly through both of your submissions. What do you think about the idea of some sort of facilitated grouping together of people who are having their homes acquired, where there is an ability for groups of like-situated people to negotiate in a transparent manner with the acquiring agency? Do you think something along those lines would be helpful?

PAULINE LOCKIE: I think the challenge can be that even with properties that are next door to each other, there can be significant differences between how those properties have been approved, how many bedrooms they have—all of those basic things that make a big difference to the value. Definitely what the acquiring agencies did—what the RMS did—in our particular case, was it really tried to pit residents against each other. Even if it's not some sort of formalised negotiating together, an ability to get people together to have them be able to speak openly to each other makes a huge difference.

Certainly, in my community, there was a huge amount of misinformation going around about, "What did that person get?" and "What did they get?" and so forth. This is at a time when I can completely understand it, because emotions are so heightened and people are in such a stressful situation. I agree that giving people the freedom and the ability to speak to each other openly about how they're going with those negotiation processes would be a real help. I have to agree with Mr Parker. A lot of this would just go away if people got reinstatement value as their compensation, because the big problem at the moment is you have to fight for every element of your disbursements, or the costs, and you have to really fight to get market value at the same level. A lot of people are losing that fight.

The CHAIR: The reinstatement would lead to that cultural change.

PAULINE LOCKIE: Absolutely, because the fear that you won't get enough to stay within your community or to buy an equivalent property wouldn't be there. It's that fear that drives a lot of the issues we see with this process, I think.

Mr JAMIE PARKER: One of the challenges is that we can see, and in the 12 years that I've been a local member seeing all these acquisitions, is that the objective is to atomise the resident—atomise all the people, individually negotiate, have confidentiality agreements, don't tell anyone what anyone else is doing, don't let anyone else learn from the experience of what anyone else has gone through—so every single person feels like they're on their own. That means that you minimise the number of people that appeal to the Valuer General, and you also minimise the number of people that go to the Land and Environment Court. I think that any process that would improve transparency and bring people together is a good one and would actually yield positive results.

Unfortunately, it's the opposite of what's being proposed. You would think these people were negotiating private share market deals. This is people's homes, with taxpayer funds. It should be public, it should be open and it should be transparent. The fact that people are gagged from speaking to their neighbours or speaking to other people in their community about what they went through and what compensation they received is a travesty when it comes to open and accountable government.

The Hon. MARK BANASIAK: I pick up on Ms Boyd's question to you, Councillor, about some legislative change around what is a genuine attempt to negotiate. In your opening statement you brought up being lowballed, and we've heard a lot of that through the inquiry. In principle, would you support some strengthening of the language around what is genuine, codifying what is in common law good-faith negotiations and having some sort of trigger point or remedy where landholders can say, "You haven't negotiated in good faith; therefore, I'm ceasing negotiations until you want to come back to the table and do so"?

PAULINE LOCKIE: I think that would be an excellent idea. It's clearly needed because you've heard from agencies throughout this inquiry who've said that they are meeting all of the legislative requirements. They're acting under the terms of the just terms Act, yet we're not seeing that parley into any sort of genuine negotiation, in many cases, with people whose properties are being acquired. I think the challenge with the time line where you've said that residents should be able to walk away is part of that power imbalance we see between acquiring agencies and the people being acquired. It's the fact that you don't set the time line as the person being acquired. There is a deadline at which the Government will gazette your property and then you lose ownership of it.

This is the other reason why, in many cases, the acquiring agencies, under the current system, really have nothing to lose by letting that clock tick down. Obviously that's a huge detriment to the Government and the public interest because, as Mr Parker noted, the more we can reform this system for the better, the fewer people will go through the Valuer General process and the fewer people will go through the Land and Environment Court process, and that's a huge saving to the public purse. I have to say, when Mr Parker said that it reminded me of when we were in our mediation conference, our conciliation conference. I think at one point in time we had five to six lawyers in a room arguing about cleaning costs. That is a ridiculous use of taxpayer money, and it could have been resolved so much easier so much earlier.

The Hon. MARK BANASIAK: I will go to one part of your submission, Mr Parker. You talked about, with the issue of WestConnex, that it wasn't the property owner who was notified first but the tenant. What was the department's response to those concerns that you have received that they were receiving information second hand or third hand—obviously very late? Did they give you a response?

Mr JAMIE PARKER: Yes. They felt that it was a very expensive process to write to property owners that have to engage with councils to find the owners.

The Hon. MARK BANASIAK: The legislation is pretty clear that they have to do that.

Mr JAMIE PARKER: Yes. We thought that was unsatisfactory. When it comes to informing people in the zone of influence, they should be writing to the owners of the property rather than just writing to the residents. That's something that needs to be improved and needs to change. We know that the owners eventually hear about it, but that delay is unsatisfactory. While it's more expensive—and I understand, especially with the zone of influence, we're talking about over 4,000 properties on just one arm of WestConnex—it does need to be done and that needs to be carried out efficiently. I will say one brief thing following on from Councillor Lockie on the issue of lawyers. It would be an interesting question for the inquiry to ask how much Transport has spent on lawyers fighting acquisition claims. That means from day one, when they make an offer. I think that would be very interesting, to get a sense of what that quantum would be.

The Hon. MARK BANASIAK: Finally to you, Councillor. I know you spoke about your experience. It's quite clear in your submission that if you hadn't fought this all the way, you wouldn't have got the figure that you did. We've also heard from the Valuer General, who's put it on the record that the people who were doing these valuations weren't following the legislation, the regulations and the policy. Do you think we need to make a recommendation that the Valuer General goes back and looks at some of the offers that were made to people—they accepted the lowball, they didn't fight it like you did—so we can get a sense of the extent of how badly people have been cheated through this process?

PAULINE LOCKIE: I would 100 per cent agree that that would be a great way forward. I did say in my submission that I believe the acquisitions for WestConnex need to be investigated. I appreciate that would be a very big task, but I think, at a minimum, going back to the people who, as you said, accepted an offer. Particularly given the way the government agencies position those acceptances, because they're defined as being settled by agreement. That's a very different definition of the word "agreement" to the one that I think most people hold. So giving people who want to have their case revisited the opportunity to do so, and to have some rectification made

available for those people, would be a really important step forward for the Government to reinstall faith in this system.

Mr JAMIE PARKER: That is an incredibly important point. You have to remember what happens in that meeting is you're sitting there with a gang of lawyers and they say, "This is your offer," and then the resident says, "Well, I'm not sure." The lawyers say, "If you appeal to the Valuer General, his value could be less." They say that in every situation. If you don't agree with the Valuer General then you've got to punt up tens of thousands of dollars—possibly 100 grand—to go to the Land and Environment Court. People are basically bullied and demoralised into submission. Hearing that evidence was alarming for anyone who believes in good public governance.

The Hon. WES FANG: I have a question on that point. When there's a negotiation and those who are seeking to acquire the land say, "This is the offer. You can, obviously, go to the Valuer General. However, that value may be lower." I understand that you have phrased it in a way that the declaration of that fact is a negative. Is it not the case, though, that if that isn't highlighted the person having that land acquired would rightfully be able to say, "But I was never told that that could be lower"? This is the issue, and it has certainly come up throughout the day in other questioning. While it obviously creates anxiety, if you do not declare it then there is an argument to be made that you have not fully declared what is potentially part of the future. Is it not the case that people are just unhappy and really nothing that is going to happen in this process is going to resolve that unhappiness? I can see that. I just think that is something that needs to be accepted.

PAULINE LOCKIE: I take your point. I suspect it is in the delivery of how it is being put to you. There are many ways and tones of voice you can use to put that sentence to somebody. To an extent, you are right in terms of the unhappiness. If your home is being taken away from you or if your business is being taken away from you, it is never going to be a great process. The issue at the moment—I know you have heard this from many people before this inquiry—is that by the time you are having those Valuer General conversations, it is not like you are really close in terms of where residents want to be and where the agencies want to be. There are hundreds and thousands of dollars sometimes between what people need to move on and what the RMS or government agencies are putting on the table for you before you have to make that decision to go to the Valuer General or not.

Also, for many people—certainly in my case, and I think there have been many people in this position—by the time you get to that end of the process, you have been in this for months or years. There has been a lot of time for the government agencies to increase their offers, to genuinely negotiate and to have some informal discussions with people with a genuine view to coming to an outcome that is mutually acceptable. In the cases you have heard about, again and again that has not happened. Yes, of course, government agencies have to be up-front about what can happen throughout the process. But why are we in this situation where getting told that you may get less from the Valuer General is a really upsetting situation for people?

The Hon. WES FANG: Yes, and I think that is really the nub of why we are here. At the end of the day, as much as we dislike the fact that it has to happen, progress means that there will be times when properties need to be compulsorily acquired. I think we all accept that, and I think it is fair to say that on both sides of the political divide it has happened. The Balmain Leagues Club is the perfect case in point. It was compulsorily acquired by the Opposition when it was in government for a failed metro line. That has sat idle for a number of years. Obviously that is part of your area, the electorate you represent, so you would well know that. But it is really about how we engage and how that empathy comes through, because it seems to me that much of the complaint around this issue is around a lack of empathy and a lack of understanding and communication. Is that a fair assumption of how I am looking at it as somebody who has never had it impact me? I can see the stories, and you have that lived experience, obviously. Is it that, no matter what is said to you, nothing is going to make it better, but the way that it is delivered perhaps can make it worse?

PAULINE LOCKIE: Yes, absolutely. We saw the lack of compassion in many different instances. Obviously the big-ticket item when it came to a lack of compassion was the fact that people were having to beg for their legal entitlements. At the end of the day, there comes a point where it is about the money, no matter what else is going on. If you're not getting enough money out of the compensation, you cannot move on. We also saw the lack of compassion in smaller details, but details that meant a lot to people. For example, I knew a woman in Homebush who had marked the growth of her twin children on a wall—you know, on a wooden paling, as we often do. She had to fight the Government to be able to take that wooden paling away from the property after they moved out, and keep it as a souvenir. It was worthless to the Government. But the fact that you have to leave absolutely everything in the property in order to be able to get your compensation—there were just a lot of things that happened that didn't need to happen and made the situation worse.

Mr JAMIE PARKER: You have heard the stories about people who have to clean their homes, and an inspector says it is not clean enough, and then the house gets demolished—just ridiculous things like that. The

empathy factor is also a function of the disrespect people feel when there is a \$22 billion project and the Government is lowballing them \$150,000 on their house. And they are saying, "You've got two barristers here, you've got three lawyers, and what is all this costing? And you've been fighting me for six months during this voluntary period about \$100,000. Now you want me to go to the Valuer General, and you're going to tell me I might get lower? We're talking about a \$20 billion project. Can't the Government afford to be generous?" I think that is the crux of it. That is why reinstatement value, I think, is particularly important. Because the anger and upset people feel initially is, you know, "Don't take my house." But everyone, at least in my community, said, "Well, you know, I understand it. But let me buy something in the area where my kids go to school. Let me at least do that." At the moment, the system doesn't allow for that.

The Hon. WES FANG: Mr Parker, it's very interesting that you raise that point. I understand that you do raise that point. Again, as somebody who has never had this happen to them, I can understand that that's the commonsense approach. In a lot of ways, what doesn't happen, it seems to me, in these instances, is that commonsense approach doesn't get applied. But we know two things. One is that for every person who feels the lack of empathy, feels aggrieved by the process and everything else, there are other people who will attempt to take advantage of the situation. That is the difficulty of the Government—whether it be us, or the Opposition, if they ever return to power—in that circumstance. We have to ensure that there is a process and that it is followed. Given the angst, and the fact that we are having a hearing like this, we have to ensure that it is rigorous and that it is dotting the i's and crossing the t's effectively.

The other thing we know is that if we are, I'll say, generous with some of the offers around land acquisitions and the like, yourself, the Opposition, will say, "Where's the value for the taxpayer?" So do you understand again that there is an issue for the government of the day—whether it be us or the Opposition—in ensuring that we don't be too generous in these situations because it just provides political fodder for you and the Opposition to deride that? Again, it puts us in a difficult spot. Can you—

Mr JAMIE PARKER: I can understand where you are coming from. We're not talking about a Camellia here, where the Government overpaid tens of millions of dollars. All we are talking about is the difference between market value and reinstatement value. We are talking about owner occupiers, just regular home owners. My sense is that we can be nuanced. Our governments and our bureaucrats are clever enough to develop a process, and that's why I encourage you to look at—I'm sure you have—the Russell review. I think it was recommendation 17 where Mr Russell recommended that reinstatement value, and recommended that it be closer to the Commonwealth legislation than to the State legislation. I would encourage the Committee to look at that.

Of course, none of us want to be profligate when it comes to taxpayer money. Obviously, we want to make sure we have a very careful and considered approach. But I think the difference we are talking about here, as Mr Russell identified, is significant and would eliminate all of these problems. We go to the "even if". Even if someone was overpaid marginally, if we made sure that people's lives were not destroyed by this, I think it would still be fair. And the public, I believe, recognises that everyone deserves reinstatement.

PAULINE LOCKIE: May I just add to that? I know we are banging on a lot about reinstatement value, but I just want to emphasise that I know the Committee is about to hear from a number of people who did not get reinstatement value and so therefore you are about to hear about the impact on their lives. We in my family, the fact that we did get reinstatement value, we have managed to stay within our community. We did not have to uproot our child from her primary school. We were able to move on; and while it all leaves a scar—you never really get over it—it does make the difference between, as Mr Parker said, not having your life destroyed by this.

The Hon. WES FANG: I do not mean to sound unsympathetic; in fact, if anything I must say as a backbench Nat from Wagga for what it's worth, I can genuinely see and hear the anguish that people have around this process. I can understand it completely. It's just, I guess, I have that dual perspective of, you know, I can see what you're positioning but I can also see the counterpoint. So that's why I'm just curious to see how you view that counterpoint when it's communicated in a casual conversational away. Because it is, I think—as you can rightly see—something that needs to be considered. And I guess the other thing too: Is it your view that different governments handle it differently? Is that the experience you've had from a representational standpoint in both of your roles as elected members that these issues are not just confined to this Government but, certainly, all governments—as in the previous Government had a number of compulsorily acquired projects around your area again.

Mr JAMIE PARKER: Sure. You're absolutely right.

The Hon. WES FANG: So it's more of a department issue. Why I say it's more of a department issue, it's very much within the department; it's within the bureaucracy of the State Government as opposed to the elected Government. Is that how you would—

Mr JAMIE PARKER: That's right, and I note that our time's coming to an end.

The Hon. WES FANG: Yes.

Mr JAMIE PARKER: But I think what Premier Baird did was laudable in engaging the Russell review and looking at reforming the system. That was positive and there was a lot of bipartisan support for that. And the Russell review identified in that process that we need to then have a look at the changes that we've made, and I think this is a progression in the right direction. Governments of all different stripes make some good decisions and some bad decisions, but what's important for us now is to say, "Well, we've learnt the lessons of this last period. How can we look at the recommendations that we didn't follow and see how we can implement them", and look globally. Like, look what happened with Crossrail in the UK and look at Victoria, what's been happening there, but also acknowledging different jurisdictions have different approaches. And we can do better and learn from other jurisdictions that do it well.

PAULINE LOCKIE: If I can just add: I think the reinstatement value helps the Government there as well in terms of concerns about whether or not people are being overpaid for properties because you have genuine yardsticks for what a property is selling for in a local area, and then if you are getting to the point of where all you're quibbling about is whether or not a moving cost is feasible, or a cleaning cost is feasible, you're now down in the thousands of dollars as opposed to the hundreds of thousands of dollars.

The Hon. WES FANG: It's at that lack of common sense being applied to the situation, I think, yes.

The CHAIR: Thank you. Thank you very much, both of you, for your detailed and considered submissions and also your evidence today. It has been very helpful.

The Hon. WES FANG: I didn't ask if he was a member of a political party.

The CHAIR: Thank you, Mr Fang. That concludes this session.

PAULINE LOCKIE: I really appreciate you all having this inquiry too.

The CHAIR: Thank you.

(The witnesses withdrew)

Ms ROSEMARIE GATES, Leichhardt Resident, affirmed and examined

Mr RAYMOND GREIG, Former St Peters Resident, affirmed and examined

Ms SANDRA GREIG, Former St Peters Resident, affirmed and examined

Mr RICHARD CAPUANO, Former St Peters Resident, affirmed and examined

Mr COLIN CHARLTON, Former St Peters Resident, affirmed and examined

Mr PETER HEHIR, Convenor, Rozelle Against WestConnex, affirmed and examined

Mr JOHN BARTHOLOMEW, Committee Member, Rozelle Against WestConnex, affirmed and examined

The CHAIR: Welcome to our next group of witnesses. Because there are a lot of you, I would encourage you to keep your opening statements to no more than a couple of minutes. I will start with you, Ms Gates.

ROSEMARIE GATES: I live in Leichhardt. The comments I'm about to make are fairly typical of those who have been impacted by WestConnex in my area. It's been marked by poor process and lack of consultation from the beginning. In terms of item (b)—the conduct of agencies acquiring land for the WestConnex project—I'd like to make the following points. Changes to route and tunnel depths—following the completion of the EIS, the route was subject to change and suddenly residents who believed themselves to be unaffected were impacted. They were denied the right to comment. Residents also discovered that the tunnels were shallower than the EIS represented. In parts they are 12 metres and some are even six and eight. In terms of the information sessions conducted by WestConnex, during the project stages the residents were ostensibly consulted. Consultation implies taking into consideration another party's views or opinions. There has been no consultation.

Information sessions were superficial, comprising poster displays and route maps of decisions already taken. At these sessions our legitimate concerns about shallow depths, noise disruption and subsequent house damage were brushed aside or simply accepted as inevitable. The other aspect is technical information. We are unable to communicate directly with project technicians or engineers regarding technical issues. The only telephone access is through the community engagement team, who are unable to answer questions and refer them to the tunnel teams. Responses are then relayed back and are inevitably inadequate. There are no means to clarify or engage in a meaningful and informative dialogue, and of course there is never any paper trail.

Dilapidation and causation is another issue. We live with the threat of property damage. Residents have to prove causation, as you probably know, and have been forced to pay ongoing costs for independent engineering, property and satellite imaging reports. We pay that ourselves. The free property inspections offered by WestConnex are woefully inadequate, merely amounting to photos, and any request to carry out checks on door and window openings to make sure that they worked properly et cetera was flatly refused. I might add that any resident living outside the zone of influence at 50 metres has no hope of redress.

On item (d), how government agencies conduct direct negotiations with landholders in relation to the compulsory acquisition process. The subdivision of land was done without landowners' knowledge or consent. We first discovered that a substratum of our property was to be compulsorily acquired via the interactive tunnel tool. Eventually, we received official notification from Transport for NSW, confirming the acquisition. We applied to Transport for NSW and the Valuer General for compensation but, of course, this was denied under section 62 of the just terms legislation. Next, we discovered that Transport for NSW had subdivided our land into lots of their own creation without our knowledge or consent. Then came the killer blow—our title deeds. Next, we discovered indirectly via a neighbour that it was intended the total deeds of affected properties were to be amended to reflect the existence of tunnelling, later confirmed by the Valuer General. This will inevitably have a negative effect on the market value of our property, giving a prospective buyer the necessary leverage to reduce the sale price that a comparative house in the same area unaffected by tunnelling would not be subject to.

Like many residents, our equity is our home. We have no other assets apart from superannuation savings. Again, in all of this, there was no prior discussion and no consultation. Residents have been treated with contempt. I make the point that the amendment of title deeds would have been known from the beginning, but Transport for NSW chose to inform landowners only when the project was well on the way to completion. It feels like deception. I want to comment on the human toll. The human toll of this 24/7 project can never be underestimated. The mental health of residents has been severely impacted, both by the tunnelling itself and the treatment by the consortium and government agencies, all of which could be ameliorated by fair and just compensation. And there was the "small" matter of explosives and experiment—controlled blasting. That was going to happen. Fortunately, residents sounded the alarm and, fortunately, it didn't happen but it would have happened if we hadn't.

In summary, the WestConnex project has demonstrated the inequity arising from public-private partnerships whereby public money is used for the ultimate benefit to private companies. The only conclusion to be drawn is that the project is for the benefit of Transurban and their investors at the expense of residents. In short, the New South Wales Government has acquired our substratum with the aim of selling it off for the monetary benefit of private enterprise without any compensation to the landowner. It is, in effect, the privatisation of the substratum of our property. We believe this is an inequitable and unjust burden for landholders and that the Land Acquisition (Just Terms Compensation) Act 1991 should be amended to allow landholders in such circumstances to be compensated.

RAYMOND GREIG: During the acquisition, we were upset that we weren't given full market value as we were told in the first meeting we would get. The first offer we got was way below that and the second offer they gave us was still below. We were advised that if we didn't accept that, any legal fees after that would be paid by us. We didn't have the money to go on with it. As well as that, my wife's health was suffering, and mine a little, so we had to accept that. Even after that, they refused to give us any money at all. We had to get a bridging loan to buy a house before we could move out. As well as that, they cut us back two weeks—we had to get out earlier. So we had to approach the owners of the property so we could move in there sooner. Also, I couldn't understand why there was no parity between different properties and why it was all kept secret. Our market value was way above what we got. I couldn't understand why others got more. That's about all I have to say at the moment. Thank you.

The CHAIR: Mrs Greig, did you want to add anything?

SANDRA GREIG: Yes, I will. We had a beautiful, five-bedroom house in St Peters, four-car garage and everything. We completely did it up before we knew about all this. When we went to the first meeting, I remember them saying to us, "You'll get full market value." So we thought, oh, well, if we've got to go, we've got to go. The RMS offered us \$1.425, which we considered very low. We were upset that the RMS lied to us about it. Then we got another valuation of \$1.6, obtained by Slater and Gordon, and during that period we heard that a smaller three-bedroom house in Campbell Road, St Peters had been acquired by the RMS for \$2.4 million. We had a beautiful big house. My husband was born in the house in 1946 and we completely did it all up. It was just devastating that we had—well, I always tell everyone that we were kicked out. We were kicked out. We asked about the \$1.6 and they said, "That's it. If you want to get any more, you've got to go to"—whatever—"and try to get it." It would have cost us a lot of money, which we didn't have. We had to get a bridging loan to buy our house up at Woy Woy because they didn't give us any money straightaway. We had to wait quite a few weeks.

RAYMOND GREIG: Eight days.

SANDRA GREIG: Eight days, yes. Like I said, there was also another three-bedroom property and they got \$1.85. We were lower. So that is why we have been upset and I suffer badly now from anxiety. I am under a doctor, I am on medication. The only way I can feel good is when I tell everyone, "Oh, yeah. We were kicked out." Otherwise I get too depressed and that is after, what, six and a half years. So that is all I've got to say. Thank you.

PETER HEHIR: I am wondering if it is possible if I could distribute to each member of the Committee a copy of this newspaper that RAW has produced?

The CHAIR: You can table that, yes.

PETER HEHIR: I will get on with my introductory statement. RAW thanks the Committee for the opportunity to make a submission and it is hoped that the findings of the Committee will reflect the wishes of the landowners of this country, who have had the ownership of their land negated by the use of the State significant infrastructure legislation for the benefit of private companies, a use that is currently the subject of a court challenge. It is universally held that land is owned from the boundary of a plot to the centre of the earth, but not so in some Australian States. With the simple stroke of an SSI pen, landowners' rights are vanquished. It is particularly telling that even in a small south-east Asian country, such as Malaysia, the rights of individual landowners are respected. In this regard, we lag significantly behind what many would see as a third-world country.

RAW contends that the New South Wales Government has failed its citizens in relation to items 1 (b) (i), 1 (b) (iv), 1 (d), 1 (e), 1 (f), 1 (g), and 1 (i) in relation to the construction of the controversial WestConnex project, the total cost of which will be around \$45.6 billion, not the \$16.8 billion quoted. The business case is commercial-in-confidence, so the true cost may never be known. More than 400 homes in Sydney's inner west were compulsorily acquired and destroyed. There was the substratum acquisition by the Government and the then privatisation of the underground by selling the projects to private investors. Landowning citizens' rights were essentially ignored. The recognition of the impacts were only superficially explored. The diminution of land value

has been completely ignored due to the loss of market value of a property because of the tunnel or tunnels beneath it. There was a lack of payment of any, let alone adequate, compensation for substratum acquisition by a private company under the guise of State significant infrastructure. On the methods used to issue compulsory acquisition notices, it was often two security guards accompanying a person in a suit who issues the compulsory acquisition notice.

The Government failed with the take it or leave it offer of payment of approximately 60 per cent of the current market value of a property and the issuing of an EIS prior to the design of a project, which is a cart before the horse approach and an obvious denial of natural justice. The public consultation process was designed to divide and conquer and proved to be simply a box-ticking exercise with no appreciable impact on the EIS design. Community information sessions were staffed by marketing people who were unable to answer specific questions. There was a failure to hold public meetings and an unwillingness to even consider alternative solutions.

The refusal of contractors to attend community organised public meetings unless resident spokespersons were denied a position at the table was a failing of the Government. There was a denial of genuine and well-informed members of residents groups, myself included, to attend the compulsory community contractor meetings that are set up by the Government, even though this remains a statutory requirement. This begs the question, who really owns the underground? The Latin maxim "Cuius est solum eius est usque ad coelum et ad inferos" for those who are not familiar with Latin—

The Hon. WES FANG: Which is only me.

PETER HEHIR: I will translate it.

The CHAIR: All of us.

PETER HEHIR: It simply means, "For whoever owns the soil, it is theirs up to the heavens and down to hell." Again, who is actually entitled to subterranean access? There has been an increased global dependency towards the privatising of subterranean spaces in cities. This is despite public moneys often being used for underground infrastructure development. Given their critical role in the livability and function of cities, there is a strong argument to be made that underground urban space should be for the public good, not to benefit a private entity. This is a key urban justice question, particularly given the aforementioned plethora of privatisation. In conclusion, RAW is in total agreement with Low and Iveson, 2016, who state that:

... mechanisms that allow greater public input into how underground urban spaces are shaped, imagined and used are required.

They continue, and RAW agrees, that:

We need governance practices that are not subject to the logics of accumulation that unevenly distribute access based on who can pay.

Garrett, Melo Zurita and Iveson, 2020, state that:

By asking and engaging with these questions, urban scholarship can explore ways to move subterranean urban development away from a technoscientific tunnelling decision-making process to one that engages with the social, cultural, political and economic implications of urban infrastructural projects.

Finally, RAW wishes to acknowledge the significant contribution made to our parliamentary submission by the many campaigners against WestConnex and especially by Dr Maria de Lourdes Melo Zurita, 2020, "Challenging sub terra nullius: a critical underground urbanism project", *Australian Geographer*, and the Environment and Society Group at the University of New South Wales. Thank you.

The CHAIR: Thank you. Mr Bartholomew are you also making a statement?

JOHN BARTHOLOMEW: I am making a statement too.

The CHAIR: Okay. Please keep it short so we have time for questions.

JOHN BARTHOLOMEW: When I read the terms of reference for this inquiry I realised that the systematic misuse of government and corporate power that has characterised the WestConnex scam for a decade must have caused the same high levels of anguish and distress to others suffering from similar projects right across Sydney. Around the world, as well as here in New South Wales, infrastructure mega projects have become notorious as vehicles for money laundering and other activities that attract major crime groups. Governments have a choice between building the infrastructure that is recommended by experts and genuinely serves the needs of the communities they govern or setting up infrastructure projects as a means of siphoning billions of dollars from the sale of public assets through the accounts of major contracting firms to who knows where behind an impenetrable screen of commercial-in-confidence and State significant infrastructure legislation that hoodwinks the public and ties the hands of regulatory and oversight agencies.

Too often in the last 20 years the New South Wales Government has chosen the latter course. The first priority of the incoming government in 2011 was rewriting the Environmental Planning and Assessment Act so as to deprive the public of its right to challenge an infrastructure project in the Supreme Court on the basis of its lack of merit. Regulatory bodies also lost the right to withhold licences of certification of State significant infrastructure that had failed to earn them. Infrastructure NSW was set up as a super-department with powers over all the other departments, including the power to stop any investigation of misconduct or crime relating to the infrastructure projects it prioritised. When governments choose or are tricked into building projects that prioritise the interests of people who pay political donations over people who pay taxes, the character of those projects is inevitably affected.

Naturally, the manner in which support is allocated and routes are chosen for transport projects will differ depending on whether the project is primarily for public or corporate benefit. I live in an area that has been decimated by the brutal land acquisition process for WestConnex. Householders, businesses and councils alike were kept in the dark about a 60-year-old road reserve being reactivated. During the process of buying a house in Brown Street, a lady who rang the RMS to ask if the road reserve it was in was likely to be activated was told, "No, never." A month later she received a compulsory acquisition notice for her new home. Standover tactics were used to grind down local businesses and residents, intimidate them, deny them the rights they were entitled to under the Land Acquisition (Just Terms Compensation) Act and withhold deposits they needed to relocate.

One home owner was arrested for entering his own home to get clothing and personal effects for his wife, who was undergoing treatment for cancer in hospital. He was thrown in jail and only released a week later after a judge found his mistreatment to have been completely unjustified. At government level, the planning processes for WestConnex were a sham from the beginning. The Auditor-General's 2014 report revealed that the assurance process was ignored initially and then corrupted by the chairman of the Sydney motorway project steering committee, also head of RMS. When that process found that WestConnex was beset by so many serious defects that it was necessary to abandon the project completely, the head of RMS wrote a formal letter to the Minister, deceitfully telling him that the problems had all been resolved and the project was ready to go ahead. Every transport expert who made any public statement, submission or report concerning the many critical defects of WestConnex was ignored or ridiculed.

When Tim Williams, the man most responsible for solving the chronic traffic congestion in the City of London, gave his professional opinion on WestConnex, he was personally threatened by the roads Minister. Now that the tunnels under my area are finished, every house, shop and block of flats has moderate to serious cracking. Even families with homes made too dangerous to enter by removal of support by tunnelling have been given the run-around by RMS or WestConnex contractors for years before repairs are done, if any are. Surely the amount of taxpayers' money spent on denying responsibility must be greater than the cost of repairs by now.

The CHAIR: Thank you. Mr Capuano?

RICHARD CAPUANO: Thank you for the opportunity to provide evidence to this inquiry. I am one of many home owners who were wilfully and fraudulently cheated out of compensation by a cruel and heartless government, simply to save costs. I was treated unfairly, treated with contempt and punished for appealing the unreasonable offers made by the RMS and the Valuer General. I was bullied by dodgy valuers and nasty lawyers who dragged me through a corrupted appeals process that cost \$300,000 and in the end I got nothing. I was threatened with bankruptcy if I appealed the corrupted decision handed down by the Land and Environment Court judge, who dismissed evidence and delivered the outcome demanded by the Government, their lawyers and their nasty barrister.

My health and wellbeing has suffered significantly and I have been unable to purchase another home in the Sydney area in which I was born and raised. I ask, where is the fairness? The government agencies boast about having deep pockets. Home owners simply do not stand a chance. We have heard other heartbreaking stories, and it continues now. There will be more home owners in the future who will suffer the same treatment. Where is the fairness? Where is the justice? It is obvious we are being wronged. I am in contact with many affected home owners and we all ask, "What more do you need? What more evidence do you need to finally fix this broken process, hold the Government accountable and ensure we are paid back the compensation that has been simply stolen from us?"

After numerous inquiries, I and many others just don't understand the lack of political will to address this blatant disregard for procedural fairness that has been denied to landholders. Despite ample evidence that clearly indicates it was the clear intention of the Government to fraudulently cheat home owners, evidence that points to criminal and corrupt conduct—that evidence has been ignored. Let's not forget that Baird and Perrottet kept the Russell review secret and refused to implement the reinstatement recommendation, simply to save costs. As

Clayton Barr said in 2016, the acquiring authority were simply enacting the Government dogma—that is, to "rob from the poor and give to the rich".

Even today, as we sit here, we know the Committee will do little to hold the Government accountable, to fix the process to ensure home owners now facing acquisition will be treated fairly or to recommend that we will be paid back the compensation stolen from us. We know that. You have all let the Government get away with it, and it's been betrayal after betrayal after betrayal and lie after lie after lie. Home owners here have given evidence and submissions. I know many home owners who refused to give submissions because it dragged up all the bad memories and they got nowhere through the inquiry into WestConnex, which was another absolute whitewash.

Despite the overwhelming amount of evidence, to date not one member of Parliament, even in this Committee, has referred this for investigation, reviewed our acquisitions or reported it to ICAC. Your silence is acceptance, and that makes you all complicit. I would like to table, Chair, some documents that relate to section 192 of the Crimes Act, which is obtaining financial advantage or causing financial disadvantage and which the Government has done to so many people—section 192E of the Crimes Act, which is fraud and which is clearly what has happened—and section 11 of the ICAC Act, which requires a New South Wales Government Minister to report any suspected corrupt conduct. We have seen it time and time again. We have seen instances during the WestConnex where there was blatant corruption but nothing was reported.

Essentially, we are asking the Committee to recommend reforms and legislative change in the areas of transparency, accountability and the provision of a fair hearing for landowners, and finally to hold the Government accountable. We want you to fix this broken process, remove the fear and anxiety associated with acquisitions, and restore integrity and public confidence in the acquisition process. We want you to restore the independence of the Valuer General and the Land and Environment Court, which are tainted. They have been corrupted. The Valuer General sat here and he could not even look into the camera as he read a speech prepared for him by DPIE. It's blatantly obvious. Or, as Matt Kean suggested, get rid of the Valuer General altogether and initiate a valuation commission. He said that in 2012 in his inquiry.

We also want to ensure home owners who will be impacted in the future are treated fairly and with dignity. But, most of all, we want you to ensure that we are paid back the compensation stolen from us. This is a valuation system that is in need of a paradigm shift, to quote Matt Kean, now Treasurer. But, more importantly, it requires members of Parliament and members of this Committee to stand up for the fair and just treatment of home owners.

The CHAIR: Finally, Mr Charlton.

COLIN CHARLTON: I will start by apologising to the staff. I was a bit reticent to even come here. A number of times I didn't reply to emails et cetera. I did not want to relive what happened in 2016 with the acquisition of my home for WestConnex. I experienced all sorts of things; a lot of it has already been talked about. One was mopping the kitchen floor for a house that was going to be demolished and disposing of a few pot plants because somehow they would reduce the value I got for it. It was just petty and ridiculous. I have to talk about this. I wasn't going to, but I'm going to mention it because Pauline Lockie gave evidence and I was here when she gave it. I lived in number 2 Brown Street, she was number 4. We were next-door neighbours. I received \$1.4 million, which is a lot of money—a lot of people rent; they're not even in that lucky situation—but she received \$1.85 million.

The land area is very similar. My house was solid brick. When her house was demolished by RMS, under the cladding it was weatherboard. It was not even painted properly weatherboard. Whatever way you look at it, even if you say those properties are basically the same, a \$450,000 difference in the payout just doesn't make sense. As other people have said, you couldn't even take what the other properties got into consideration. I didn't know that. She got her compensation a lot later on. Part of that was that she took it to the end process—the Valuer General et cetera. I got to the stage where I had to give in. I said, "Look, I can't take this anymore." I was suffering depression, I couldn't sleep and all the rest of it. I think I have got over that, but I worry that even coming here today will bring it back.

One of the things that happened to me was the lawyers I had were overseas. The lawyer I was communicating with, I tried to ring him and couldn't get him. Finally he said, "You woke me up." It turned out he was in New York. This was the contempt with which the lawyers did their job for you. I was in a crisis, I wanted to get this settled and I needed to contact the lawyer. I didn't know he was overseas. RMS constantly broke their promises. They would say things like, "We will pay you next week," and a month later or something they would. The whole process was to wear you down and make it so you gave up. I was in a bit of an interesting situation. I think even my fellow residents were surprised because I did fight WestConnex. In some ways that was the only way you could stop this happening. I was a landlord—at least at the time my house was rented—therefore I did

not get any solatium, I think it's called, because that was ruled out. Then Mike Baird, the Premier, did a formula where people got some extra compensation but I didn't get solatium. It was based on solatium, so c'est la vie. The way that WestConnex was done got you down. Again, there were 10,000-whatever submissions, at a number of stages, for WestConnex. It was, in a sense, a *fait accompli* once it was approved in Haberfield.

This octopus just keeps going. At the moment it is going south, and now it is going to the North Shore. It's sort of like, "This has started. We can't stop it. It causes traffic jams; it creates congestion. We've got to move that further on across the harbour or down to Sutherland," or whatever. This is how it works. We opposed WestConnex. We said things like, "The whole project should not proceed." It was obvious. Even now there are still traffic jams. I go through St Peters—I occasionally drive over to where my house was—and all the traffic congestion is still there. Will it be relieved by the joining of the Rozelle and St Peters links? I doubt it. It will just magnify the problem. If it was something that was for the public good, in some ways I would feel much better, but it wasn't. It was creating a situation that made things worse, a situation where, in many cities around the world, they have stopped building freeways. Some of them are now veggie gardens.

Finally, I would like to really emphasise—and I heard this from the last witnesses—what happened with WestConnex? It was bought using public powers. The land I and all these people owned was bought using the public powers of acquisition that went to a private company. That, to me, is totally immoral, if not corrupt. It just should not happen. There should at least be a moratorium where it cannot be sold for 10 years. There should at least be some sort of thing where the massive profits that Transurban makes on it, through the generous deals they got from the Government, should be shared by the people who were totally destroyed by this. The St Peters community, as John said, has been destroyed by this.

RICHARD CAPUANO: Can I just add to what Colin said, please? The sale of WestConnex—that money should not only be used for whatever you guys want to use it for, but also to pay us back. Use that money to pay us back. Simply acknowledge what you have done to us—the heartache—and just pay us back. Seriously.

The CHAIR: Thank you. To the extent that you were reading from prepared statements, it would be great if you could table those afterwards so that Hansard has a record. That would make it easier for us. Before I pass to the Opposition, I thank you all very much for coming and providing your heartfelt evidence based on your experiences. You are certainly not alone. We have heard from many, many residents, and the themes of feeling that this has been done in an incredibly unfair way permeates throughout everybody's evidence. As a Committee, the reason we have set this up is so that we can look at how to do things differently in the future and potentially to investigate the way that things have happened in the past.

The Hon. JOHN GRAHAM: Thanks, all, for your evidence. You have coloured in a really important part of the picture with stories about how it has impacted on you all as residents as you are working through this. In particular I think the case you have put about secrecy and how that really impacts on people is very strong. I find that pretty compelling. One of the questions that I was wondering about as you were talking about it was—you clearly do know a bit about what prices other people were being offered. How did that happen? How did you get that information? Was that just as the community was talking to each other as you went?

RAYMOND GREIG: No, it was freedom of information at a later date.

The Hon. JOHN GRAHAM: Right. So you found that out later, but at the time that information was almost impossible to find.

RAYMOND GREIG: Yes. At the time, we knew nothing. It was only the first price we knew. That was it.

PETER HEHIR: I can probably shed a little bit of light. As the convener of RAW, I am in touch with something like 850 families who principally reside on the Balmain peninsula and in the adjoining suburbs. I have received literally hundreds of emails and phone calls from people who were incredibly distressed about the whole process and who confided in me that they had been forced, coerced, badgered and bashed into accepting something like 60 per cent of the market value of their property. That simply means that they have to divorce themselves from the community that they live in. They simply were not able to relocate within their own geographic community and within their own circle of friends. Community hasn't really been mentioned. In terms of restitution, I completely agree with that. I heard the speakers in the last session. Absolutely, restitution and what that means is clearly what is needed. But how do you put a price on community? How do you put a price on—

The Hon. JOHN GRAHAM: I am going to interrupt you because we have a short amount of time—

RICHARD CAPUANO: Can I just quickly add to that? We found out about the \$2.4 million acquisition from realestate.com. What they did—we went in as a group. They divided us. We approached our lawyer, Slater and Gordon. We approached the RMS and they refused to even acknowledge or allow us to include that

\$2.4 million, which drove all our prices down. There was an \$800,000 difference. They had a significantly better house—\$800,000.

The Hon. JOHN GRAHAM: Thanks for that. The point you have made along the way about information sessions and the fact that they are certainly not consultation is a really strong one, as well. I just want to put that on the record. Have you seen any change over time? I am interested in whether this got better. Or was it just as bad all the way through?

RICHARD CAPUANO: I am in touch with a lot of home owners who are going through the process now. Speaking with people who have been through it and who are about to go through it, there is still that fear, but nothing has changed. It has gotten worse. They are still being cheated.

PETER HEHIR: I would endorse that. I am in contact with a group at the end of the peninsula which is called the Western Harbour Tunnel Action Group. Essentially they are the next cab off the rank, effectively stage 4 of WestConnex, which has been renamed the Western Harbour Tunnel because that is apparently a more palatable description than "stage 4 of WestConnex". Those people are also experiencing exactly the same concerns and issues.

RICHARD CAPUANO: Part of the big lie is that home owners, like Ray and Sandra here, and Colin, are deemed "negotiated acquisitions"—the big lie. At that 80 per cent figure, or whatever the Government bandies around its website, "negotiated acquisitions" are sitting in front of you. They're bullied, they're cheated and there are threats of lengthy and expensive legal action. It cost me \$300,000, in the end. The process was corrupted.

The CHAIR: Ms Gates, were you trying to say something?

ROSEMARIE GATES: I just confirm and endorse what Peter Hehir has said, that the consultation information consistently was bad all the way through.

RAYMOND GREIG: A total lack of empathy.

The Hon. JOHN GRAHAM: Understood. Thanks again for your evidence. I hope that coming here won't disturb you further, but it's certainly really valuable to hear directly from you about exactly what's happened.

The Hon. MARK BANASIAK: As you know, this is our last hearing, so obviously we want to try to come up with some recommendations that we can put to the Government to try to make this process better. I might run through some of them and see if I can get some general agreement as to whether you would support such recommendations. We heard from Councillor Lockie that she supports the idea of strengthening the legislation around good-faith negotiations, because at the moment it's not really set in law as to what a good-faith negotiation is. We have heard lots of evidence where people have felt cheated and lowballed. Would you support strengthening the language around good-faith negotiations where you, as a landholder, could pull up stumps and say, "No, you're not negotiating in good faith. I'm ceasing."

PETER HEHIR: Absolutely.

JOHN BARTHOLOMEW: Not only does it need very, very explicit legislation, it also needs an ombudsman to oversee that legislation because the power differential is so great and so gleefully abused. You need somebody on the inside who speaks the government language.

RAYMOND GREIG: Also the difference between market value and the prices actually given is totally different.

RICHARD CAPUANO: As I said, in the 2012 inquiry Matt Kean suggested a valuation commission that was independent of the Valuer General. It's in his report. He was chair of that committee. He states a few reforms, which obviously he abandoned. He betrayed the people that he said he was going to stand up for, and then turned a blind eye while WestConnex happened. So there's a lot of reforms in there, and the structure of that valuation commission—you might be able to get some ideas. But something independent, something that is not corruptible by the Government like the Valuer General and the Land and Environment Court. There are integrity agencies—

The Hon. WES FANG: How are they corruptible by the Government?

The CHAIR: Order!

The Hon. MARK BANASIAK: Can I just finish my second question? And then I'll allow Mr Fang to pursue his questions. We heard from the Valuer General and he gave evidence that valuers weren't following legislation, regulation or policy. Would you like to see a recommendation that an audit be done on past valuations to ascertain the extent to which people may have been potentially cheated?

PETER HEHIR: Absolutely. We would utterly endorse that.

COLIN CHARLTON: The disparity in prices that people were paid is just ridiculous.

RICHARD CAPUANO: Yes but with the view of paying us back. That's important. Otherwise, there is no accountability; otherwise, they just get away with it.

PETER HEHIR: I think the goal, as was articulated by Jamie Parker, should be restitution. I think that's the touchstone here.

The Hon. MARK BANASIAK: That reinstatement value.

PETER HEHIR: Yes, the reinstatement.

The CHAIR: I want to look at those different options. When we talk about reinstatement value—in the previous set of witnesses it seemed that if we put in a reinstatement value concept, instead of this market value concept, that perhaps many of these issues would go away. Do you think, though, that there would still be a need, even if we had reinstatement, for there to be this sort of independent oversight—someone like an ombudsman or someone else?

PETER HEHIR: Yes, definitely.

RAYMOND GREIG: Yes.

JOHN BARTHOLOMEW: Perhaps Infrastructure Australia, which was gutted in 2013 precisely because they did object to WestConnex on expert and rational grounds, needs to be beefed up a bit more and have some sort of punitive powers when the State goes ahead and decides they're going to choose. They're going to brush aside a whole lot of really good infrastructure projects, which have been needed for decades, and instead go ahead with a scam directed primarily at money laundering and which just looks like a tollway because that way you get the benefit of State significant infrastructure secrecy and commercial-in-confidence secrecy and all the other shields behind which you can hide that sort of thing.

A lot of people have said that they wouldn't so much mind losing their homes if they knew they were losing it for something that was going to be of value to the community, or to the economy in the case of businessmen. I haven't heard about any businesspeople being represented here but a lot of businesspeople who lost their premises or were bullied out of them were short-changed on compensation. They were denied payment so that they could get a deposit on another premises and I don't know how many millions of dollars of private capital were burnt up in that, but they deserve a bit of a representation too. Those people need to be protected as much as residents do.

The CHAIR: Yes. Could I ask Mr Charlton: We've read in your opening statements but also we've heard from some other impacted residents of other areas based on other projects where they talked about the impact on their personal circumstances being harder in circumstances where they couldn't understand why it was happening in the first place. So we've heard from residents in the west who were talking about it seemed nonsensical that particular projects were being put through their house and not somewhere else that seemed more obvious. To what extent did the impact on you personally come from WestConnex itself being a project that just didn't seem to make sense versus the way in which the acquisition was done?

COLIN CHARLTON: Both, very much so. WestConnex to me and to the tens of thousands of residents that put in submissions was just a stupid project. It didn't achieve anything. I think it's being even proved now with the argument over tolls, the traffic that's still congested. On the street where I was evicted there's still a traffic jam outside the Town and Country Hotel. In peak hour there's still a massive traffic jam and I remember I put in a submission to that and said there will be a traffic jam basically as soon as the WestConnex roads just stop—a bit like some of the bicycle ways built in Sydney, by the way, too—and it's just, you know—it just had no sense.

It doesn't achieve what it's hoped to achieve and, as somebody else said, it's only really available people that have got the money to pay the tolls and even then I think there's going to be—there are changes that are going to happen with tolls with billing for use, mileage, and all the rest of it. On my personal thing, it was the way they treat people. Part of it that was connected to that was the glossy pamphlets they put out. You get all these glossy pamphlets that they send you and 90 per cent of it, more than that, is just saying how great WestConnex is. It's all about somehow it's trying to say, "There's this useless project but we want you to accept it's a great project; therefore, you should smile happily and let them take your property."

The Hon. WES FANG: Thank you very much for all coming in today. I believe some of you were in the audience earlier when we had the last session and I expressed how I have a great deal of empathy for the situation that you're all in. I can only imagine the issues that you face and feel about it, but I just want to address one of the things that was said before: It's about this continued theme that it's somehow corrupt. I fear that that is

damaging the position that you hold because I don't see how it's corruptible by the Government. I just think that, having sat within this Government for the last five years, I have not known a single time when we were able to corrupt a process the way that is indicated by the testimony today. Can you somehow expand on that because I just—

PETER HEHIR: I would like to try and address that if I may. I think a perfect illustration of what we're talking about is documented in the RAW newspaper. The Government elected to use CIMIC and AECOM, just to cite two organisations, to initiate this WestConnex project at a time when both of these companies—and the Government were well aware of this—were under investigation for corruption on many levels in a number of overseas countries. That does not look good. It is a reasonable conclusion to draw from that that the Government is accommodating corruption. That's not necessarily proof positive that the Government is corrupt, but it certainly indicates to me—and to most other sane-thinking individuals—that clearly, if the Government is prepared to offer contracts to contractors who are under investigation in overseas countries and give them contracts, something is rotten in Denmark.

The Hon. WES FANG: I'm sorry, but that does not fly. I don't see how you're drawing a conclusion that the Government has corrupted this process.

RICHARD CAPUANO: Unless you've been there, you're alone in that.

The Hon. WES FANG: I don't think I am.

RICHARD CAPUANO: Can I just jump in there? You said you showed empathy towards what had happened to us. What are your thoughts on paying us back, for example? What are your thoughts on actually using some of that money that the Government has obtained from Transurban or donors to pay us back? What are your thoughts on that. If you show empathy and understanding?

The Hon. WES FANG: What I will say about—

RICHARD CAPUANO: No, don't give me politician speak. Answer me directly.

The CHAIR: Order!

The Hon. CHRIS RATH: We're asking the questions, not answering them.

RICHARD CAPUANO: Don't pre-empt him, please.

The Hon. WES FANG: I'll give you my view. Again, Mr Rath is right. We're here to inquire, not to answer. But I'm happy to provide you my thoughts.

RICHARD CAPUANO: Please.

The Hon. WES FANG: I don't know enough about your situation to dive down—

RICHARD CAPUANO: Have you read my submission?

The Hon. WES FANG: No, sorry—

RICHARD CAPUANO: Have you read my submission?

The Hon. WES FANG: You've got to calm down. This is not helping. And this is my point.

The CHAIR: Order!

The Hon. WES FANG: This is not helping your situation when these wild conspiracy theories are being presented as facts because when I start to drill—

RICHARD CAPUANO: Let me spell it out for you.

The Hon. WES FANG: I'm sorry, I haven't—

RICHARD CAPUANO: I went to the Land and Environment Court—

The Hon. WES FANG: You're talking over the top of me now.

RICHARD CAPUANO: —where the Valuer General put \$950,000 on the table. The RMS came back with \$900,000. I appealed that. I subsequently was bullied by dodgy valuers, Lunney Watt, throughout this process who demanded unnecessary report after unnecessary report to increase the cost to wear me out. The judge at the end turned around and said that, based on evidence provided by the RMS, my acquisition should be \$1.3 million as a baseline. The RMS wanted that evidence dismissed even though it was their own. They demanded and demanded—and we're talking about their barrister and Clayton Utz lawyers—that the judge dismiss the evidence.

He said, "No, the benchmark is \$1.3 million." Six months later the judge comes back with \$1 million, which is what the RMS had demanded. Please don't tell me that the process hasn't been corrupted.

The Hon. WES FANG: Is it your testimony now that the judiciary is a party to this as well?

RICHARD CAPUANO: Yes.

JOHN BARTHOLOMEW: Can I just pop in there? Corruption was a big issue in the 2011 election. Labor fully deserved to lose that because of Eddie Obeid. The Government that replaced it had a mandate not to be as corrupt. So it's disappointing that the legislative priority in, I think, the second sitting week of the new Parliament was to rewrite the Environmental Planning and Assessment Act. They promised to get rid of 3A. They get rid of 3A, 4A, 5A, 6A, 7A—the whole lot. Half of it has gone.

The Hon. WES FANG: I'd get rid of all of it, frankly.

JOHN BARTHOLOMEW: Then, and this is the crucial bit, they removed the right of the public to challenge an infrastructure project that was devoid of merit on the basis that it was devoid of merit. That was the beginning of that government going down a very dark road. Then to set up Infrastructure NSW as an all-powerful body, the most powerful government department ever, that can walk into other departments and say, "Stop doing what you're doing. Police, you're doing a murder investigation? Stop doing that because my cousin is involved." That's the sort of power it has.

The Hon. WES FANG: Again, I don't think—

JOHN BARTHOLOMEW: It's an unchallengeable power. This is what [disorder].

The Hon. WES FANG: —you are assisting your case by presenting these conspiracy theories.

RICHARD CAPUANO: They are not conspiracy theories.

The Hon. WES FANG: Well, I think if you're accusing the Government and the judiciary are somehow in cahoots—

The CHAIR: Order! Mr Fang, your questioning time is up. Thank you. Unfortunately, that is all that we have time for today. I repeat my genuine gratitude to you all for coming and explaining to us the impact that these acquisitions have. It's very helpful in terms of the evidence for the Committee. To the extent there are any supplementary questions, we will provide them to you and answers will be returnable within 14 days. The Committee secretariat will be in touch. Thank you very much. That concludes our hearing.

(The witnesses withdrew.)

The Committee adjourned at 13:01.