



Customer Service Commissioner
NEW SOUTH WALES

NSW Housing Acquisition Review Summary Report

Customer Service Commissioner

14 September 2016

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It is vitally important for Government to get on and build good projects. The NSW Government has a responsibility to deliver for all citizens, from public transport, to education and hospitals. In some instances, projects will require the Government to acquire property in order to deliver the required outcomes for the community – and balance impacts on residents, appropriate compensation and the wider public good.

There is no doubt property acquisition is a complex and difficult process. The loss of a resident's property will rank very highly on the emotional and anxiety ladder, perhaps one rung below bereavement.

It is important not to forget that we are generally doing a good job in **achieving** acquisition outcomes. Roads and Maritime Services (RMS) undertakes approximately 80% of all property acquisitions in NSW, and in the last 10 years, RMS has achieved an 86% rate of sale by agreement without the need to use acquisition notices. As noted in the Russell Report (p.36) "...it would seem that RMS is doing something right in the way that it conducts its negotiations."

However, in the **process** of acquisition we need to improve and the community has told us we need to do a better job. As the Customer Service Commissioner, it is my job to advocate for the citizens of NSW. We need to be open minded and understand the impact we are having on peoples' lives, and ensure this remains front of mind. This means demonstrating more empathy, personalising our interactions and be more flexible in managing outcomes. A one-size fits all approach will not work. Respect and co-ordination of communication with the resident is key to success.

While this Review was triggered by concerns in relation WestConnex, it incorporates a desire to capture lessons and make improvements to the way in which acquisitions are carried out across the sector. In particular, Transport for NSW has been driving a more customer centred approach since 2011. However this Review has found the management of acquisitions across Departments differ and the experience of residents could be more consistent across Government.

The recommendations in this Review have been developed under the guiding principle of our strategic Customer NOW Framework – covering people, process and performance, and all underpinned by a customer centric culture of putting customers at the centre of policy development and service design. It is also important to note that none of the recommendations in this Review diminish the need for agencies to operate within the laws set by Parliament, to exercise due economy in public expenditure and to deliver public value through completion of infrastructure projects upon which the people, businesses and economy of NSW depend.

Michael Pratt AM
Customer Service Commissioner
14 September 2016

"Our record infrastructure investment of \$73.3 billion over four years is boosting consumer and business confidence – making NSW the number one destination to live, work and do business."

**Hon Mike Baird M.P.,
Premier of New South
Wales, June 2016 Budget
Media Announcement**

"We just received a letter and would've preferred personal contact at the start. While the project manager was understanding and helpful they didn't have all the answers and we were passed around four to five different people in the process."

**Resident whose property
was compulsorily acquired
July 2016**

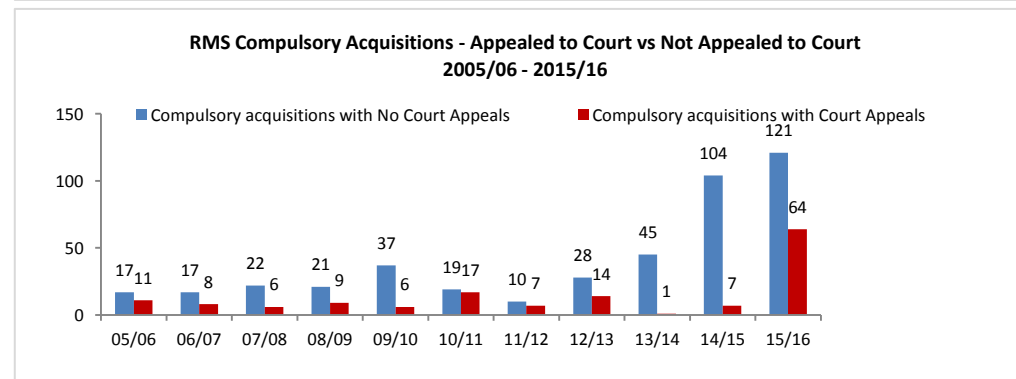
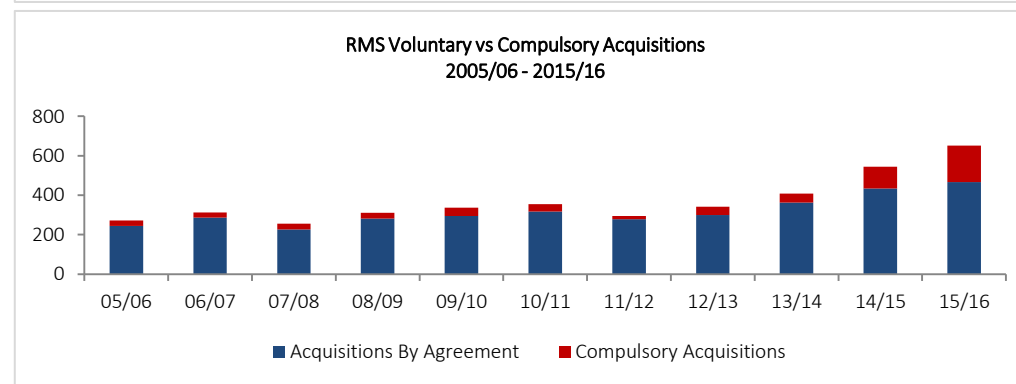
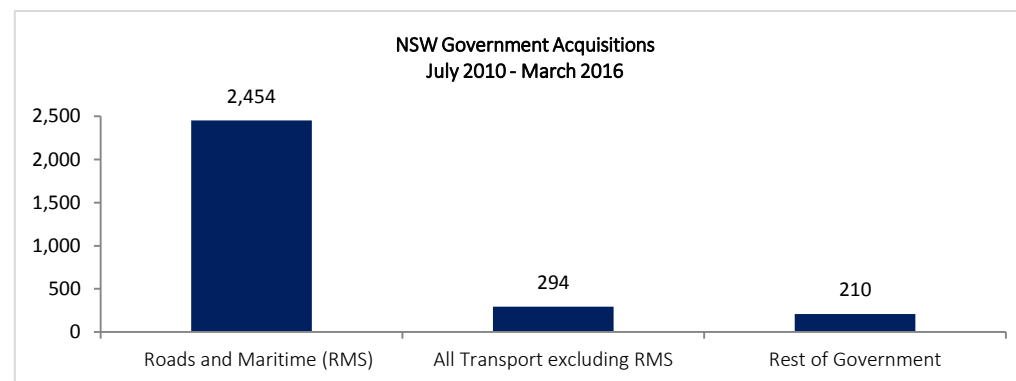
- **It is vital for the Government to develop infrastructure projects.** The NSW Government has a responsibility to deliver for all citizens, from public transport, to education and hospitals. Although efforts are made to reuse existing brownfield sites or state owned land, compulsory housing acquisition is an inevitable part of such infrastructure programs.
- **The impact on residents' lives cannot be understated.** The loss of a resident's property will rank very highly on the emotional and anxiety ladder, perhaps one rung below bereavement. Demonstrating respect and empathy for the resident and being more flexible in managing outcomes is critical.
- **Resident dissatisfaction, costs and challenges are increasing.** As housing acquisitions for WestConnex occurred over 2015 and 2016, it has become evident that the acquisition process is not working as well as it should. There has been a marked rise in the number of compulsory acquisitions and appeals to the Land and Environment Court compared to NorthConnex, a major project conducting acquisitions around the same time. Residents have reported dissatisfaction with valuations given for their property, inconsistent communication from the project and a general feeling that they have not been treated fairly. The unprecedented pace and scale of infrastructure programs underscores the need for change.
- **The objective is a better outcome for residents and in turn for Government.** The objective of the Customer Service Commissioner Review (CSC Review) is to understand what is driving the increase in resident dissatisfaction and to significantly improve the manner in which the Government deals with residents involved in the property acquisition process. While triggered by a specific project, WestConnex, the Review incorporates a desire to capture lessons and make improvements across the sector.
- **This is a high level Review requested by the Premier and conducted over a five week period.** Insights and recommendations have been developed based on discussions with and feedback from residents and key government stakeholders, as well as input from relevant Government reports and research.
- **The Russell Review.** The NSW Government commissioned David Russell SC to examine the State's just terms compensation legislation as it applies to real property rights in 2012. The Review received submissions from a large number of stakeholders, including landholders, government agencies and industry associations. The report *Review of the Land Acquisition (Just Terms Compensation) Act 1991* was delivered in 2014 (Russell Review). The Russell Review provides key input to the CSC Review.

- **The CSC Review has identified 36 resident pain points, 10 guiding principles and made 20 recommendations.**
- **Resident pain points demonstrate it is not a one size fits all solution.** Six key resident segments have been identified with each experiencing a variety of ‘pain points’ – either specific to their segment or more broadly found across all or most segments. Pain points have been identified through an extensive examination of source material and during consultations with key stakeholders – they do not represent areas across a single or specific project. The pain points demonstrate there is no single solution. However, it highlights that some relatively simple changes, e.g. improved and co-ordinated communications, will have a big impact for all.
- **Guiding principles articulate the aspirations for the acquisition process.** Having understood the underlying causes of resident dissatisfaction in the current process, guiding principles were developed to articulate the aspirations for the future process which the recommendations are intended to deliver.
- **The CSC Review makes 20 recommendations designed to address the pain points and aligned to the guiding principles.** The recommendations in this Review have been developed under the guiding principle of the strategic Customer NOW Framework, covering people, process and performance, all underpinned by a customer centric culture of putting customers at the centre of policy development and service design.

Current State Metrics



- The NSW Government acquired 2,958 properties from July 2010 to March 2016.
- Over 90% of these acquisitions were undertaken by the Transport Cluster. The vast majority of these were undertaken by Roads and Maritime Services (RMS).
- Over the last ten years the number of acquisitions by RMS has more than doubled. The large increase from 2013-14 is attributable to the significant increase in infrastructure projects such as WestConnex and NorthConnex.
- Since 2013-14 the number of compulsory acquisitions has risen sharply, from 45 in 2013-14 to 121 in 2016.
- The number of Valuer General determinations appealed in the Land and Environment Court has also increased from 1 in 2013-14 to 64 in 2016.
- It is noted there are specific conditions relating to WestConnex, including:
 - Truncated timeframe for acquisitions
 - Lifting the M4 East corridor reservation in 1977 leading to community expectations there would be no development, and
 - Project community engagement and property acquisition, which would usually be handled together, were divided between two organisations, Sydney Motorway Corporation and RMS, leading to confusion for residents.
- WestConnex has highlighted resident concerns that should be resolved.



(Sources – Department of Finance, Services and Innovation and, Roads and Maritime Services)



“Once our house had been acquired, our tenants were sent a very rude letter from [TfNSW agencies] asking them to vacate... we understand that the tenants need to move out but it is up to us to communicate that with them, not [TfNSW agencies] as we own the house. More work needs to be done to improve the process of dealing with tenants.”

“How could they say we’re not affected when we’re 200 metres away from the road?”

“It would’ve made a big difference if they had acknowledged the impact on us at the beginning. I know they have to draw the line somewhere...but if they had door knocked us I think it would have saved us a lot of angst.”

“It’s not knowing what’s going on that makes us the most distraught.”

We know, and the community has told us, we need to do better...

“We just received a letter and would’ve preferred personal contact at the start. While the project manager was understanding and helpful they didn’t have all the answers and we were passed around 4-5 different people in the process.”

“We were shocked as we had approached the council when we put in the DA to build the house. They assured us it would never happen. Then 12 months later it was happening and we were told that we were one household that may be directly affected.”

“If I had known twelve months earlier, I wouldn’t have spent \$100K on renovating my property. It’s all gone to waste.”

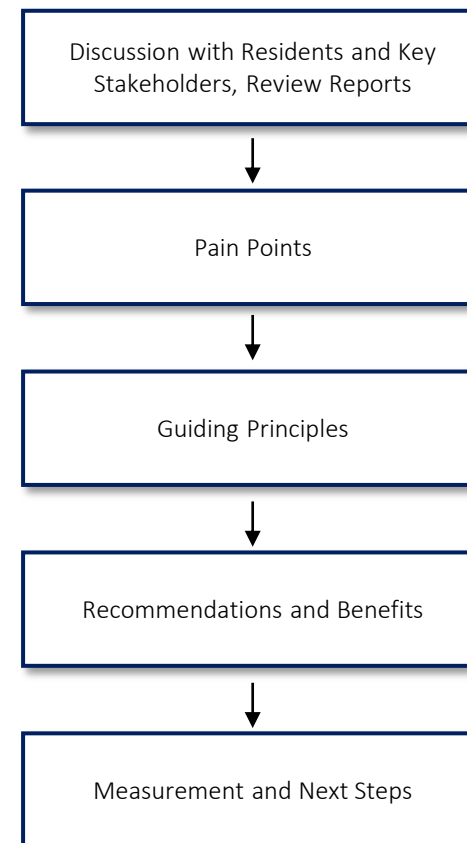
(Quotes from residents in acquired properties, corridors and living near the development.)



The CSC Review is a high level review conducted over five weeks. Insights and recommendations have been developed via consultation with residents and key government stakeholders as well as the review of relevant Government reports and research, including:

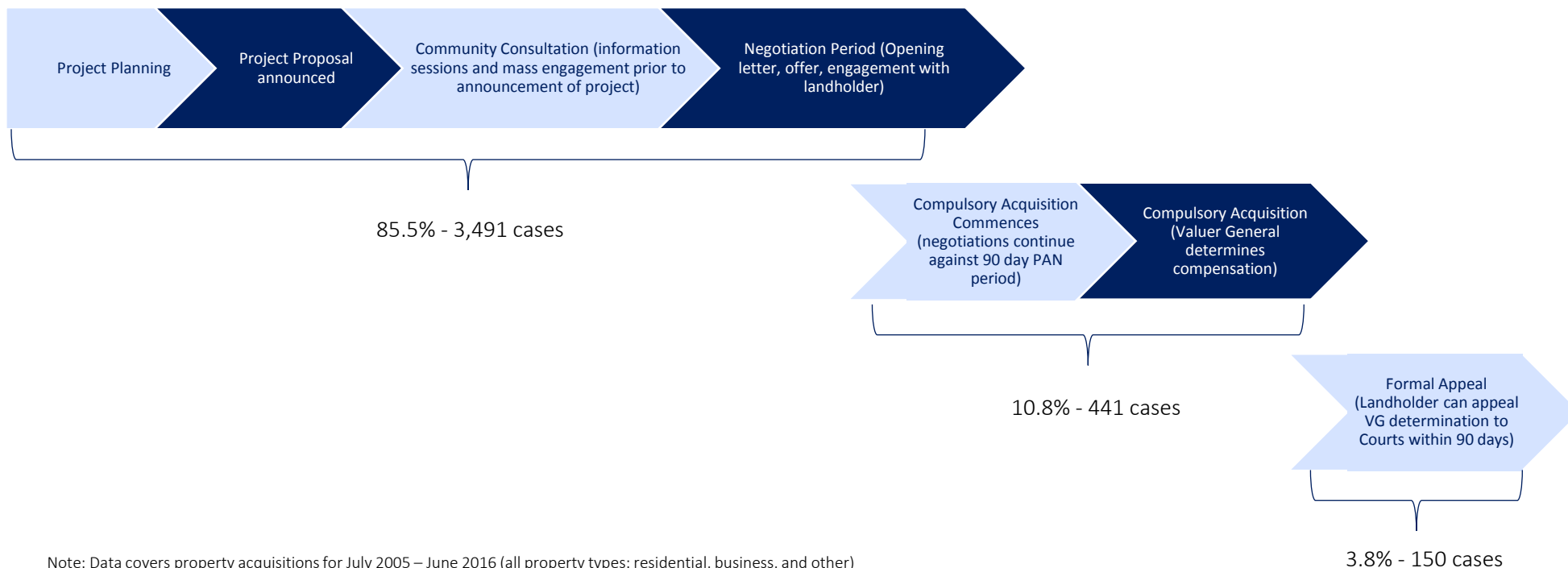
1. Residents directly impacted by the acquisition process
2. The Premier of NSW; Minister for Finance, Services and Property; the Minister for Roads, Maritime and Freight; Minister for Transport and Infrastructure and their offices
3. The Valuer General; Secretary, Transport for NSW; Secretary, Department of Finance, Services and Innovation; Chief Executive, Roads and Maritime Services and their offices
4. Project directors of the major infrastructure projects, i.e. WestConnex, Sydney Metro, Parramatta Light Rail, B Line, Outer Sydney Orbit and M12
5. Reports into the acquisition process including:
 - Review of the Land Acquisition (Just Terms Compensation) Act 1991, David J. Russell SC, February 2014
 - Government’s Response to Review of the Land Acquisition (Just Terms Compensation) Act 1991
 - Land Acquisition (Just Terms Compensation) Act 1991
 - Joint Standing Committee (JSC) on the Office of the Valuer General – Eighth Report
 - Government Response to the JSC on the Office of the Valuer General – Eighth Report
 - Joint Standing Committee (JSC) on the Office of the Valuer General – Ninth Report
 - Improvements to NSW’s Land Acquisition Process, Department of Finance, Services and Innovation, 26 July 2016
 - Land and Environment Court Practice Note Class 3 Compensation Claims
 - Land and Environment Court Practice Note Class 4 Valuation Objections
6. Qualitative research results undertaken to understand the experiences of residents and businesses acquired for the WestConnex project, and
7. Input from various agencies.

Review Approach



The acquisition process is conducted in accordance with the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991*. The figure below shows the main stages of the acquisition process and the timings prescribed by legislation. It also shows the percentage of acquisitions undertaken in each stage by RMS from July 2005 to June 2016. 4,082 properties were acquired over the period.

Figure 1.5a Journey Map- Acquisitions



Note: Data covers property acquisitions for July 2005 – June 2016 (all property types: residential, business, and other)

Resident Segments – Scope of Review

This Review has identified six key resident segments in the acquisition process. The following table contains the segments that are **within the scope of this Review**.

Segments within the Scope of the Review	
Resident Segments	Case Types
1. Whole Households Household properties, the entirety of which needs to be acquired	Whole property households in negotiations period
	Whole property households in PAN period
	Whole property households who appeal VG decision to LEC
	Whole property households who remain in households post-acquisition
2. Partial Households Household properties, of which a portion is required. Examples of a portion include a driveway, or a garden	Partial acquisition household
3. Rentals Properties which are tenanted	Owners of rented property
	Tenants of rented property
4. Households affected but not acquired Household properties which are not required for construction but which, during or after construction, will be substantially impacted by it. Examples include properties that are situated on roads with substantially changed traffic patterns or the relocation of bus stops	Households who live close to projects
	Household hardship acquisitions (both Just Terms and RMS Exceptional Hardship Policy)
5. Corridors Properties located within designated corridors which will be required for development, but at an unspecified future date in the medium to long term	Households who are in preserved corridor
	Businesses who are in preserved corridor
6. Households and businesses moving into an area Consists of people who are moving into an area that may be subject to compulsory property acquisition in the medium to long term	Households and businesses moving into an area and seeking information in relation to potential upcoming acquisitions.

Resident Segments – Scope of Review (continued)

The table below contains the segments involved in the acquisition process and other elements that are **outside the scope of this Review**.

Segments outside the Scope of the Review	
Segments	Case Types
Whole Businesses*	Whole property businesses in negotiations period
	Whole property businesses in PAN period
	Whole property businesses who appeal VG decision to LEC
Partial Businesses*	Partial acquisition business
Native Title	Acquisitions of native title
Public Entities	Acquisitions of land from public entities including councils
Electricity Transmission	Electricity transmission issues
Other Elements	<ul style="list-style-type: none"> • The withdrawal of a compulsory acquisition notice (PAN) • Acquisitions undertaken that are ultimately determined as not needed • Substratum acquisitions

* While businesses are out of the scope for this Review, there are certain pain points, such as communication, that are shared by both households and businesses. These are captured in the table on common pain points.

Resident Pain Points by Segments

Each segment experiences a variety of ‘pain points’ – either specific to their segment or more broadly found across all or most segments. Pain points have been identified through an extensive examination of source material and during consultations with key stakeholders – they do not represent areas across a single or specific project. The pain points demonstrate there is not a single one size fits all solution. However, it highlights that some relatively simple changes, e.g. improved and co-ordinated communications, will have a big impact for all.

Resident Segments	Pain Points Identified
1. Whole households	<ol style="list-style-type: none"> 1. Negotiation period prior to the issuance of a PAN is neither fixed nor compulsory 2. Mixed views on the length of the 90 day PAN period 3. The current Valuer General Compensation Form is too difficult to understand 4. Valuer General independence is questioned throughout the process 5. Residents are not happy with the way they are treated by the Valuer General’s staff 6. Lack of option to take original acquiring authority offer for property if it is higher than Valuer General determination 7. Lack of an effective mechanism to appeal Valuer General determinations due to high cost of taking matters to the Land and Environment Court 8. Requirement to pay rent to acquiring authority, post-acquisition, creating financial pressure and risk
2. Partial households	<ol style="list-style-type: none"> 9. Frustration and anger with lack of option to be wholly acquired if only part of their property is required for a project 10. Unclear process and understanding around how decisions are made in relation to which properties are partially acquired
3. Rentals	<ol style="list-style-type: none"> 11. It is sometimes difficult to establish if a property is rented prior to the initial door knock 12. Owners of rented property often feel dismissed by the compulsory acquisition process 13. Tenants are often first contacted but they are often not kept informed about the process
4. Households affected but not acquired	<ol style="list-style-type: none"> 14. Neighbours feel they are neglected and insufficiently engaged with the acquisition process 15. Residents lack information about construction activity and about the future steps in project development 16. Residents living close to projects do not receive an initial door knock 17. Near neighbours cannot initiate acquisitions unless they can meet the high bar placed by the hardship acquisition guidelines
5. Corridors	<ol style="list-style-type: none"> 18. Residents cannot initiate acquisitions unless they can meet the high bar placed by the hardship acquisition guidelines 19. View that the hardship test be removed for corridors 20. Lack of an appeal mechanism against hardship determinations 21. Lack of personalised initial contact 22. Distress around low levels of certainty surrounding corridors and potential impact on properties
6. Households and businesses moving to an area	<ol style="list-style-type: none"> 23. Residents are frustrated by the lack of information available (including from Section 149 Planning Certificate searches)



Resident Pain Points Common to Most or All Segments

Resident Segments	Pain Points Identified
7. Communications	24. Residents are frustrated by the current communication approach, including <ul style="list-style-type: none"> • Residents wish to be able to speak to someone about the process at any time. Residents report a stress point at the time their primary contact moved from community team to property team. Would like to meet someone face to face. • Residents are sometimes unclear as to where they are in the process and want regular updates, even if there is little progress • Residents want clearer written communication materials, around project rationale and benefits, status of project approval and EIS
8. Compensation	25. Solatium - review of principles underpinning 26. Reinstatement – some residents wish to introduce reinstatement in the Act 27. Market Value –residents do not believe they receive a fair market value 28. Market Value – residents believe valuations are inconsistent in approach 29. Compensation–residents do not understand how it is calculated 30. Compensation – lack of compensation for time 31. Compensation – residents perception that compensation exists 32. Compensation – hardship
9. Legal (and valuation) fees and involvement	33. Residents incur overly high legal fees 34. Residents are led to believe that they will receive higher compensation from the Valuer General or the Court
10. Owner initiated acquisitions	This issue particularly affects partial households and corridors. Pain points have been included in the segment view. These are: <ul style="list-style-type: none"> 9. Frustration and anger with lack of option to be wholly acquired if only part of their property is required for a project 17. Near neighbours cannot initiate acquisitions unless they can meet the hardship acquisition guidelines 18. Residents cannot initiate acquisitions unless they can meet the high bar placed by the hardship acquisition guidelines 19. View that the hardship test be removed for corridors 20. Lack of an appeal mechanism against hardship determinations
11. External factors	35. Sydney Residential Property Market is extremely tough and competitive 36. Timeframes for the compulsory acquisition process are constrained by accelerated project timeframes

The guiding principles follow on from the identification of the resident pain points and articulate the aspirations for the acquisition process which the recommendations are intended to deliver.

1. The resident has a **primary point of contact throughout, being their assigned Personal Manager**, and is provided with support and assistance in navigating the acquisition process by being the central point of access to Government specialists involved in the process.
2. The resident is **treated with respect and sensitivity at all times**; their needs and those of their family are listened to and given consideration.
3. The resident is **informed personally and promptly early in the process**, from relocation to resettlement assistance, where required and there is regular, timely engagement throughout the process through their assigned Personal Manager.
4. The resident is provided with all **relevant information in a timely, easy to understand and transparent manner** at all steps in the process with sequencing managed through their assigned Personal Manager.
5. The process allows the resident **adequate time for consideration, negotiation, decision-making and relocation**, without unduly delaying the project. The timeline and any deadlines are clearly explained.
6. The valuation and acquisition **process is fair, consistent and transparent** based on 'market value' not reinstatement.
7. **Clear reasons and explanations are given for financial calculations**, offers and terms of settlement.
8. **A full suite of support options and entitlements are unambiguous**, easy to understand, simple to access and straightforward to administer.
9. **Support options can be tailored to a resident's individual needs** within the bounds of the overall offering.
10. The residents progress is **recorded, managed and monitored** throughout the acquisition process to aid engagement at optimal times conducive to resident need and our requirements.



Customer Centric Culture

We will put residents at the centre of policy development and service design, making sure they are actively engaged and can participate.

The below recommendations are referred to Transport for NSW for implementation, in consultation with the Customer Service Commissioner and the Department of Finance, Services and Innovation.

Operating Model: Recommendation 1

We operate with the resident in the centre, closely supported by, and key interactions co-ordinated through the Personal Manager Acquisitions.

1. Implement a new resident focused operating model to manage property acquisitions and establish an operational centre of excellence for resident engagement (refer to Figures contained in Appendix A).

People: Recommendations 2-6

We have a workforce that has a deep understanding of residents and is proactive in responding to their needs.

2. Create the role of Personal Manager Acquisitions to assist landholders and tenants navigate the property acquisition process.
3. Assign Community Place Managers for all infrastructure projects that require property acquisitions to provide timely and accurate information to the community.
4. Clarify position accountabilities and apply consistent recruitment and training standards for all key roles involved in the property acquisition process.
5. Conduct a comprehensive review of all written communications to the resident to improve the standard and consistency of communication.
6. Review and enhance the end to end support and services provided to residents.

Customer Centric Culture

We will put residents at the centre of policy development and service design, making sure they are actively engaged and can participate.

Process: Recommendations 7-15

We simplify and streamline our processes so that they are easier to understand, navigate, use and access.

7. Conduct in-depth and thorough pre-contact due diligence to be aware of possible and potential issues early in the process.
8. Provide greater transparency on planned infrastructure projects to residents and the community.
9. Provide sufficient lead time and flexibility around negotiation for residents to be fully informed by introducing a minimum six month negotiation period.
10. Review hardship criteria with a view to replacing it with a more commercial strategic approach to owner-initiated acquisitions.
11. Ensure residential rental charges for former owners where payment is held in trust are deferred and capped by extending Roads and Maritime Services' rental policy across the whole of government.
12. Amend legislation to ensure legal fees and other costs incurred by residents in the acquisition process are reasonable.
13. Increase solatium to a maximum of \$50,000 and provide a standardised formulaic approach to how payments are calculated.
14. Provide landholders a more cost effective merits review of the Valuer General's determination.
15. Require the Valuer General's determination of compensation to be provided directly to interested parties and the acquiring authority.

Performance: Recommendations 16-20

We measure our performance and are transparent and accountable in providing services to our residents and encourage continuous improvement.

16. Establish standards for data collection, monitoring and reporting.
17. All agencies to use a CRM System to capture common data to manage the property acquisition process.
18. Establish a resident feedback mechanism through the acquisition process and on resettlement.
19. Mandate and operationalise the recommended acquisition process across all NSW government agencies.
20. Establish the Property Acquisition Standards Group to implement and monitor whole of government performance standards.



For Residents

- Given early and adequate notice that their property is required in order to have time to find a new home and relocate.
- Find the process easy to understand through effective communication.
- Given flexibility in the acquisition process in relation to the settlement period that caters for their individual circumstances.
- Understand how their property is valued and what is taken into consideration for their payment.
- Satisfied with how the process was handled overall.
- Residents whose houses are not imminently required for a project, are able to engage with the acquiring authority to investigate if an owner-initiated acquisition is possible.

"I would prefer this hadn't happened but I accept the project is important and there was a fair outcome for me. The people were professional and good to deal with, I felt the situation was handled as well as it could have been in the circumstances."

Potential example of a good outcome provided by resident.

For Acquiring Authorities

- Residents tell others that the people they dealt with during the process were professional to deal with, took the time to understand their individual circumstances and needs, and provided support as required.
- Residents communication is tracked and progress monitored throughout the acquisition process.
- Residents are surveyed after they have moved to their new home to see if there was anything that could have changed in the process to make it better for others in the future.
- Community engagement, acquisition, legal and other teams involved in the process are given the time and resources needed to deliver great community and business outcomes.
- Flexibility is given to agencies for conversations with residents impacted by partial acquisitions, corridors, and those impacted by work underway (near neighbours) e.g. possibility of owner-initiated acquisitions.
- Agencies are provided with the necessary tools (catalogue of services and legislative power) to cater for individual circumstances.
- Agencies are able to acquire the properties they need to, when they need them in order to deliver the projects they are tasked with delivering on time and within budget.

For Government

- Projects delivered on time and on budget.
- Corridors are preserved successfully.
- Evidence that process is handled as effectively as possible and with due economy by the relevant agency.

For Communities

- Understand why acquisitions are necessary.
- Aware that adequate research and investigation has been undertaken to minimise the number of homes required and thought has been given to remaining residents who will live through the construction and operational phase of the projects.
- Their former neighbours are treated with respect during acquisition process.



Customer Service Commissioner
NEW SOUTH WALES

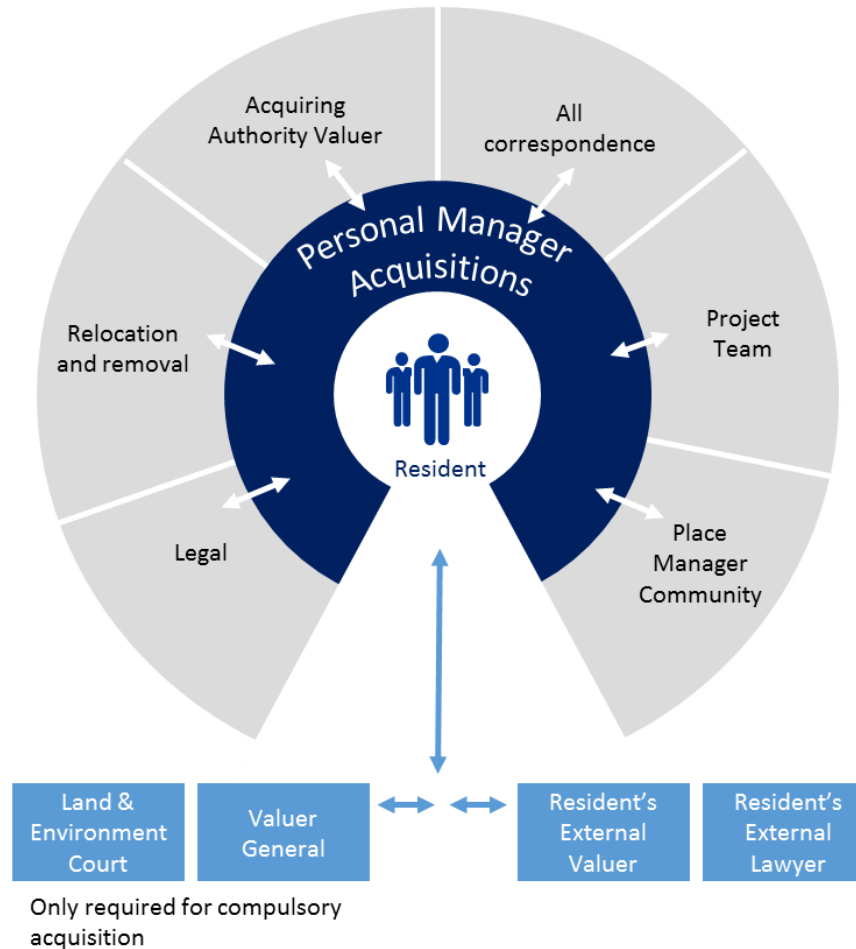
Appendix



Resident Focused Operating Model New Operating Model

Recommendation 1: Implement a new resident focused operating model to manage property acquisitions and establish an operational centre of excellence for resident engagement

Resident Focused Operating Model





Recommendation 1: Implement a new resident focused operating model to manage property acquisitions and establish an operational centre of excellence for resident engagement (continued)

Organisational Model

