

Western Sydney Aerotropolis

Report by the Independent Community Commissioner

RECOMMENDATIONS FOR A FAIR AND EQUITABLE WAY
FORWARD FOR SMALL LANDOWNERS IN THE WESTERN
SYDNEY AEROTROPOLIS

6 August 2021

TABLE OF CONTENTS

Case study	3
Introduction	4
Process and high-level findings	6
Section 1 recommendations: communication, engagement & ongoing support	9
Section 2 recommendations: responses to specific landowner impacts	14
Section 3: governance and pathways	24
Glossary	26

ONE STORY AMONG MANY

I have lived with my husband in our home in Kemps Creek for more than 50 years.

Since arriving in Australia from Hungary, we have both been factory workers. Drawn to the peace and quiet of the area, we made Kemps Creek our home, working to provide for our children and grandchildren.

Today, my husband is unwell. He has suffered a stroke and has chronic health problems including diabetes and a heart condition. Compounding his ill-health, is the uncertainty that is hanging over the future of our property.

Our property has been zoned ENZ Environment and Recreation. We have not been able to get information beyond 'glossy maps', which I struggle to understand.

We have always loved living here. Half of our property is covered in trees. We are a little bit like 'greenies' – we love the birdlife and looking after nature.

We would like to stay for as long as we can. But what if things change for us and we need to move into care?

We don't know what is going to happen and where we stand. Will our land be acquired by the Government? The uncertainty is making us sick.

Like many other small landowners, they are not opposed to the vision of the Western Sydney City and they understand the priority for green space. What they do not understand is that a short distance away – just 200 metres – Mamre Road which is also low-lying and subject to flooding has been designated for development as residential land.

We have flooding issues here – flash flooding – but it is manageable And comparable to Mamre Road where they are building it up. We know that the flooding issues can be fixed to make the land developable.

Without information or certainty about the future, we are unsure of our next steps. Do we continue to spend money to maintain our home or divert our resources elsewhere?

They know they have to maintain their house – but they don't know what to fix or what to do. Adding to their distress is the need to pay \$4,000 per year in Council rates.

All they ask is for a fair process.

We would like the zoning to be removed. If this cannot happen, we need to know how and when the land will be acquired ... and that we will get a fair price.

There is so much anger here in the community because we are being treated unfairly. This is our life's work – our super, where we bought up our children – it is everything we have. We want a fair value for our land – that is all.

INTRODUCTION

The landowners living in the Western Sydney Aerotropolis are distinct from other communities in Greater Sydney. Like the family highlighted in the story above, many have owned their land for decades, and for others ownership has been in their family for generations.

The community is culturally diverse where English is not the first language spoken in a good proportion of homes. Some have come to Australia to escape turmoil and war in their country of origin, which makes this cohort particularly sensitive to the actions of government and to significant change.

Many in the community have not engaged in the workforce in a 'traditional' sense and therefore have not built superannuation nor diversified their assets. The land that they own is likely to be their single largest – if not only – asset. This makes the development of the Western Sydney Aerotropolis particularly devastating if they are not able to sell or to move on their own terms.

I was struck by the generosity of the community towards me and this process. Thankfully, I was able to meet face-to-face with a number of landowners during the initial period of my engagement and before the onset of restrictions due to COVID-19. The meetings were in peoples' homes or at a local community venue, and I was able to see first-hand some of the impacts that were being raised with me. As the COVID-19 situation evolved, I moved my engagement online to ensure everyone's safety. I appreciated greatly the community's flexibility during this time.

The impacts of the process for the Western Sydney Aerotropolis on these people are diverse but a common theme across all of my engagement has been a high level of distress caused by uncertainty and poor communication. One of my first actions was to establish a counselling service that I have referred to many landowners during my engagement. This is a basic 'duty of care' response which should have been in place earlier and needs to be continued.

I would like to thank the small landowners – more than 100 in total – who gave their time so generously to meet with me, for some multiple times over the course of my engagement. This report and my recommendations reflect their experiences.

I would also like to acknowledge the work of the team at the Department of Planning, Industry and Environment (DPIE). Executive Director of the Western Parkland City, Catherine Van Laeren, and Specialist Planning Officer, Chantelle Chow, have provided valuable support and information throughout this process. The Planning Partnerships Office, in particular former Director Aerotropolis Andrew Jackson and current acting Director Fiona Christiansen, have also been instrumental in providing information for this report.

Beyond DPIE, I thank the many officials who have given their time and support including those from Transport for NSW, the Western Parkland City Authority, Penrith City Council, Liverpool City Council, Landcom, the Office of the Valuer General and Sydney Water.

The current precinct planning process will conclude before the end of 2021 and this is only one, albeit important, element of the delivery of the Western Parkland City.

The NSW Government's ambitions include a 30-minute city; the Blue-Green Grid; quality open space; innovations in education, training and new industries; and providing infrastructure to support a growing population as well as a target of 200,000 jobs.

These ambitions are not about doing things as they have been done before, but about taking a different approach to providing liveability and amenity for residents, workers and visitors to a world-class city standard.

My recommendations are designed to support the NSW Government's vision for the Western Parkland City and – most importantly – to ensure that the communities who currently call this place home are not disadvantaged by progress.

Professor Roberta Ryan
Western Sydney Aerotropolis Independent Community Commissioner

6 August 2021

PROCESS AND HIGH-LEVEL FINDINGS

Responding to concerns by landowners, my appointment as the Community Commissioner was announced by the Minister for Planning and Public Spaces, the Hon. Rob Stokes, on 2 May 2020. The terms of reference for the role included:

- addressing landowners' concerns and what drives those concerns
- providing access to independent expert advice, such as planning, valuation and development processes
- advising on actions to assist people on environmentally constrained land and those who need support on compassionate grounds
- making recommendations regarding strategic land acquisitions that may also address community concerns
- connecting landholders with other agencies and relevant government stakeholders to provide clarity and support where necessary.

From May to July 2021, I met with over 100 landowners individually and in small groups, who have been impacted by the rezoning process of the Western Sydney Aerotropolis.

Landowners were from the initial precincts (Aerotropolis Core, Badgerys Creek, Wianamatta-South Creek, Agribusiness and Northern Gateway) as well as other areas that were not included in the first stage of precinct plans (North Luddenham, Dwyer Road, Kemps Creek and Rossmore).

A broad summary of the issues that landowners have raised follows:

Uncertainty, communication, information and evidence

- Uncertainty, lack of clarity/understanding, communication, co-ordination – *who do we talk to?*
- Definitions and clear language needed to explain key concepts: Agribusiness, green space overlay, open space, flood zone, riparian parklands – *how do we understand what this means for us?*
- 'Over-emphasis' on green space. *How is green space being determined? Why is there so much? What do all the terms mean? What is the rationale? Where is the evidence?*
- People unclear on how the zones have been determined. *What is the logic? The evidence-base is questioned and needs ground-truthing (environment, biodiversity, flooding, different flooding studies and the land use changes impacting on this). How will this be ground-truthed?*
- Larger landowners also feel unable to understand how to engage with government in a systematic way and they are conscious of not wanting to appear 'preferential'.

Acquisitions, rating and airport noise corridors

- For the areas zoned Environment and Recreation and those with the open space overlay – *how can the Government indicate it needs land for these purposes – which effectively makes the land unsaleable – and not provide the acquisition pathway?*
- How can I continue to live/run my business/use my land as collateral or *change things on my land as my needs change under the current zonings?*
- For people who cannot wait, due to personal needs or illness – *how will compassionate acquisition be arranged?*
- What is the Government's acquisition plan? Who/what will it be applied to? How do I know I will get a fair price? What is the timing of the acquisition plan? – *who will be acquired, how will value be determined and how will the acquisition process be determined?*
- Concern about rising Council rates because of land value changes. People can't afford it. They are paying higher rates for land they can't develop – *how do I get rate relief? How can I pay rates during this period of uncertainty?*
- When will the final noise corridors be known? *What will be the timing and impact of the airport as it becomes operational?*

Timing and pathways

- Exclusion from initial precinct plans. When will the remaining areas be rezoned? Changes between precinct plans – they need clarity as to the rationale. *What is the process for the non-priority precincts?*
- Information needed on pathways and timing so that people can make decisions and plans. *What is happening and when?*
- For landowners who are in consortiums or MOUs, they have concerns regarding the process from here (there are emerging SSDs and planning proposals). *What is the master planning process from here?*
- Servicing – timing, processes, rationale, coordination; where is the analysis of ongoing impacts including road reservations, drainage corridors etc. Why are the precincts plans not aligned with sub-divisions, how are there blocks of land cut off from road access? *How is 'death by a thousand cuts' to be avoided?*

It is important to note that not everyone who has been impacted will have spoken with me. Nor have I focused on or been able to address every issue of importance.

This report uses a principles approach highlighting the key impacts and seeking to address many of the issues that were raised by small landowners. This means that not all concerns have been addressed. Importantly, it does not mean that I do not appreciate the importance of the whole range of issues associated with the precinct planning process.

Key issues – such as contestation regarding flooding studies and impacts, staging and detailed planning for the second stage precincts – have been considered but not resolved here. This is not an indication of the importance I place on these issues but is because their resolution will only occur in the medium-term. This is referenced in the recommendations.

Along with these principles, I have taken the approach of largely focusing on the impacts of the precinct planning processes. Through engagement with the Department of Planning, Industry and Environment (DPIE), I have sought to ameliorate some of these impacts during this time as the precinct plans are being finalised.

Other issues, particularly those related to governance in part three of my recommendations, will likely not be of great interest to the community. These recommendations relate to how the business of government is conducted. While not having obvious or immediate consequences, the governance recommendations are important for the future of the Aerotropolis, and in turn for the delivery of positive impacts for householders, landowners and communities.

My recommendations focus on delivering improvements across three areas:

1. Communication and engagement – ways for government to communicate and engage with the community at the centre
2. Granular responses to specific landowner impacts – zoning and proposed acquisitions
3. Ongoing support – potential mechanisms to address fragmentation and uneven impacts, articulation of future pathways and ongoing governance.

SECTION 1: COMMUNICATION, ENGAGEMENT & ONGOING SUPPORT

The recommendations for communication and engagement require sharpening the focus on place; a change of culture within agencies working in the Aerotropolis towards more coordinated actions; and putting community at the centre of the ongoing changes that will take place at the Aerotropolis. While this should be immediately ramped-up, efforts also need to be sustained for the long-term as the Aerotropolis develops in the coming decades.

Recommendation 1: Appoint Precinct Community Place Managers

Community Place Managers should be appointed for each precinct including the initial precincts and those due to come online in later stages.

These roles will be responsible for meeting a clear and transparent service standard. They will coordinate information within and across levels of government and related servicing and infrastructure agencies; and provide responses to inquiries that are timely, accessible, and easy to understand.

Note, it is not important where the Community Place Managers are located, their role is to provide a single, named, point of contact to navigate agencies and source clear information for landowners.

Recommendation 2: Establish ongoing Independent Community Commissioner role

Landowners were highly supportive of the role of the Community Commissioner. They particularly appreciated that the role was independent of agencies, and that they were being listened to.

An ongoing role for an Independent Community Commissioner is needed to provide oversight of the impacts on landowners and to be an advocate for the community to government.

The Community Commissioner would also provide oversight of the implementation of these recommendations including an ongoing focus on governance, communication and engagement.

Recommendation 3: With the community, develop a Community Participation Plan

A Community Participation Plan should be developed in collaboration with the community about how to progress from this point. The Plan should reflect the requirements of community participation embedded in the *Environmental Planning and Assessment Act* (1979), which includes the following¹:

- Encourage ongoing and effective partnerships with the community to provide meaningful opportunities for participation in planning, through co-designing the approach to engagement and agreement regarding success factors.
- For each engagement process, it should be recognised what the community has said about these issues previously (to avoid people feeling as though they are ‘speaking into a vacuum’), check that what has been heard is correct and feed that back to build understanding.
- Agencies must coordinate with each other to ensure that engagement occurs through the place – rather than the agency – lens.
- Information should be in plain language, easily accessible and in a form that facilitates community participation.
- The community should also be given opportunities to participate in strategic planning as early as possible to enable community views to be genuinely considered.

The approach and plan for community engagement must be prioritised and agreed within, between and across all levels of government before proceeding into the public sphere.

The plan must include standard service levels such as timely feedback and responses to what has been adopted, what has not been adopted and why. Landowners are critical that they have not heard from governments on what has been raised, and what has been considered but not implemented.

Recommendation 4: Establish a Community Consultative Committee

Feedback on the Community Liaison Group (CLG) was that this has been a useful forum however should be better resourced (e.g., minutes were not available in a timely manner), nor were responses from governments readily forthcoming through this group.

The existing CLG should be re-scoped to follow the NSW Government guidelines for Community Consultative Committees (CCC): <https://www.planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/Community-Consultative-Committees>

¹ Environmental Planning and Assessment Act (1979). Division 2.6 Community Participation.

Distinct from the current CLG, the formation of the CCC should observe the following:

- The Committee is chaired and minuted independently of government and industry
- Current CLG membership is reconsidered with a call for expressions of interest to ensure transparent representation
- Membership includes a larger landowner to represent this group and to ensure they have access to information
- There is representation from each Council
- Minutes and actions are publicly available, as per the Guidelines.

To the CCC, the Government should provide:

- Representatives from the NSW Government to provide information to be made available at the request of the Chair
- A commitment to respond to queries in a timely way
- An ongoing commitment to continue this forum as a key engagement process.

Recommendation 5: Prioritise the community in all communications and ensure communications and engagement are place-focussed and coordinated rather than agency driven

Feedback from the community is that the information that is provided by Government is uncoordinated across agencies, complex and confusing. Understandably, the community do not appreciate that different agencies and levels of government have differing responsibilities for elements of this ongoing change process.

Landowners are struggling to understand the process and implications for them. This needs to be addressed with more coordinated communication, across all agencies working in the Aerotropolis, ensuring there is a community/place focus rather than an agency or level of government focus.

Accurate, transparent and timely information should be widely and readily available that prioritises the community viewpoints and includes the following:

- The information should be written with a community and householder frame of reference.
- All information is accessible and personalised where possible. Any impacts on individual landowners or households should be communicated directly and individually, and before broader-based public information. Public meetings should be avoided. Individual advisory sessions with communication experts as well as technical experts should be conducted regularly.

- Major developments in the process, such as an acquisition plan, are communicated in a manner that prioritises the community's needs. This includes each landowner who will be impacted receiving personal communication and phone contact before any impacts are made public to explain what will happen and when.
- A timeline that is both retrospective and prospective and details next steps in the process of when information will be available and when decisions will be made is published.
- Regarding submissions and engagement processes, all received submissions should be acknowledged. When findings of engagement processes are published, what has been adopted and what has not been adopted from the feedback must be documented and provided as part of the responses. All engagement should aim to have an educative focus.
- Reflecting the diversity of the community, information is made available in the languages that are spoken in the catchment area.
- There are regular and frequent individual information sessions and community precinct drop-in sessions so that landowners can have their specific questions answered in a personalised way.
- Care is taken with phrasing and language. Use of terms such as 'green fields' and 'blank sheet' lacks recognition of the existing communities and the lives they have built.

Recommendation 6: Educate the influencers, including planning and property advisors and real estate agents

Influencers from industry are speaking with the community about their options. Often these influencers – which include planning consultants, development consultants and real estate agents – may not be fully informed themselves, as they are not able to find the information they need to effectively advise their clients.

An ongoing program of education with key influences is urgently needed. This program should prioritise face to face information sessions supported by targeted collateral that is regularly updated.

Recommendation 7: Establish funding for support and advisory for landowners including personal, financial, planning and property advisory

There is a significant level of distress among the most impacted landowners.

Funding support for individual impacted small landowners is to be made available immediately so they can engage their own advisers.

Advice would include land use planning, land valuations, financial advice and personal counselling.

Recommendation 8: Establish a publicly available complaints register

At times, questions were asked about the transparency of government and the motivation behind some decisions such as rezoning.

To promote accountability, a complaints register should be established and made available to the public. Within the register would be a process for resolution including response timing, and clear reasons for decisions.

Recommendation 9: Develop a media engagement strategy

In the absence of easily accessible government channels to air grievances, landowners are turning to the media to express their concerns.

Ongoing media monitoring is critical to ensure awareness and understanding of community sentiment. A media engagement strategy beyond announcements is recommended to ensure media representatives are kept briefed on the communities' concerns and the Government's responses to those concerns.

SECTION 2: RESPONSES TO SPECIFIC LANDOWNER IMPACTS

There is significant distress among many small landowners due to uncertainty around the future use of their land. This limits their ability to make informed decisions about investment, their future in the Aerotropolis and the sale of their property.

The key focus of these recommendations in summary includes:

- Rationalisation of the Environment and Recreation (E&R) zoning and the quantum of open space as part of the current precinct planning process
- Criteria for acquiring impacted lots which are now unable to be sold including on compassionate grounds
- Expanding the range of permissible land uses which would enable landowners to continue to use their properties into the future
- Support for landowners facing significant increases in rates
- Introducing a market style mechanism to incentivise the purchase of impacted land where it has not been identified for acquisition.

Precinct planning should be finalised as a matter of urgency and the process should rationalise the extent of the open space overlay and amendments should be made to the Western Sydney Aerotropolis State Environmental Planning Policy (Aerotropolis SEPP) by:

- Removing or adjusting the E&R zone boundaries where it does not align with the 1/100-year flood level, except for land along Thompsons Creek which has already been identified for acquisition
- Recognising that impacted land would be acquired where it is necessary to maintain the E&R zone significantly beyond the 1/100-year flood zone, with the exception of Cumberland Plain Conservation Plan (CPCP) land outside of the 1/100-year flood level
- Rationalising the scale of the open space overlay
- Simplifying the descriptions of open space
- Taking account of the existing cadastre to prevent severance issues, i.e., where lots have affectations which make them inaccessible or unusable
- Ground-truthing proposals, including providing publicly available evidence for the blue-green grid, flooding impacts, biodiversity and threatened species justification prior to planning confirmation.

It is crucial to ensure the further engagement with the community regarding the impacts of and changes to the Precinct Plans:

- is adequately resourced and is guided by the issues raised in section 1 of this report
- is provided in a form that is easily understood by all members of the community
- allows sufficient time for community consultation, education and responses to individual concerns and circumstances.

RATIONALISATION

Recommendation 10: Amend the Aerotropolis SEPP as a matter of priority including the rationalisation of the E&R zoning.

This rationalisation should be based on the following categories: 1/100-year flood level; flood islands (meaning land that is flood free but is surrounded by flood affected land) that cannot be accessed; land identified in the draft CPCP; or required for biodiversity certification. Any lot zoned E&R that is not affected by any of the aforementioned categories and where this zoning has made the lot unsellable, is to be acquired.

This recommendation provides for the alignment of the E&R zone to the 1/100-year flood level. Where the E&R zoning extends to 25% of the remaining land beyond the existing 1/100-year flood affection and this impact makes the lot un-saleable, this land is to be acquired.

Recommendation 11: Finalise the detailed precinct plans to rationalise the scale of the open space overlay based on evidence of need and meet the NSW Government commitment that it is publicly accessible open space

Recommendation 12: Continue to communicate that any land required for publicly accessible open space will be acquired

Recommendation 13: Conduct and make public an Aerotropolis-wide open space needs study for the initial precincts, in conjunction with the finalisation of the precinct plans

Recommendation 14: The Aerotropolis SEPP should clearly identify land to be acquired with the Precinct Plans to be updated to be consistent with the SEPP

A specific government entity is to be identified as the agency that will acquire the relevant categories of land. Contact details such as a dedicated email address and information on a relevant website should be established to inform impacted landowners.

Land to be acquired by state and local governments will include:

- Open Space Overlay, SP1 and SP2 (Special Purpose Infrastructure Zones which identifies land required for infrastructure purposes) – NSW Government
- Local facilities and local open space – relevant local council.

The NSW Government should urge the Commonwealth to investigate acquisition for properties within the ANEC 20 and above contours.

PERMITTED LAND USES

Recommendation 15: Include additional land uses to the allowable existing uses in the zonings to enable landowners to continue residential and other low impacts uses for land (for examples an additional dwelling storey, a shed etc.) even if these uses may be prohibited under the new zonings. These transitional uses must consider and not impact future airport operations.

Landowners can continue their residential uses and other business or existing uses where those uses have been lawfully established as per their previous zoning. An owner does not need approval to continue doing what they were doing before the rezoning.

When seeking to change, extend or increase the intensity of those uses under their new zonings, they should be permitted to do this under *additional land uses*, even if they are uses which are not permitted under the new zoning. This will allow people to continue as they would have intended to use their land prior to the rezoning and to undertake development into the future. These changes will require the submission of a DA to the relevant council and should not impact the future operation of the airport.

The Department of Planning should investigate if the approval will require the concurrence (i.e., approval from the relevant council as well from the state planning department) including provisions where these changes or proposals are extensive, e.g., ‘intensifying the use of the land’ (i.e., worth over \$1M in value – an amount which should be reviewed over time). This is to ensure that if the land is later required for acquisition, the cost of that acquisition is not excessive on the public purse. Other changes or amendments to the uses of the land will be recognised in the value of any future acquisitions.

Recommendation 16: Inform and educate landowners on their existing use rights and permissible land uses under the Aerotropolis SEPP

The use of land within the Aerotropolis will gradually transition from mostly rural to urban land uses as envisaged in the new zones. The *Environmental Planning and Assessment Act* (EP&A Act) includes protections for uses that have been previously established with appropriate approvals. These are known as ‘existing use rights’ and allow existing uses to continue to operate *while preventing any further intensification of those same uses*, which is the rationale for Recommendation 15 i.e., to allow for additional land uses.

ACQUISITION

Recommendation 17: Clearly set out the acquisition process including likely timing depending on the acquisition requirements

Uncertainty for many landowners is focused on a lack of information about the intentions and process of acquisition. It is imperative that this is addressed as a priority including through the following elements:

- Ensure individual communication with any landowners potentially affected by acquisition well in advance of that occurring and before the information is in the public realm.
- Staff who are dealing with affected landowners should be akin to the role of the 'Personal Manager' in the acquisition process under the *Just Terms Act*. These staff are essentially 'Case Managers' who are there to assist the landowner through the process. Consequentially, they tend to have backgrounds in disciplines such as social work, social science etc.
- Where possible ensure the timing for acquisition is focused on individual landowner needs, noting this may not be possible when the land is required for critical infrastructure.
- For land that is required for infrastructure, provide a timeline of when the land will likely be needed.
- When needed by a landowner, expedite the acquisition of land including those lots that are required or responding to the compassionate circumstances of landowners (see recommendation 18 below).
- Provide accessible, easily understood material explaining the acquisition process and how compensation is determined.
- Clearly set out the principle that the price paid for the land will be its market value as if the public affectation introduced by the precinct planning process did not apply to the land.
- Broaden the mandate of the Centre for Property Acquisition to include a role of monitoring and reporting annually on Government land acquisition processes in the Aerotropolis, through the development of a reporting framework with DPIE.

Recommendation 18: Once the Precinct Plans are finalised, enable acquisition on a voluntary basis due to compassionate grounds for landowners on a case-by-case basis

Prima facie triggers for a compassionate acquisition claim are to be established. One or more of the following triggers are to be included:

- Consent to reasonable (re)use has been refused
- Land is identified for acquisition by any level of government for any purpose
- More than 25% of the land above the 1 in 100-year flood level is identified for acquisition for a public purpose (E&R, SP1 (special activities – infrastructure), and SP2
- Land cannot be sold in the current market for a reasonable price
- Permanent amenity impacts on households are significant because of the land use changes that are occurring around them due to the changed zoning (i.e., access, noise, dust, privacy, safety, etc.)
- Pressing personal, social or domestic circumstances (case-by-case).

In some cases, only part of a property may be required for a public purpose but the impact of that affectation on the owner's potential use of their land, when considered with other issues such as flooding, may mean that the land can no longer be productively used. In other cases, a property may not be required for a public purpose for many years.

In such cases, voluntary acquisition on compassionate grounds should be possible, using the approach by the NSW Government in other public infrastructure programs such as long-term transport corridors.

The Government needs to clearly set out its willingness to consider compassionate acquisitions on a case-by-case basis observing the following:

- Provide accessible, easily understood material explaining the acquisition process (material produced by the Centre for Property Acquisition is a good example)
- Manage requests in a clear and respectful manner (the Transport for NSW Corridor Acquisition approach is a good guide)
- Identify specific areas where combined affectations (E&R, flooding, ANEC, SP1 and SP2 changes to existing Development Control Plans which provide for more uses than would be available under existing use rights) are so severe that proactive Government acquisition is warranted now
- Facilitate requests to lease acquired lands until needed for Aerotropolis purposes
- Ensure there is an appeal process if requests for acquisition are rejected. One option could be to use the existing Hardship Review Panel – (with modified Terms of Reference as appropriate), which is administered by DPIE under the *Just Terms Act*.

Recommendation 19: If acquisition of part of a property is required for any public purpose, for example if it is more than 30% of a 10-hectare lot or less, the whole lot is acquired, if that is desired by the landowner

Contributing to landowners' concerns is the affectation that has been applied to their land with some questioning the evidence-base and process that has been used by the Government to reach determinations.

The evidence-base concerns are addressed by other recommendations such as the open space needs study and improvement in communications. In those cases where concerns that the change in zoning compromises the marketability of their property.

ZONING AND LAND VALUES

Recommendation 20: To address concerns regarding potential zoning impacts, DPIE should investigate options that increase the potential economic return for land zoned E&R

Options may include:

- Work with the Biodiversity Conservation Trust (BCT) to ensure landholders in the Environment and Recreation Zone who have high biodiversity values on their land are aware of the biodiversity credit opportunities available to them
- The BCT to be asked to undertake a specific campaign aimed at ensuring landholders in the area are aware of, and have easy access to, information about biodiversity stewardship credit opportunities and associated potential revenue
- Investigate opportunities to incentivise the purchase of E&R zoned land by potentially increasing development opportunities on developable land.

Recommendation 21: Use existing legislation to assist owners facing significant rate increases and provide further information regarding opportunities to defer rate payments

Many landowners are facing significant increases in Council rates because of the Aerotropolis SEPP. Some older residents feel they need to continue to work to service these rates, while others have turned to their family for financial assistance.

To address this significant issue:

- Councils clearly explain to landowners the existing provisions available in the *Local Government Act* (Ss 585 – 601) to postpone rate increases in cases of hardship
- Councils develop and implement a policy (if not already in place) to apply rate increase postponements
- Defer repayment of postponed rate increases until the land is sold or is subsequently developed by the original owners

- State Government to provide funding to enable landowners to access independent and free financial who have postponed their rates (see Recommendation 7).

Recommendation 22: Ensure a sustainable future for Luddenham Village by rapidly undertaking a visioning and planning process and for this to be completed prior to the finalisation of the Precinct Plans

The aim of the visioning process is to:

- Enable the development and articulation of the role of Luddenham Village in the future of the Aerotropolis
- Develop the evidence base which guides an understanding of the population scale and housing required to ensure its viability as a village with the key services including schools and retail services
- Inform the Precinct Plans to determine where best to locate future populations to minimise any noise impacts from the operation of the airport.

Recommendation 23: Upon the adoption of new flood modelling by Liverpool City or Penrith City Councils, DPIE considers the implementation of the new modelling so it does not increase the amount of land zoned E&R

These considerations should be in accordance with the following principles:

- Amendment of the boundary of the E&R zone to reflect the 1/100-year flood event where it does not result in an increase in the amount of land zoned E&R
- Amendment to provisions regulating development within the area identified as being affected by flooding to reflect the new modelling.

There is a lack of confidence in some parts of the community regarding the validity of some existing flood studies, the changes that are being made, the evidence base for these changes, and the ongoing changing land uses and impacts on flooding assessments.

Current work on the airport site is changing overland flow patterns and it would be reasonable to assume that as the land changes through development so too will flooding impacts. This is a source of uncertainty for landowners and contributes to a lack of trust in government planning processes. This needs to be addressed by ongoing reassessment and ground-truthing of flooding impacts.

Recommendation 24: For the non-initial precincts a pathway for their rezoning and the triggers that would enable their rezoning to be provided, as soon as possible after the finalisation of the current precinct planning processes

There is considerable concern and lack of clarity for the owners of land in the Rossmore, Kemps Creek, North Luddenham and Dwyer Road Precincts. These landowners should be able to access the advisory and support as per Recommendation 7.

Many of these landowners contest the rationale for the precinct planning staging and have taken advice to consolidate lots; invested in planning, valuation and other advice; and can now demonstrate that some of this land could be serviced and ready for development.

Recommendation 25: In consultation with impacted landowners zoned E&R in the Wianamatta-South Creek precinct to the east of Wianamatta-South Creek adjoining the Kemps Creek and Rossmore Precincts, the Department is to investigate if they can be reverted to the zoning that existed on their land before the commencement of the Aerotropolis SEPP.

This seeks to reduce any perceived impacts on value the precinct planning zoning changes may bring.

Recommendation 26: Publish the Master Planning guidelines

Recommendation 27: The Commonwealth Government provides information to small landowners as soon as possible clarifying the acquisition and remediation available for those impacted by the ANEC contours

There is an important opportunity for the Commonwealth to educate landowners about the operational impacts of the future airport.

ENGAGEMENT WITH LARGE LANDOWNERS

Recommendation 28: The Planning Partnership Office brings together the large landowners to enable extensive input and engagement before the finalisation of the Precinct Plans. As part of this engagement, mechanisms for the large landowners to assist small landowners are identified.

Recommendation 29: Establish ongoing mechanisms for Government engagement with large landowners. This engagement should consider ways to support small landowners.

Recommendation 30: Facilitate engagement between small landowners and large landowners where large landowners can assist by addressing impacts. This engagement could be transparently facilitated by the Community Commissioner.

PLANNING ENGAGEMENT

Recommendation 31: Prior to public communication of the outcomes of the precinct planning process, individuals additionally negatively impacted landowners are communicated with directly and the implications of the impacts effectively explained. This work could be facilitated by the Community Commissioner.

Recommendation 32: Within the Aerotropolis, the process for engaging with and educating landowners to support the achievement of bio-diversity conservation outcomes for the Aerotropolis occurs at a granular rather than an Aerotropolis scale, using pilots with small groups of landowners to support a process where landowners may be incentivised to contribute to these outcomes

The aim of this approach is to facilitate and demonstrate that joint actions between governments and small landowners can result in effective conservation. This will enable the efficacy of the approach to be assessed. It will ensure that small landowners understand the impacts of bio-diversity zoning and their opportunity to contribute to its preservation. It will be essential to assist and facilitate small landowner involvement in this preservation through relevant incentives.

Recommendation 33: Strengthen communication between small landowners and Councils to assist them to navigate development issues

Recommendation 34: Ensure local Councils continue to address regulatory issues emerging across the Aerotropolis

Recommendation 35: Ensure ongoing change management support for the future of the Aerotropolis

This long-term and ambitious exercise by the three tiers of government is having and will continue to have major impacts on the existing community. In order to realise the vision for the Aerotropolis, it is critical that a responsive approach is adopted to resolving issues and continuous innovation supports these ambitions and the community moving forward. This could include:

- Taking care in all public communication not to refer to the area as a blank canvass/clean slate/green field or other language which infers there are not existing homeowners and businesses in the area, as this deeply offends the community
- In responding to emerging issues in existing and future precincts, work with the community to co-design solutions to address specific areas of concern.

SECTION 3: GOVERNANCE & PATHWAYS

A strong message from the community and other key stakeholders is that it is not clear which agency has the overall responsibility for the significant coordination effort required for planning and delivering a new city at the Aerotropolis.

These governance and pathway recommendations are designed to facilitate the Government's ambitions for the delivery of the Western Parkland City.

Planning: The planning framework that governs land use change in the Aerotropolis is made under the *Environmental Planning and Assessment Act* and is the responsibility of the Minister for Planning and Public Spaces. In the case of the Aerotropolis, the preparation of the planning framework has been undertaken by the Western Sydney Planning Partnership (WSPP), a local government led partnership with representatives from all levels of government for the Minister.

Delivery: As precinct planning is finalised, the coordination of delivery is to be driven by the Western Parkland City Authority (the Authority) as part of its role to support economic growth and development in the Aerotropolis and the Western Parkland City more widely. This can help draw in visibility on programs from DPIE, councils, Transport for NSW (TfNSW) as well as utility providers such as Sydney Water. Key agency roles in delivery include:

- The planning and delivery of state roads and transport such as Metro is undertaken by TfNSW and Sydney Metro and requires TfNSW and Sydney Metro to consult with DPIE, the Authority and a wide range of stakeholders in relation to specific transport project outcomes.
- Councils represent community interests and local strategic planning considerations including flooding and general regulatory requirements
- DPIE and council manage the programs of development contributions for special and local infrastructure respectively.

Development Assessment: There are several pathways for development assessment and approvals depending on the type of development proposed. These extend from significant assessments for major infrastructure by DPIE to more local development by councils. Provisions for complying development are proposed to be accessed via the Masterplan process. Development proposals that seek to change the planning framework will be required to be submitted to DPIE for assessment.

Recommendation 36: The NSW Government strengthens senior levels of public service coordination to ensure clear roles and responsibilities for coordinated cross-government decision-making for the planning and delivery of the Aerotropolis

Recommendation 37: The land use planning to conclude the Precinct Plans continues under the current arrangements through the Western Sydney Planning Partnership, on behalf of the Minister for Planning and Public Spaces

Recommendation 38: Following the conclusion of the Precinct Plans, DPIE and the relevant local councils will continue their usual roles and functions in assessing development applications

These land use planning functions will include State Significant Development and Masterplan applications as they do now for the rest of Sydney. DPIE will also oversee any amendments to the planning framework into the future with input from Western Sydney Planning Partnership where required.

Recommendation 39: To build on the excellent existing collaboration between DPIE and Liverpool City and Penrith City Councils, a formal collaboration process continues to oversee future strategic planning and master planning for the Aerotropolis

Recommendation 40: The framework for investment and delivery of future infrastructure in the Aerotropolis is to be developed, coordinated and communicated by the Western Parkland City Authority

This will require multi-agency governance arrangements to be established or adapted from existing arrangements such as the Western Sydney City Deal and the Greater Sydney Commission's Infrastructure Delivery Committee.

The Authority will require a strengthened role, and to be resourced to develop and oversee this framework.

As part of the strengthened role the Authority is to coordinate information and decision making for sequencing and delivery as well as communication within governments, the private sector and community.

It essential to address the ongoing uncertainty experienced by the community, that this is laid out going forward and effectively communicated to enable to landowners to understand the processes involved in the development of the Aerotropolis. This includes elements such as sequencing of infrastructure delivery and market demand forecasts for development.

GLOSSARY

ANEC	Australian Noise Exposure Concept
CPCP	Cumberland Plain Conservation Plan
DPIE	NSW Department of Planning, Industry and Environment
E&R	Environment and Recreation zone
SEPP	State Environmental Planning Policy
SP1 & SP2	Special Purpose zones that identify land required for infrastructure purposes
SSD	State Significant Development