Transport for NSW

Our Reference: SF2019/107499

Mr Peter Hore
Telephone: 0455 751 869
Facsimile: (02) 8849 2969
E-mail: peter.hore@transport.nsw.gov.au

07 May 2020

Mr Roy Stivala and Trustee for the Estate of the late Mr Guiseppe Stivala
1111-1141 Elizabeth Drive
Cecil Park, NSW, 2178

Also by email: Marianstivala@yahoo.com.au

Dear Mr Stivala,

LOCAL GOVERNMENT AREA OF FAIRFIELD. M12 MOTORWAY, M7 TO THE NORTHERN ROAD. PROPOSED ACQUISITION OF PART OF LOT 2 SECTION 4 IN DEPOSITED PLAN 2954 BEING PART OF PROPERTY KNOWN AS 1111-1141 ELIZABETH DRIVE, CECIL PARK FROM ROY STIVALA AND TRUSTEE OF THE ESTATE OF THE LATE GUISEPPE STIVALA (REGISTERED PROPRIETOR).

I refer to Transport for NSW's (TfNSW) letter of the 12th September 2019 formally opening negotiations for the acquisition of the land required from you.

Please note that since TfNSW's above letter, the boundary for acquisition has been amended, such that the land required to be temporarily leased for construction purposes is now no longer required. The attached TfNSW Sketch Plan 5345 (Amended 02/04/2020) (**plan**) has been updated accordingly to remove this area.

Following review of the proposed road design, the boundary of acquisition has been amended, which now necessitates the acquisition of part of the subject property owned by you. The land required and proposed for acquisition is shown by pink tint on the attached plan.

TfNSW will arrange for a qualified valuer to inspect your property and prepare a valuation report. You will be contacted to ensure the valuation inspection is conducted at a time convenient to you.

The valuation report will be completed in about three weeks after the inspection. Soon after, you will receive a letter of offer which will include terms of purchase for your consideration.

You may also engage your own qualified valuer to prepare your own valuation report. If you need assistance to arrange a valuation, you can contact your family solicitor or the Australian Property Institute on 02 9299 1811.

TfNSW will reimburse you up to $4,500 (including GST) for your valuation service fees at the time of settlement. This amount is considered reasonable for valuation services of this type, including for a valuation report.

If you think your valuation service fees may be more than $4,500 (including GST) please contact TfNSW as soon as possible.

For your valuation services fees to be reimbursed, your valuation report needs to be prepared according to the requirements outlined in Appendix A and B of the TfNSW Land Acquisition Information Guide and the NSW Government Property Acquisition Guide. Please provide your valuer with a copy of the enclosed TfNSW Land Acquisition Information Guide and Chapter 2 Extract.

Once completed, a copy of the valuation report should be sent to Mr Peter Hore at TfNSW, PO Box 973 Parramatta NSW 2124 or Peter.Hore@transport.nsw.gov.au.

TfNSW will reimburse you for up to $4,500 (including GST) for conveyancing and legal services at the settlement of the acquisition. This amount is considered reasonable for this type of legal advice and conveyancing services.

If you think your legal advice and conveyancing fees may be more than $4,500 (including GST) please contact TfNSW as soon as possible.

Negotiating purchase terms

Once you have selected your legal, conveyancing and valuation service providers, please encourage them to prepare a valuation report and contact TfNSW as quickly as possible. This will ensure you have the maximum time available to negotiate on the terms of the purchase agreement.

Exchanging contracts

Exchanging contracts on a replacement property prior to exchanging contracts on your current property with TfNSW may financially disadvantage you. To avoid this occurring, please consult your solicitor.

GST liability

To help TfNSW to determine if there is any GST liability on the sale of your property, please complete the enclosed GST questionnaire and return it to Peter.Hore@transport.nsw.gov.au.

Capital Gains Withholding (CGW) liability

As you may be aware, the Federal Government imposes a tax on foreign residents with Australian property. If your property has a market value of $750,000 or more, you will be required before settlement to provide TfNSW with a certificate stating that you are not a foreign resident for tax purposes. Otherwise, TfNSW must give 12.5% of the purchase price to the Australian Tax Office. We **attach** a fact sheet providing you with advice on how you, or your solicitor who may be undertaking the conveyance of the acquisition, may apply for a certificate.

Further questions

If your enquiry relates specifically to technical aspects of the valuation and acquisition process, please contact Mr Peter Hore on (02) 8849 2779 or Peter.Hore@transport.nsw.gov.au.

For any questions regarding the project, please contact Ms Karen Wells, Personal Manager, on 0447 555 515 or Karen.Wells@transport.nsw.gov.au.

In the meantime, if you have any queries or wish to discuss this matter then please contact me on 0455 751 869.

Yours sincerely

Mr Peter Hore
Acquisition Manager
Infrastructure and Place
TfNSW

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PLAN
SHOWING LAND TO BE ACQUIRED FOR
FREEWAY PURPOSES AT CECIL PARK

Reduction Ratio 1:1700

Lengths are in metres

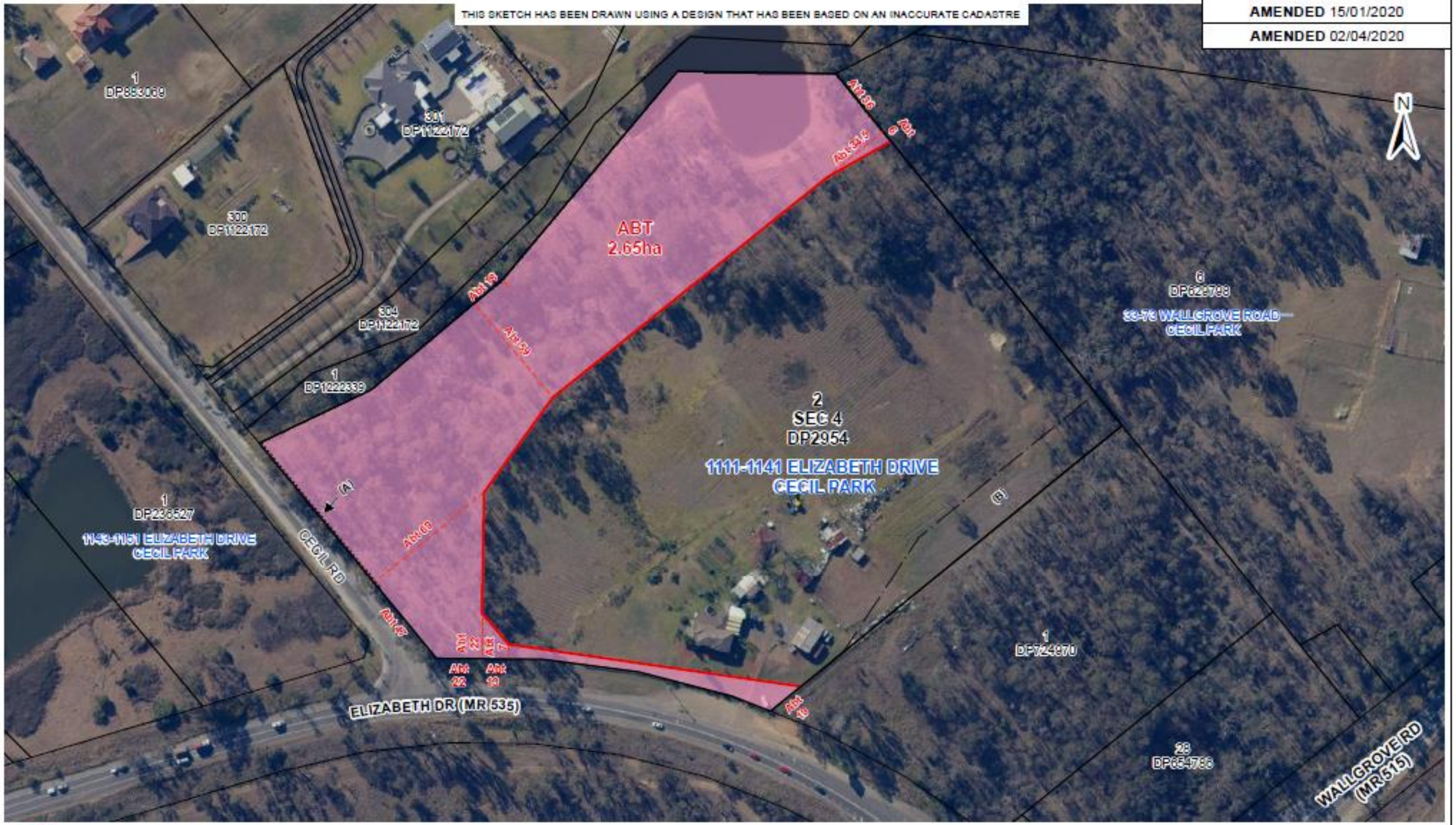
TRANSPORT FOR NSW
INFRASTRUCTURE AND PLACE

LGA: FAIRFIELD
Locality: CECIL PARK
Parish: MELVILLE
County: CUMBERLAND

SKETCH
SR 5345

DRAWN 15/07/2019
AMENDED 15/01/2020
AMENDED 02/04/2020

THIS SKETCH HAS BEEN DRAWN USING A DESIGN THAT HAS BEEN BASED ON AN INACCURATE CADASTRE



NSW GOVERNMENT | Transport for NSW

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Dimensions and positions of improvements in relation to the boundaries are subject to final survey
Offsets are 90° to property boundaries

0 25 50 100 Metres

(A) EASEMENT FOR WATER SUPPLY 3 FEET WIDE (J702236)
(B) EASEMENT FOR PIPELINE 20M WIDE (DP1016620)
PROPOSED NEW FREEWAY BOUNDARY
LAND TO BE ACQUIRED FOR FREEWAY PURPOSES

18 804 239 602

TRANSPORT FOR NSW PROPERTY ACQUISITION – VENDORS LIABILITY FOR GST QUESTIONNAIRE

TFNSW FILE: SF2019/107499

Transport for NSW (TfNSW) proposes to acquire part of lot 24 section 4 deposited plan 2954.

To enable terms of acquisition to be prepared it is necessary for TfNSW to know the vendor's liability for GST in respect of the sale of this property.

Unless the vendor advises TfNSW that GST is payable on the sale to TfNSW, TfNSW will make no allowance for GST when formulating the offer to purchase this property. If there is any doubt as to your liability, you should seek independent advice.

The purchase price is to be in full satisfaction of all claims arising from the acquisition and after settlement TfNSW is not prepared to re-open an acquisition matter if GST is later found to be payable. Accordingly, it is in the vendor's interest to respond now to this questionnaire.

Q1. As vendor of lot 2 section 4 deposited plan 2954, do you believe GST is payable by you to the Australian Tax Office?

A. Please tick: YES ☐ **OR NO** ☐

If you ticked **NO** please disregard Question 2 then, sign and date this questionnaire at the bottom and return to TfNSW at the address below.

Q2. If you ticked YES at question 1 what is your ABN?

A. Your ABN is ………………………………….

If you ticked **YES** to Question 1 and you **have provided your ABN to TfNSW** the appropriate amount of GST will be added to TfNSW's offer.

As TfNSW will increase the compensation by the amount of GST in return for a Tax Invoice TfNSW requests that you use 10% GST instead of the Margin Scheme.

At settlement of this acquisition you or your solicitor will be required to furnish to the TfNSW's solicitor a Tax Invoice for the amount of the GST which will be detailed in TfNSW's letter of offer. Your cooperation in completing this questionnaire is appreciated. Please sign and date this form.

Registered Proprietors Name: ………………………………………….

Registered Proprietors Contact Number: …..…………………………

Signature: ………………………………………….

Date: ………………………………………….

Please return to:

Senior Manager Valuations and Acquisitions
TfNSW
PO Box 973
PARRAMATTA CBD NSW 2124
Fax to 02 8849 2969

Attention: Peter Hore
Email to Peter.hore@transport.nsw.gov.au

Foreign Resident Capital Gains Withholding Tax Fact Sheet

This factsheet is a brief summary of the foreign resident capital gains withholding tax regime and should not be relied upon without further advice.

What is foreign resident capital gains withholding tax?

The foreign resident capital gains withholding tax regime (**Regime**) imposes a withholding tax on foreign owners of property. For certain transactions, including the sale of property over $750,000, the Federal Government requires the purchaser to withhold 12.5% of the purchase price and provide this amount to the Australian Taxation Office (**ATO**).

The Regime can apply to different types of acquisitions undertaken by TfNSW, including:

- negotiated sales with an agreed sale price; and
- compulsory acquisition.

TfNSW must withhold 12.5% of the purchase price if your property has a market value of **$750,000** or more, unless TfNSW has a "foreign resident capital gains withholding clearance certificate" (**clearance certificate**).

Will the withholding tax impact you?

Yes, the Regime applies to all property transactions with a market value of $750,000 or more. This is the case even if you are not a foreign resident for tax purposes.

To avoid TfNSW withholding the tax, you must provide TfNSW with a clearance certificate (see "What you need to do") 28 days before settlement or publication of the acquisition notice.

There are a number of limited exceptions to the Regime. To find out more, follow the link under "Find out more".

What you need to do

If you:

- are not a foreign resident for tax purposes; and
- have been advised by TfNSW or believe that the market value of your property is close to or above $750,000; and
- wish to avoid having the tax withheld,

then you should provide TfNSW with a clearance certificate. A clearance certificate is usually valid for 12 months.

You, or your solicitor who is undertaking the conveyance of your acquisition, can apply online for a clearance certificate from the ATO, here:

https://www.ato.gov.au/forms/foreign-resident-capital-gains-withholding-clearance-certificate-application-online-form-and-instructions---for-australian-residents/

You should apply for a clearance certificate as soon as possible. The ATO can take up to 28 days to issue you with a clearance certificate. Once received, you should provide the clearance certificate to TfNSW as soon as possible, and at least 28 days before settlement or publication of the acquisition notice.

Important

Each owner named on the property's certificate of title must provide TfNSW with a separate clearance certificate. TfNSW must withhold the full 12.5% of the purchase price if any co-owner fails to provide a certificate.

Find out more

You can find out more about capital gains withholding, how it works and exceptions that can apply on the ATO's website by visiting:

https://www.ato.gov.au/General/Capital-gains-tax/In-detail/Calculating-a-capital-gain-or-loss/Foreign-resident-capital-gains-withholding/

Privacy Notice

What information is being collected?

Transport for NSW (TfNSW) is undertaking a property acquisition and is the Acquisition Authority under the *Land Acquisition (Just Terms Compensation) Act 1991*. TfNSW is contacting [residents/owners] like you who may be affected. A Personal Manager and an Acquisition Manager have been appointed to support you during this process.

To do this, TfNSW needs to collect personal information from you, such as your name and preferred contact details (home phone, work phone, mobile number and email).

With your consent, TfNSW may also collect other information from you about your circumstances, where they are relevant to the acquisition process.

How is information collected?

Generally, information is collected directly from you face-to-face, on the phone and via email by your Personal Manager or Acquisition Manager. If you are under 16, we collect information from your parent or guardian.

TfNSW will record notes of all contact with you to better manage the property acquisition process and provide you with personal support.

Why is information collected?

TfNSW will only collect information from you about your personal circumstances to help provide tailored support for you during the acquisition process.

The purpose of collecting information about you is to make the process of acquisition and the support provided to you more efficient and effective.

Who will receive your information?

TfNSW and its contracted service-providers will use the information collected from you to support you during the acquisition process.

The NSW Government's Centre for Property Acquisition (**CPA**) located within Transport for NSW manages the information technology system used to store and manage your personal information. TfNSW staff manages this database on behalf of the whole of government. TfNSW policies and procedures make it clear that access by TfNSW staff is only for the purpose of managing the database (except where TfNSW is also the Acquisition Authority).

Your information may also be disclosed, if you specifically consent, to third party service providers in order to assist with your specific needs for the acquisition of the property and your relocation. For example, with your consent your information may be provided to a valuer to provide a valuation to TfNSW or to a removalist so they can provide you with a service.

The privacy legislation permits disclosure of personal information in other limited circumstances.

Is the collection of your information required by law?

You are not required to provide any personal information to your Personal Manager or Acquisition Manager. However, if you decide not to volunteer any information, TfNSW may not be able to keep you fully informed about the acquisition process and may not be able to provide you with the tailored support you may need or request.

Accessing and correcting your records

You can access your records on request at any time during this process. If you have any questions about how TfNSW handles your information, or wish to access your records, please contact your Personal Manager:

Ms Karen Wells, Personal Manager, on 0447 555 515 or Karen.Wells@transport.nsw.gov.au

by post: PO Box 973, Parramatta NSW 2124

Privacy and Personal Information Protection Act 1998 Part 2 Division 1