

AMENDED STATEMENT OF CLAIM

COURT DETAILS

Court	Supreme Court of New South Wales
Division	Equity
List	Commercial List
Registry	Sydney
Case number	2021/88654

TITLE OF PROCEEDINGS

First Plaintiff	Darren Mitchell
Second Plaintiff	Rosaline Mitchell
First defendant	Roads and Maritime Services (ABN 76236371088) Now known as Transport for New South Wales)
Second defendant	Registrar General

FILING DETAILS

Filed for	Plaintiffs
Legal representative	Alan Segal
Legal representative reference	210123
Contact name and telephone	A Segal- &Legal 02 93282944 0410668770
Contact email	asegal@andlegal.com.au

TYPE OF CLAIM

Declaration – Land – Other

RELIEF CLAIMED

RELIEF CLAIMED

1. A declaration that the second defendant is liable to pay compensation under s 120 and/or s129 of the Real Property Act for the Plaintiffs' land and the Group Members lands- (the interests in substratum land identified in this Amended Statement of Claim) in respect of the purported compulsory acquisition of their lands by the First Defendant said to be pursuant to section 177 of the Roads Act 1993 and/or the purported subdivision of those Lands by the First Defendant and leave pursuant to 132 (2)(b) of the Real Property Act for that purpose.
2. Further and in the alternative a declaration that the purported Substrata Subdivisions (Schedule 1) of the Plaintiffs' land and Group Members' lands are not valid in that each contained an error on the face of the record by purporting to contain a statement of intention to dedicate a public road under s 48 of the Roads Act when the purpose was not for the dedication of a public road under the Act ("The False Declaration").
3. Further and in the alternative, a declaration that the purported Subdivisions were not validly authorised to be registered by s 9 of the Roads Act because there were no true statements of intention to dedicate the specified land as a public road.
4. A declaration that at the time of the making the False Declarations, the First Defendant: knew that the False Declarations were false; or in the alternative; knew that the statutory formalities for executing the dealings, the subject of the statements of intention, had not been satisfied; or in the further alternative and made the said False Declarations recklessly without caring whether they were true or false.

5. Further and in the alternative, a declaration that:
 - a. The plaintiffs and the Group Members are each entitled to an estate in fee simple in the Substratum Subdivision of each's land.
 - b. The plaintiffs and the Group Members are each entitled to be registered as the proprietor of the estate in fee simple in the said Substratum Subdivision of each's land.

6. Further in the alternative to prayer [5]:
 - a. declaration that the First Defendant holds the whole of the Substratum Subdivision of the lands, on trust for each of the Plaintiffs and the Group Members;
 - b. An order that the Defendant execute memoranda of transfer under the Real Property Act In registrable form transferring the Substratum Subdivision of the lands to the Plaintiff and the Group Members.

7. A declaration that the use of the land described in the purported Substratum Subdivision as Lots (see Schedule 1} by the Defendant is a trespass.

8. A Declaration that the function of carrying out the construction of a road for the purposes of the WestConnex project being conferred on RMS, by operation of s 64(1A) and 71 of the Roads Act. is null and void in circumstances where the tunnels forming parts of WestConnex, pursuant to the Declaration is not a 'road' by virtue of s52 (3) of the Roads Act.

9. A Declaration that the first defendant is liable to the plaintiffs and the Group Members in damages for fraud to be quantified by ascertaining the profit made by the first defendant from the fraudulent acquisition of their lands.

- ___10. Such other orders as the Court thinks fit.

11. Costs.

NATURE OF THE DISPUTE

12. This is a representative proceeding brought by the plaintiffs on behalf of themselves and other persons whose land was fraudulently acquired by the First Defendant for the WestConnex tunnel.

13. The proceeding arises from the circumstances disclosed by admissions made by the First Defendant and other evidence.

14. In summary, the First Defendant purported to subdivide land proposed to be compulsorily acquired ("the lands") in order to acquire only the substratum thereof and avoid paying compensation for same. The First Defendant obtained registration by the Second Defendant of plans of subdivision by fraud through the making of false and untrue representations, which it knew to be false.

15. The First Defendant knew that the statutory formalities for executing the dealings had not been satisfied. In the alternative, the First Defendant made the representations recklessly without caring whether they were true or false.

16. The plaintiffs seek relief on behalf of themselves and other owners of the lands (Group Members). There are in excess of 3,000 Group Members.

ISSUES LIKELY TO ARISE

17. The questions of law and fact common to the claims of the Group Members are:

1. Whether the First Defendant executed a deed known as M4-M5 Link Project Deed under which WCX M4-M5 LINK PT Pty Limited and WCX M4-M5 LINK PT Pty Limited are respectively in broad terms to design and construct tunnels from Haberfield to St Peters together with certain ancillary works (Mainline Tunnel) being stage 3A of WestConnex M4-M5 Link.
2. Whether a tollway is not a road or road related area.

3. Whether the First Defendant is obliged to pay compensation for the lands compulsorily acquired by it.
4. Whether the First Defendant fraudulently obtained registration of plans of subdivision by the Second Defendant.
5. Whether the First Defendant fraudulently acquired title to the lands.
6. Whether in order to enliven s 62 of the Land Acquisition (Just Terms Compensation) Act substratum land must be subdivided in order for it to be separately compulsorily acquired.
7. Whether the only power for the First Defendant to lodge a plan of subdivision subdividing the land was that a person may open a public road by causing a plan of subdivision or other plan that bears a statement of intention to dedicate specified land as a public road to be registered in the office of the Registrar-General.
8. Whether the Mainline Tunnel is a road or road related area.
9. Whether the Plaintiffs and the Group Members are entitled to commence proceedings as a consequence of the First Defendant's fraud.
10. Whether the plaintiffs and the Group Members are entitled to compensation from the Torrens Assurance Fund as a consequence of the First Defendant's fraud.
11. Whether as a result of the First Defendant's fraud it holds the lands fraudulently acquired in trust for the plaintiffs and the Group Members.
12. Whether pursuant to the deed referred to in 1. above the First Defendant is not constructing the Mainline Tunnel and thus s62 of the Land Acquisition (Just Terms Compensation) Act does not apply.
13. Whether the First Defendant acquired the lands for the purpose of resale and thus s179 of the Roads Act 1993 prohibited compulsory acquisition of the Land.

PARTIES AND RELEVANT PERSONS

The plaintiffs and Group Members

18 The proceedings are commenced as a representative proceeding pursuant to Part 10 of the Civil Procedure Act 2005 (NSW) (CPA) on behalf of the plaintiffs and all persons who or which:

1.1 suffered loss or damage by or resulting from the fraud by the First Defendant pleaded in this Amended Statement of Claim (ASOC); and

1.2 are not any of the following:

- a. a party related to the defendants;
- b. an entity associated with the defendants;
- c. an officer or close associate of the defendants;
- d. a Chief Justice, Justice or Registrar of the Supreme Court of New South Wales or the High Court of Australia; or
- e. an officer or employee of, or other legal practitioner engaged by the law firm of &Legal.

PLEADINGS AND PARTICULARS

1. The Plaintiffs (**Plaintiff**) are natural persons and are entitled to sue and be sued.
2. The First defendant (RMS) is and was at all material times a statutory corporation and NSW government agency and is entitled to sue and be sued in its corporate name and style.
3. The Second Defendant is and was at all material times an instrumentality of the government of New south Wales and is entitled to sue and be sued in its corporate name and style.

WestConnex project

4. The First Defendant has executed a deed known as WestConnex M4-M5 Link Project Deed under which WCX M4-M5 LINK PT Pty Limited and WCX M4-M5 LINK AT Pty Limited are respectively in broad terms to design and construct tollway tunnels from Haberfield to St Peters together with certain ancillary works (**Mainline Tunnel**), being stage 3 of WestConnex, and operate and maintain the motorway to be known as WestConnex M4-M5 Link, being both stages 3A and 3B of WestConnex.

Particulars

- i. WestConnex M4-M5 Link Project Deed.

EPA Approval

5. On 17 April 2018, planning approval for the carrying out of the Westconnex M4-M5 Link was granted pursuant to section 5.19 of the Environment and Planning Assessment Act 1979 (EPA Act Approval).
6. The Mainline Tunnel the subject of the EPA Act Approval includes an underground on-ramp tunnel that will connect the remainder of the Mainline Tunnels to Wattle Street at Haberfield (**the Tunnels**).
7. The Tunnels will be located under the surface of the lands owned by the Plaintiffs described in paragraph [8] below and the lands owned by the .

Plaintiffs' land

8. The Plaintiffs until the time described in paragraph [38] hereof were the registered proprietors of the whole of the land (unlimited as to depth) held under the *Real Property Act 1900 (RPA)* located at 11 Miller Street, Haberfield (the **Land**).

Tollway

9. Pursuant to section 52(1) of the Roads Act 1993 (NSW) (**Roads Act**), the Minister may, by order published in the Gazette, declare
 - a. any road that is owned by RMS and that is designed to facilitate the movement of motor traffic,
 - b. or any road proposed to be constructed on land owned or to be owned by RMSto be a tollway ("**Tollway**").
10. Any public road that is declared to be a Tollway ceases to be a public road by virtue of the declaration.

Particulars

- i. Section 52(2) of the Roads Act.
11. By virtue of s 52 (3) of the Roads Act a Tollway is **not a road or road related area** within the meaning of section 4 (1) of the *Road Transport Act 2013* for the purposes of any Act or law, or any provision of an Act or law, prescribed by the regulations for the purposes of this section.
12. On 17 August 2018, pursuant to section 52(1) of the Roads Act, an order was published in the Gazette declaring the proposed road to be constructed in the Mainline Tunnel (including the On Ramp Tunnel) to be a Tollway as defined in the Roads Act (Declaration).

13. By virtue of sections 52(2) and 52(3) of the Roads Act, the Declaration rendered the Mainline Tunnel not to be a public road; or a road or road related area within the meaning of section 4(1) of the Road Transport Act 2013 for the purposes of any Act or law, or any provision of an Act or law, prescribed by the regulations for the purposes of this section.

Subdivision

14. An owner of an interest in land which is validly divested, extinguished or diminished by an acquisition notice is entitled to be paid compensation in accordance with this Part by the authority of the State which acquired the land.

Particulars

ii. Section 37 of the Land Acquisition (Just Terms Compensation) Act 1991 ("Acquisition Act").

15. However, if the land under the surface is compulsorily acquired under the Roads Act for the purpose of constructing a tunnel, compensation is not payable (subject to subsection (1)) unless: the surface of the overlying soil is disturbed, or the support of that surface is destroyed or injuriously affected by the construction of the tunnel, or any mines or underground working in or adjacent to the land are thereby rendered unworkable or are injuriously affected.

Particulars

iii. Section 62 of the Acquisition Act.

16. In the premises, to enliven section 62 of the Roads Act, and thereby excluding compensation otherwise payable under section 37 of the Roads Act, the substratum land must be subdivided in order for it to be separately compulsory acquired.

17. At all material times, the only power for the First Defendant to lodge a subdivision sub-dividing the Land was that a person may open a public road by causing a plan of subdivision or other plan that bears a statement of intention to dedicate specified land as a public road (including a temporary public road) to be registered in the office of the Registrar-General.

Particulars

i. Section 9 of the Roads Act.

18. Public road means any road that is opened or dedicated as a public road, whether under the Road Act or any other Act or law, and any road that is declared to be a public road for the purposes of this Act.

Particulars

i. Section 4 of the Roads Act.

19. The First Defendant purported to register the Deposited Plans in Schedule 1 hereto (the deposited plans). The purported registration of the deposited plans divided the plaintiffs' land and the Group Members lands each into three lots, being the two underground lots beneath the surface of each lot (acquired by the First Defendant) and the surface of each lot.

Particulars

i. Deposited Plans in Schedule 1

20. In accordance with section 9 of the Roads Act and section 195C of the Conveyancing Act 1919 (NSW) (Conveyancing Act), the deposited plans were each required to contain a statement showing which roads (if any) shown on the deposited plans were intended to be dedicated to the public (Statement of Intention) in order to be registered by the Second Defendant.

Particulars

- i. Section 9 of the Roads Act
- ii. Section 195C(d)(i) of the Conveyancing Act.

21. The Statement of Intention on each Deposited Plan in Schedule 1 included, amongst others, the following relevant words (Statement of Intention):

- a. "Statements of Intention to dedicate public roads...acquire/assume land...Lots to inclusive are required for freeway under section 48 of the Roads Act 1993".

22. A 'Freeway', as referenced in the Statements of Intention means a road that is declared to be a freeway by an order in force under section 48 under the Roads Act.

Particulars

- ii. Section 4 and 48 of the Roads Act.

23. In accordance with the section 48 of the Roads Act, the Minister may, by order published in the Gazette, declare to be a freeway any main road that is designed to facilitate the movement of motor traffic.

24. The Mainline Tunnel has not been declared a 'Freeway' pursuant to section 48 of the Roads Act and at all material times the First Respondent had no intention of making such a declaration.

25. A 'main road' means a road that is declared to be a main road by an order in force under section 46.
26. In accordance with section 46 of the Roads Act, the Minister may, by order published in the Gazette, declare to be a main road: any public road, or any other road that passes through public open space and joins a main road, highway, freeway, tollway, transitway or controlled access road.
27. The Mainline Tunnel has not been declared a 'Main Road' pursuant to section 46 of the Roads Act and at all material times the First Respondent had no intention of making such a declaration.
28. The First Defendant published notices in the NSW Government Gazette regarding the Substratum Land.
29. In the premises, the Mainline Tunnel, is not and is not intended to be:
- a. a 'Main Road', or, a 'Freeway' but is a 'Tollway' as a consequence of the Declaration, as pleaded at paragraph [13] above;
 - b. a 'public road' as a consequence of the Declaration, as pleaded at paragraph [13] above; and
 - c. a road or road related area within the meaning of section 4(1) of the Road Transport Act 2013 for the purposes of any Act or law, or any provision of an Act or law, as pleaded above.

Fraud

30. In the further premises, at all material times the Statements of Intention (Representations):

- a. Were false and untrue in that, as pleaded above, the Mainline Tunnel, as a consequence of the Declaration, is a Tollway not a Freeway and not a 'public road';
- b. Were false and untrue in that a tollway is not a road or road related area within the meaning of section 4 (1) of the Road Transport Act 2013 for the purposes of any Act or law, or any provision of an Act or law; and
- c. Were made after the Declaration.

Particulars

- i. Statements of Intention;
- ii. WestConnex M4-M5 Link Project Deed;
- iii. On 17 April 2018 (prior to the Representations) planning approval for the carrying out of the Westconnex M4-M5 Link was granted pursuant to section 5.19 of the Environment and Planning Assessment Act 1979 for a Tollway;
- iv. On 17 August 2018 (prior to the Representations), pursuant to section 52(1) of the Roads Act, an order was published in the Gazette declaring the proposed road to be constructed in the Mainline Tunnel (including the On Ramp Tunnel) to be a Tollway as defined in the Roads Act.

31. At the time of the making of the Representations described in paragraph [30] the First Defendant:

- a. knew that the said Representations were false; or in the alternative;
- b. knew that the statutory formalities for executing the dealings had not been satisfied; or in the further alternative
- c. made the said Representations recklessly without caring whether they were true or false.

Particulars

- i. The relevant officers of the First Defendant made the Statements of Intention knowing that the Land was to be used for a Tollway not a Freeway by reason of having knowledge or being in a position to acquire knowledge of:
 - a. WestConnex M4-M5 Link Project Deed including without limitation clause 7.6 thereof;
 - b. On 17 April 2018 (prior to the Representations) planning approval for the carrying out of the Westconnex M4-M5 Link was granted pursuant to section 5.19 of the Environment and Planning Assessment Act 1979 for a Tollway;
 - c. On 17 August 2018 (prior to the Representations), pursuant to section 52(1) of the Roads Act, an order was published in the Gazette declaring the proposed road to be constructed in the Mainline Tunnel (including the On Ramp Tunnel) to be a Tollway as defined in the Roads Act.

32. The First Defendant made the Representations described in paragraph [30] with the intention that the Second Defendant would register the deposited plans and that the First Defendant would thereby obtain a benefit by being able to exercise its power of compulsory acquisition under s 177 of the Roads Act in relation only the substratum parcels of land so divided and thereby:

- a. Having the benefit of the reduced compensation regime under s 62 of the Acquisition Act by engaging the power to acquire only the substratum parcel of land; and/or
- b. Having the benefit of the value of the payments in the WestConnex M4-M5 Link Project Deed without paying compensation for the substratum of land acquired; and/or
- c. Had those benefits where the power under s 9 of the Roads Act and s 195C of the Conveyancing Act could only be satisfied by the making of the false Representations in circumstances where there had been a prior declaration of the Tollway and the entry into WestConnex M4-M5 Link Project Deed.

Particulars

- i. The First Defendant proceeded to issue PANs for only the substratum parcels of the Land purportedly pursuant to s 177 of the Roads Act;
- ii. The First Defendant at all material times claimed in aid the provisions of s 62 of the Acquisition Act to deny any claim for compensation by the Plaintiff;
- iii. The First Defendant entered into the WestConnex M4-M5 Link Project Deed and took the benefits under that Deed, sought the approval under the EPA and made the declaration of Tollway knowing it would need to acquire the Land for the purposes of permitting the construction of the tunnel and knowing it would do so by subdivision.

33. Relying upon and induced by the said Representations the Second Defendant registered the deposited plans (Registrations).

34. As a result of the Fraud and the Registrations the Plaintiffs and the Group Members have:

- a. lost their right, title and interest in and to the Substratum Land and the benefit of the same and were thereby deprived of it; and
- b. have otherwise suffered loss and damage.

35. As a consequence of the Fraud and the Registrations, causing the Substratum Land being brought under the provisions of RPA, the Plaintiffs and the Group Members are entitled to commence proceedings in the Supreme Court against the First Defendant for the recovery of loss and damages suffered.

Particulars

- iv. See Substratum Land (see paragraph [38] below); and
- v. Section 120 of the RPA.

36. In the alternative, as a consequence of the Fraud and the Registrations, causing the Substratum Land to be brought under the provisions of RPA, the Plaintiff and the Group Members are entitled to payment of compensation from the Torrens Assurance Fund

Particulars

- i. Section 129 of the RPA.

37. In the further alternative, as a result of the Registrations, the First Defendant holds the whole of the Land, on trust for the Plaintiff and the Group Members.

Acquisition

38. Notwithstanding the matters pleaded above, the First Defendant purported to issue Proposed Acquisition Notices (“PANS”) to the Plaintiffs and the Group Members in respect of two lots beneath the surface of each of their land making up the Land (Schedule 1).

(Substratum Land)

39. The PANS stated that the land was to be acquired “for the purposes of the Roads Act in connection with the construction, operation and maintenance of WestConnex M4 – M5 Link tunnels”.

40. In purported compliance with section 177 of the Roads Act, the First Defendant published notices in the gazette regarding the Substratum Land, acquiring the same.

41. Once acquired, a roads authority may carry out road work on any public road for which it is the roads authority and/or on any other land under its control.

Particulars

i. Section 71 of the Roads Act.

42. The Roads Act defines carrying out road work by reference to “roads” generally.

43. Road work” is very widely defined and specifically includes “the construction, erection, installation ... of road work.

Particulars

i. Section 4 of the Roads Act.

44. RMS may, for the purposes of the carrying out of a project approved under Part 3A, State significant development for which development consent has been granted under Part 4, or State significant infrastructure approved under Part 5.1, of the Environmental Planning and Assessment Act 1979, exercise the functions of a roads authority with respect to any road.

Particulars

ii. Section 64(1A) of the Roads Act.

45. The Mainline Tunnel as part of the WestConnex project was approved as State significant infrastructure under Part 5.1 of the Environmental Planning and Assessment Act 1979 (NSW).

46. The purpose of s 64(1A) of the Roads Act is to confer on RMS "*the functions of a roads authority*" in respect of a road where RMS is not "the roads authority" for that road under s 7 of the Roads Act and section 71 empowers a "roads authority" to "carry out road work" "on any public road for which it is the roads authority" and "on any other land under its control".

47. However, as pleaded above:

- a. On 17 August 2018, pursuant to section 52(1) of the Roads Act, an order was published in the Gazette declaring the proposed road to be constructed in the Mainline Tunnel (including the On Ramp Tunnel) to be a 'tollway' as defined in the Roads Act (**Declaration**); and
- b. By virtue of sections 52(2) and 52(3) of the Roads Act, the Declaration rendered the Mainline Tunnel not to be a public road; or a road or road related area within the meaning of section 4(1) of the Road Transport Act 2013 for the purposes of any Act or law, or any provision of an Act or law, prescribed by the regulations for the purposes of this section.

48. In the premises, the function of carrying out the construction of a road for the purposes of the WestConnex project being conferred on RMS, by operation of s 64(1A) and 71 of the Roads Act, is null and void in circumstances where the Mainline Tunnel, pursuant to the Declaration is not a 'road' (**Improper Purpose**).

49. As a consequence of the Improper Purpose, the Substratum Land (below) was brought under the provisions of RPA, the Plaintiffs and the Group Members are entitled to commence proceedings in the Supreme Court against the First Defendant for the recovery of loss and damages suffered.

Particulars

- i. See Substratum Land (see paragraph [39] above); and
- ii. Section 120 of the RPA.

ALTERNATIVE CLAIM

50. In the alternative, as a consequence of the Improper Purpose, causing the Substratum Land (below) being brought under the provisions of RPA, the Plaintiffs and the Group Members are entitled to payment of compensation from the Torrens Assurance Fund

Particulars

- ii. Section 129 of the RPA.

51. In the further alternative, as a result of the Registrations the First Defendant holds the whole of the Land, on trust for the Plaintiffs and the Group Members.

FURTHER ALTERNATIVE CLAIM

52. In the further alternative, the First Defendant has executed a deed known as WestConnex M4-M5 Link Project Deed under which WCX M4-M5 LINK PT Pty Limited and WCX M4-M5 LINK AT Pty Limited are respectively in broad terms to design and construct tollway tunnels from Haberfield to St Peters together with certain ancillary works (**Mainline Tunnel**), being stage 3A of WestConnex, and operate and maintain the motorway to be known as WestConnex M4-M5 Link, being both stages 3A and 3B of WestConnex.

Particulars

- i. WestConnex M4-M5 Link Project Deed.

56. The First Defendant has purported to invoke section 62 of the Acquisition Act in order to avoid its obligations to pay compensation to the Plaintiffs.

Particulars

- i. Proposed Acquisition Notices served on the plaintiffs

57. Section 62 of the Acquisition Act only applies if the First Defendant is the entity constructing the M4 – M5 Link tunnel.

58. Pursuant to the WestConnex M4-M5 Link Project Deed, the First Defendant is not constructing the M4 – M5 Link tunnel.

59. The First Defendant is pursuant to section 37 of the Acquisition Act liable to pay compensation to the Plaintiffs and the Group Members for the compulsory acquisition of the Land.

60. The Plaintiffs and the Group Members claim compensation being the depreciation in the market value of the land remaining in their ownership after the compulsory acquisition of the substrata of the Land (section 58 Land Acquisition (Just Terms Compensation Act 1991).

SECOND FURTHER ALTERNATIVE CLAIM

- 61. Section 179 of the Roads Act 1993 prohibits the compulsory acquisition of land for the purpose of resale.
- 62. Pursuant to the WestConnex M4-M5 Link Project Deed, the First Defendant sold the land compulsorily acquired by it.
- 63. The First Defendant's purported compulsory acquisition of the land was prohibited by section 179 of The Roads Act 1993 and is null and void.
- 64. The plaintiffs and the Group Members claim damages from the First Defendant or, alternatively the First Defendant holds the lands on trust for the plaintiffs and the Group Members.

SIGNATURE OF LEGAL REPRESENTATIVE

This Amended Statement of Claim does not require a certificate under clause 4 of Schedule 2 to the Legal Profession Uniform Law Application Act 2014.

I certify under clause 4 of Schedule 2 to the Legal Profession Uniform Law Application Act 2014 that there are reasonable grounds for believing on the basis of provable facts and a reasonably arguable view of the law that the claim for damages in these proceedings has reasonable prospects of success.

I have advised the plaintiffs that court fees may be payable during these proceedings. These fees may include a hearing allocation fee.

Signature



Capacity

Solicitor

Date of signature

27 April 2021

NOTICE TO DEFENDANT

If you do not file a defence within 28 days of being served with this statement of claim:

- **You will be in default in these proceedings.**
- **The court may enter judgment against you without any further notice to you.**

The judgment may be for the relief claimed in the statement of claim and for the plaintiff's costs of bringing these proceedings. The court may provide third parties with details of any default judgment entered against you.

HOW TO RESPOND

Please read this statement of claim very carefully. If you have any trouble understanding it or require assistance on how to respond to the claim you should get legal advice as soon as possible.

You can get further information about what you need to do to respond to the claim from:

- A legal practitioner.
- LawAccess NSW on 1300 888 529 or at www.lawaccess.nsw.gov.au.
- The court registry for limited procedural information.

You can respond in one of the following ways:

- 1 If you intend to dispute the claim or part of the claim, by filing a defence and/or making a cross-claim.**
- 2 If money is claimed, and you believe you owe the money claimed, by:**
 - Paying the plaintiff all of the money and interest claimed. If you file a notice of payment under UCPR 6.17 further proceedings against you will be stayed unless the court otherwise orders.
 - Filing an acknowledgement of the claim.
 - Applying to the court for further time to pay the claim.
- 3 If money is claimed, and you believe you owe part of the money claimed, by:**
 - Paying the plaintiff that part of the money that is claimed.
 - Filing a defence in relation to the part that you do not believe is owed.

Court forms are available on the UCPR website at www.ucprforms.justice.nsw.gov.au or at any NSW court registry.

REGISTRY ADDRESS


Street address	Law Courts Building, Queens Square Sydney
Postal address	GPO Box 3, Sydney NSW 2001
Telephone	9230 8111

#AFFIDAVIT VERIFYING

Name Alan Lewis Segal
Address Level 3, 376 New South Head Road, Double Bay, NSW
2028
Occupation Solicitor
Date 27 April 2021

I say on oath:

- 1 I am the solicitor for the plaintiffs.
- 2 I believe that the allegations of fact in the Amended Statement of Claim are true.

SWORN at Sydney
Signature of deponent 
Name of witness _____
Address of witness Level 3, 376 New South Head Road, Double Bay, NSW
2028

Capacity of witness

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 I saw the face of the deponent.
- 2 I have known the deponent for at least 12 months.

Signature of witness



Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

#PARTY DETAILS

PARTIES TO THE PROCEEDINGS

Plaintiffs

Darren Mitchell and Rosaline Mitchell,
Plaintiffs

Defendants

Roads and Maritime Services – now known
as Transport for New South Wales, First
Defendant

Registrar General, Second Defendant

FURTHER DETAILS ABOUT PLAINTIFF[s]

Plaintiffs

Name Darren Mitchell and Rosaline Mitchell

Address 11 Miller Street,
Haberfield NSW 2045

Frequent user identifier -

Legal representative for plaintiffs

Name Alan Lewis Segal

Practising certificate number 7611

Firm &legal

Contact solicitor Alan Lewis Segal

Address Level 3, 376
New South Head Road
Double Bay 2028

Telephone 92 93282944
0410 668770

Email asegal@andlegal.com.au

Electronic service address asegal@andlegal.com.au

First Defendant

Name:

Roads and Maritime Services –
now known as Transport for New South Wales

27-31 Argyle Street
Parramatta NSW 2150

Second Defendant

Registrar General

McKell Building

2-24 Rawson Place

SYDNEY NSW 2000

SCHEDULE 1

Deposited Plan Nos.

1248055

1248057

1249365

1249366

1249423

1249424

1249425

1249502

1253589

1249579

1249588

1249592

1249777

1249871

1250108

1250112

1246964

1247926

1247927

1247928

1247943

1247948

1247953

1248075

1248078

1248080
1248158
1248161
1248170
1248175
1248179
1248207
1248344
1248351
1248353
1248371
1248384
1248400
1249230
1249287
1249298
1249302
1249374
1249382
1247934
1247760
1247791
1247792
1247831
1247859
1247934
1247935
1248949
1252252

1252751
1247934
1247831
1247791
1247859
1252217
1252250
1252299
1252731
1253004
1253119
1253122
1253125
1254494
1254495
1254516
1254556
1253327
1253338
1253340
1253341
1253528
1253532
1253563
1253565
1253574
1253613
1253614
1253630

1253638
1252702
1216470
1217987
1218277
1218448
1218603
1218816
1218593
1219136
1218599
1258858
1258859
1258861
1258863
1258962
1258963
1258965
1258966
1205982
1205591
1259059
1259062
1259063
1259064
1259094
1259095
1259097
1259098

1259100
1259168
1259169
1259355
1259362
1259363
1259388
1259389
1259390
1259391
1259392
1259393
1259394
1259395
1259396
1259397
1259398
1259422
1259424
1259427
1259535
1258469
1259399
1259400
1259519
1259521
1259522
1259523
1259524

1259546
1259547
1259561
1259569
1259570
1259575
1259671
1259673
1259675
1259677
1259678
1259680
1259681
1259683
1259684
1259685
1259686
1259718
1259719
1259720
1259722
1259723
1259725
1259759
1259801
1259805
1259808
1259809
1260305

1260306
1260307
1260312
1257259
1258274
1258286
1259058
1258287
1258340
1258346
1258352
1258354
1258357
1258361
1258480
1258482
1258631
1258638
1258551
1258553
1258554
1258728
1258735
1258740
1258744
1258746
1258748
1258749
1258754

1258756
1258767
1258805
1258806
1258807
1258825
1258828
1258834
1258838
1258839
1258841
1258843
1258864
1258872
1258873
1268887
1258888
1258896
1258897
1258900
1258933
1258938
1258948
1258964
1258967
1258969
1258970
1215900
1215868

1215870
1215857
1215892
1216100
1216109
1216093
1215985
1216091
1216098
1216270
1216387
1216395
1216146
1216121
1216147
1216470
1214320
1216983
1216947
1216905
1216774
1216829
1216898
121 6966
1216959
1216974
1216954
1217020
1216986

1216832
1227738
1227924
1227949
1254778
1254825
1254826
1254843
1254868
1254872
1254928
1254930
1254950
1255006
1255041
1255042
1255063
1255065
1255066
1255083
1255095
1255100
1255109
1255110
1255111
1255113
1255116
1255138
1255140

1255142
1255143
1255144
1255145
1254509
1254564
1254571
1254573
1254596
1254606
1254626
1254654
1254684
1254685
1254701
1254702
1254703
1254704
1254705
1254708
1259431
1254723
1254724
1254742
1254745
1254747
1254804
1255050
1255052

1255054
1255071
1255077
1255080
1255085
1255087
1255089
1255456
1255480
1255481
1255690
1251815
1251847
1252007
1252132
1252175
1252185
1252187
1252209
1252217
1252250
1252252
1252299
1252731
1253004
1253119
1253122
1253125
1254494

1254495
1254516
1254556
1250867
1250907
1250912
1250914
1251012
1251014
1251083
1251084
1251090
1251097
1251099
1251101
1251103
1251106
1251111
1251125
1251127
1251129
1251176
1251213
1251214
1251215
1251373
1251374
1251376
1251389

1251392
1251429
1251469
1251668
1251689
1251695
1252094
1250781
1250849
1250857
1250862
1250867
1249235
1250291
1250293
1250351
1250360
1250443
1250444
1250445
1250448
1250576
1250602
1250633
1248809
1248816
1248827
1248920
1248925

1249043
1249049
1249054
1249057
1249063
1249065
1249072
1249135
1249136
1249142
1249508
1248055
1248057
1249365
1249366
1249423
1249424
1249425
1249502
1253589
1249579
1249588
1249592
1249777
1248871
1250108
1250112
1246964
1247926

1247927
1247928
1247943
1247948
1247953
1247954
1248075
1248078
1248080
1248086
1248158
1248161
1248170
1248175
1248179
1248207
1248344
1248351
1248353
1248358
1248371
1248384
1248400
1249230
1249287
1249298
1249302
1249374
1249382

1247934
1247760
1247791
1247792
1247831
1247859
1247934
1247935
1256661
1256663
1256681
1256747
1256752
1256753
1256754
1256757
1256758
1256760
1256816
1256836
1256838
1256847
1256854
1256856
1256863
1256909
1256911
1256916
1256922

1256923
1256928
1256990
1256991
1256994
1257993
1257000
1257006
1257009
1257021
1257099
1257100
1257190
1256376
1256383
1256409
1256417
1256481
1256484
1256502
1256581
1256583
1256586
1256587
1256600
1256602
1256603
1256604
1256607

1256614
1256631
1256650
1256660
1256661
1253327
1253338
1253340
1253341
1253528
1253532
1253563
1253565
1253574
1253613
1253614
1253630
1253638
1253702
1255994
1255995
1255996
1255997
1256000
1256001
1256012
1256015
1256087
1256123

1256126
1256127
1256129
1256160
1256295
1256407
1255494
1255503
1255505
1255526
1255527
1255529
1255549
1255551
1255621
1255636
1255710
1255713
1255911
1255925
1255937
1255942
1255945
1255971
1255972
1256059
1256068
1256073
1256241

1260259
1256361
1254778
1254825
1254826
1254843
1254868
1254872
1254928
1254930
1254950
1255006
1255041
1255042
1255063
1255065
1255066
1255083
1255095
1255100
1255109
1255110
1255111
1255113
1255116
1255138
1255140
1255142
1255143

1255144
1255145
1254509
1254564
1254571
1254573
1254596
1254606
1254626
1254654
1254684
1254685
1254701
1254702
1254703
1254704
1254705
1254708
1259431
1254723
1254724
1254742
1254743
1254745
1254747
1254804
1255050
1255052
1255054

1255071
1255077
1255080
1255085
1255087
1255089
1255456
1255480
1255481
1255690
1251815
1251847
1252007
1252132
1252175
1252185
1252187
1252209
1253811
1253812
1253814
1253816
1253825
1250781
1250849
1250857
1250862
1250867
1250907

1250912
1250914
1251012
1251014
1251083
1251084
1251090
1251097
1251099
1251101
1251103
1251106
1251111
1251125
1251127
1251129
1251176
1251213
1251214
1251215
1251373
1248809
1248816
1248820
1248925
1249043
1249049
1249054
1249057

1249063

1249065

1249072

1249084

1249135

1249136

1249142

1259508

1249235

1250291

1250293

1250351

1250360

1250443

1250444

1250445

1250448

1250576

1250602

1250633

1261207

1261287

1261302

1261306

1261358

1261361

1261397

1261538

1261607

1261609

1261626

1261630

1261643

1260943

1260951

1260952

1261017

1261022

1261023

1261024

1261129

1261130

1261131

1261132

1261133

1261134

1261209

1261289

1261411

1261412

1261413

1261414

1261415

1267025

1262459

1261427

1261430

1261434

1261436

1261524

1261529

1259925

1259926

1259927

1259934

1259939

1259947

1259955

1260161

1260162

1260165

1260170

1260173

1260186

1260208

1260228

1260272

1260276

1260282

1260291

1260306

1260333

1260368

1260371

1260390

1260392

1260394

1260407

1260524

1260525

1260584

1260586

1260630

1260631

1260632

1260901

1260902

1260906

1260922

1261016

1260592

1260594

1260597

1260601

1260603

1260613

1260615

1260776

1260779

1260780

1260783

1261043

1259727

1259758

1259803

1259994

1260046

1260048

1260092

1260101

1260103

1260125

1260129

1260205

1260269

1260275

1260279

1260316

1260321

1260322

1260352

1260355

1260357

1260374

1260375

1260393

1261457

1261458

1261630

1261637

1261640

1261648

1261656

1261658

1261669

1261722

1261742

1266635

1261742

1261772

1261776

1261782

1261786

1261788

1261789

1261790

1261806

1262397

1261807

1261809

1261810

1261812

1261815

1261840

1261902

1261903

1261905

1261906

1262035

1262109

1262393

1262395

1262590

1262595

1262596

1262753

1262753

1262766

1262782

1262783

1262784

1262785

1262786

1262787

1262788

1262795

1262796

1262797

1262798

1262799

1262816

1262817

1262819

1262820

1262822

1262823

1262824

1262842

1262843

1262844

1262874

1262876

1262877

1262881

1262884

1262900

1262902

1262906

1262907

1262928

1262389

1262391

1262405

1262422

1262429

1262431

1262432

1262433

1262438

1262439

1262442

1262443

1262444

1262445

1262449

1262450

1262494

1262495

1262496

1262497

1262498

1262501

1262502

126 2521

1262522

1262524

1262551

1262552

1262553

1262670

1262671

1262672

1262674

1262751

1262762

1263161

1263163

1263205

1263206

1263295

1263296

1263297

1263299

1263328

1263348

1263355

1263357

1263358

1263360

1263361

1263432

1263489

1263490

1263492

1263513

1263519

1263523

1263524

1263526

1263529

1263530

1263531

1263549

1263551

1263555

1263557

1263558

1263989

1263993

1264015

1264031

1264033

1264037

1264038

1264040

1264043

1264045

1264047

1264091

1264092

1264093

1264094

1264096

1264097

1264098

1264099

1264100

1264101

1264102

1265724

1264103

1263071

1263073

1263074

1263075

1263081

1263082

1263083

1263085

1263086

1263089

1263090

1263210

1263211

1263212

1263213

1263219

1263220

1263221

1263223

1263226

1263302

1263303

1263306

1263307

1263308

1263312

1263313

1263314

1263344

1263345

1263346

1263347

1263349

1263350

1263351

1263352

1263353

1263354

1263356

1263463

1263464

1263465

1263466

1263467

1263938

1263939

1263941

1263944

1263947

1263979

1263980

1263997

1263998

1263999

1264162

1264166

1264698

1264699

1264700

1264701

1264709

1264711

1264784

1264785

1264822

1264829

1264830

1264859

1264862

1264874

1264884

1264885

1264886

1264889

1264893

1264895

1264897

1264899

1264902

1264903

1264911

1264912

1264917

1264923

1264937

1264939

1264940

1264160

1264175

1264176

1264177

1264243

1264244

1264246

1264259

1264260

1264262

1264263

1264264

1264293

1264297

1264298

1264299

1264302

1264303

1264304

1264305

1264435

1264436

1268126

1268159

1268163

1268198

1268199

1268200

1268207

1268208

1268209

1268264

1268279

1268280

1268282

1268291

1268293

1268351

1268384

1268386

1268411

1268413

1268415

1268423

1268431

1268439

1268459

1268460

1268462

1268465

1268471

1268475

1268476

1268529

1268664

1267241

1267243

1267305

1267306

1267312

1267314

1267325

1267326

1267364

1267366

1267368

1267369

1267372

1267386

1267397

1267400

1267402

1267411

1271979

1267412

1267420

1267429

1267439

1267440

1267443

1267447

1267454

1267456

1267461

1267463

1267465

1267468

1267470

1267471

1267473

1267483

1267487

1267491

1267494

1267535

1267547

1267595

1267596

1267599

1267695

1266412

1266439

1266446

1266447

1266451

1266452

1266523

1266529

1266549

1266550

1266551

1266552

1266567

1266567

1266571

1266585

1266587

1266588

1266594

1266598

1266602

1266609

1266610

1266612

1266614

1266615

1266621

1266626

1266627

1266628

1266653

1266655

1266665

1266667

1266668

1266673

1266030

1266032

1266083

1266084

1266085

1266118

1266121

1266122

1266160

1266161

1266320

1264788

1264789

1264790

1264888

1264890

1265011

1265013

1265014

1265023

1264794

1264796

1264797

1264890

1264892

1264896

1264898

1264900

1264901

1264921

1264922

1265005

1265008

1265010

1265017

1265019

1265020

1265350

1265388

1265389

1265512

1265527

1265536

1265543

1265574

1265575

1265579

1265580

1265581

1265685

1265706

1265723

1265732

1265738

1265742

1265747

1265753

1265756

1265758

1265759

1265760

1265766

1265767

1265782

1265785

1265793

1265808