

**INQUIRY INTO IMPACT OF THE WESTERN HARBOUR  
TUNNEL AND BEACHES LINK**

**Name:** Richard, Kevin, Ada and Frank Giovannini

**Date Received:** 28 April 2021

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Partially  
Confidential

Dear Mr Constance,

I am writing in response to your letter, which we received earlier this week, and we thank you for advising us our Compensation for Compulsory Acquisition of Sub-Stratum Interest Address of our Affected Property: . We are relieved that you state in this letter, that you , NSW Valuer General, are willing to determine the amount of compensation payable to us with Transport for NSW, whom may advise us the amount of compensation offered. You also state in paragraph 3, Under the Land Acquisition (Just Terms Compensation) Act 1991- S41 (2)(b), of your letter to us, you may determine the amount of compensation to be offered to us for Compulsory Acquisition, as you are awaiting for our claim form.

As you are aware, we are really concerned, frustrated and extremely disappointed that our well maintained, beautiful house, our federation style house property, is now affected by the WestConnex /Rozelle Interchange Tunnelling and Excavation, which is happening as we speak, directly beneath our property, 12m below ground. This is way too close and the vibrations and movement will travel further and closer with contractors heavy machinery and ground movement, tunnelling, boring and rock bolts the terrain is going to be continually moving and causing further cracking and damages to our house and will also affect surrounding properties. Even once the tunnel is completed, the movement, the noise, the vibrations, the disturbed soil, sand, slippage, water and rock displaced and the daily travelling of heavy duty container trucks, cars, trucks and buses will affect and cause more damages and movement to our property at

Excavation tunnelling work generally means work involving the removal of soil and rock from a site and section of land to form an open face, hole or cavity using tools, machinery or explosives. This excavation and tunnelling work will seriously affect the security and stability of any part of a structure, our property, adjacent to the location of the proposed excavation which can lead to structural failure or collapse. Excavation work must not commence until steps are taken to prevent the collapse or partial collapse of any potentially affected building or structure. Any excavation that is below the level of the footing of any structure including retaining walls that could affect the stability of the structure must be assessed by a competent person and secured by a suitable ground support system which has been designed by a competent person. Suitable supports to brace the structure may also be required and should be identified by a competent engineer. It is also important that other buildings in and around the excavation site are not adversely affected by vibration or concussion during the excavation and tunnelling works. Special precautions may need to be taken in the vicinity of houses, infrastructure and other buildings containing equipment sensitive to shock and vibration, as well as Ground collapse, Water inrush, falls, hazardous risk and safety issues, contaminants – both below and above ground including asbestos. Different soils when dumped in heaps, will assume a characteristic shape and settle naturally at different slopes. The angle which a sloping face of loose earth makes with the horizontal is sometimes referred to as the angle of repose. Construction work that involves the use of explosives is defined by the WHS Regulations as high risk construction work and a SWMS must be well prepared before this excavation and tunnelling work commences. A licensed competent person must develop the blast management plan and be responsible for all aspects and consequences of the use of explosives and tunnel blasting. The risk of atmospheric contamination through a build up of gases and fumes must be controlled in excavation work. Toxic Gases and Fumes heavier than air can collect in tunnels and excavations for example: gases (such as sulphur dioxide), engine fumes (such as carbon monoxide and carbon dioxide) and leakage from gas bottles, fuel tanks, sewers, drains, gas pipes and LPG tanks. Ventilation systems help to maintain adequate oxygen levels and dilute flammable gases, fumes and certain dusts, such as coal and sulphide which can ignite if in its explosive limits. The use of mechanical

ventilation also reduces dust, fumes, hazardous contaminants and can control air temperature and humidity. In addition to the health and safety and compliance risks, that I have mentioned, the current and future - Sales Valuation of our property will drop drastically, and I have also attached two supporting letters from local real estate agents which prove as evidence, that this WestConnex/Rozelle Interchange tunnelling project will seriously affect and decrease our property value, and, will now appear on our land title certificate and contract of sale and the ongoing future maintenance expenses and costs involved in repairing the damages, from now and into the future, which is not acceptable or reasonably fair and not affordable. We went to Inner West Council few months ago, and if we are going to get a DA approval through Council, its going to be extremely difficult, if not virtually impossible, as my family were going to seriously consider building a new, larger house, which will give us more space and more views of the City and Pymont, on our block, the land at \_\_\_\_\_, but will now not be able to do this planning and development, because of this fragility, slippage and potential for foundations to collapse, and to excavate a double garage beneath the house, this being too close to the tunnel, is too risky and will not be possible and will subside and collapse, and of course, it will not be approved, and we won't be allowed to put this planning for development through Council, and it will not be safe, it will be too dangerous, and of course, will be a serious safety and hazard and risk and compliance issue. The planning officer from Inner West Council, confirmed and agreed that any underground workings on adjacent land are unworkable and will be injury affected, he also mentioned that the support of the surface and soil will be affected and disturbed, and is destroyed by the construction of this West Connex tunnel

Under the Just Terms Compensation Act 1991, and procedural fairness for this Compulsory Acquisition, we are entitled to receive the Market Value, Valuation fees and costs, Legal costs, Relocation costs and Stamp Duty costs and Other Government tax relief. We really need and deserve to be fairly compensated and we are extremely concerned, upset and distressed, that this tunnelling directly beneath our property will definitely affect my family (physically, emotionally, psychologically and financially) and will seriously affect our resale and market value, will also be impacted, as this tunnel will devalue our house, damage and crack our house, will cause health and safety problems and affect our title/contract/sales potential issues in the future, it will be very hard to sell with this on the title and the damages will become worse and worse and more serious over time, because of this tunnelling and excavation and ongoing traffic damages.

You also state in your letter Schedule 6B of the Transport Administration Act 1988 applies, but is actually not applicabile, as there is no railway, no rail infrastructure facilities and no underground railway facilities within this WestConnex /Rozelle Interchange Project Planning. But, in contrast, as also discussed, we would be entitled to some form of claim for compensation, There has to be some actual interference with your land. Ie: If we have actual plans to build underground, ie to excavate out for a double garage, and then those plans are impacted due to the tunnel. And, we will wait to see if there is physical damage when the works start, ie cracks. Under Section 62 of the Land Acquisition (Just Terms Compensation) Act 1991 – Special provision relating to acquisition of easements or rights, tunnels etc.

(1) If the land compulsorily acquired under this Act consists only of an easement, or right to use land, under the surface for the construction and maintenance of works (such as a tunnel, pipe or conduit for the conveyance of water, sewage or electrical cables), compensation is not payable except for actual damage done in the construction of the work or caused by the work.

(2) If land under the surface is compulsorily acquired under this Act for the purpose of constructing a tunnel, compensation is not payable (subject to subsection (1)) unless these occur:-

(a) the surface of the overlying soil is disturbed, (we are unable to excavate or build a double garage below the property as land space is limited for extending /rebuilding our family home,

intended to build below ground)

(b) the support of that surface is destroyed or injuriously affected by the construction of the tunnel, (we are unable to excavate or build a double garage below the property as land space is limited for extending /rebuilding our family home, intended to build below ground)

(c) any mines or underground working in or adjacent to the land are thereby rendered unworkable or are injuriously affected (we are unable to excavate or build a double garage below the property as land space is limited for extending /rebuilding our family home, intended to build below ground)

(3) If the land compulsorily acquired under this Act consists of or includes an easement or right to use the surface of any land for the construction and maintenance of works (such as canals, drainage, stormwater channels, electrical cables, openings or ventilators), the easement or right is (unless the acquisition notice otherwise provides) taken to include a power, from time to time, to enter the land for the purpose of inspection and for carrying out of any additions, renewals or repairs. Compensation under this Part is payable accordingly. Under Section 54 - Entitlement to just compensation

(1) The amount of compensation to which a person is entitled under this Part is such amount as, having regard to all relevant matters under this Part, will justly compensate the person for the Acquisition of the Land.

(2) If the compensation that is payable under this Part to a person from whom native title rights and interests in relation to land have been acquired does not amount to compensation on just terms within the meaning of the Commonwealth Native Title Act, the person concerned is entitled to such additional compensation as is necessary to ensure that the compensation is paid on that basis. Under Section 55 -Relevant matters to be considered in determining amount of compensation In determining the amount of compensation to which a person is entitled, regard must be had to the following matters only (as assessed in accordance with this Division)—

(a) the market value of the land on the date of its acquisition,

(b) any special value of the land to the person on the date of its acquisition,

(c) any loss attributable to severance,

(d) any loss attributable to disturbance,

(e) the disadvantage resulting from relocation,

(f) any increase or decrease in the value of any other land of the person at the date of acquisition which adjoins or is severed from the acquired land by reason of the carrying out of, or the proposal to carry out, the public purpose for which the land was acquired.

Under Section 58 - Loss attributable to severance In this Act— loss attributable to severance of land means the amount of any reduction in the market value of any other land of the person entitled to compensation which is caused by that other land being severed from other land of that person.

Under Section 59 - Loss attributable to disturbance

(1) In this Act—

loss attributable to disturbance of land means any of the following—

(a) legal costs reasonably incurred by the persons entitled to compensation in connection with the compulsory acquisition of the land,

(b) valuation fees of a qualified valuer reasonably incurred by those persons in connection with the compulsory acquisition of the land (but not fees calculated by reference to the value, as assessed by the valuer, of the land),

(c) financial costs reasonably incurred in connection with the relocation of those persons (including legal costs but not including stamp duty or mortgage costs),

(d) stamp duty costs reasonably incurred (or that might reasonably be incurred) by those persons in connection with the purchase of land for relocation (but not exceeding the amount that would be incurred for the purchase of land of equivalent value to the land compulsorily acquired),

(e) financial costs reasonably incurred (or that might reasonably be incurred) by those persons in connection with the discharge of a mortgage and the execution of a new mortgage resulting from the relocation (but not exceeding the amount that would be incurred if the new mortgage secured the repayment of the balance owing in respect of the discharged mortgage),  
(f) any other financial costs reasonably incurred (or that might reasonably be incurred), relating to the actual use of the land, as a direct and natural consequence of the acquisition.

As you can see, by the above Sections and Sub-sections of the Just Terms Compensation Act 1991, there are provisions and just causes for our matter to be reconsidered and to be heard, and we would be entitled to an amount of compensation. The best recommendation would be, for us, the jointly owned landowners and the acquiring authority, to organise a meeting face to face, we are willing to listen, negotiate an appropriate acquisition price and reach a mutual agreement and we are willing to accept a reasonable and fair offer for monetary compensation and/ or compensation for severance and disturbance for the Acquisition of Land at our property address:

. In reality, there should be an independent caseworker, helping and advising us land owners, as a go-between with the acquiring authority. I understand that the Land and Property Information (LPI) manages this whole process and provides determinations with yourself, the Valuer General.

Even our local MP Jamie Parker (Member for Balmain), he believes sales, land and market valuation will be affected very much and it will be very difficult to sell at its true market value, hence causing a loss and decrease/reduced valuation and ongoing repairs and maintenance expenses to do temporary repairs and maintenance, these are all out of pocket expenses which are lost forever and will never be recouped. As you know Jamie and the Greens have successfully pushed for a Parliamentary Inquiry into Land Acquisition for transport projects because we believe the government's position on this is deeply unfair to the people who are affected, and, is actually irresponsible and unjust, and totally unacceptable. It's a serious matter as there is a detriment as he personally believes it devalues your house, would someone pay the same for your house with a tunnel under it or less? Highly unlikely, and have to sell at a loss. If this was your family home, how would you feel? Put yourself in our shoes!  
I would encourage you to also make a submission to the inquiry if this impacts you and your family.

We have also received the Pre-Condition Report and Dilapidation Reports, done by your people, which unfortunately will be biased unfair and unfavourable, and, also we have taken many photographs prior to construction of this tunnelling and blasting which will definitely affect our property, as this tunnel crosses directly beneath our home address: and will definitely impact us all financially, emotionally, psychologically and of course physically, pollution, health and safety concerns and traffic growth, increased toxicity and fumes of the local area, cause asthma, cancer, death and strokes, chronic diseases, heart, lung and respiratory diseases, there is also mental and physical health issues that will dramatically increase with toxic air pollution When you get some time, can you please take a look and review what me and my family's options are here, as on the Proposed Acquisition Notice – we are ready to lodge and complete the Authority for Claim for Compensation Form (Just Terms Compensation Act 1991) - Section 39. We just await for your approval to proceed with this form.. Surely, you would have an insurance liability cover to pay for claims for damages to affected residents' properties by WestConnex/Rozelle Interchange tunnel. As we will guaranteed have ongoing / future damages, repair bills, wall cracking, windows cracking, and foundations damaged, maintenance and repair expenses will need to be factored in here, as we will need to calculate (with a builder) this average cost over a period of time/years of residence.

Finally, there is heritage listed and federation houses in the area will soon eventually be all demolished for new developments and more additional wider roads, and tunnels including this WestConnex Rozelle Interchange and Future Connection to the Western Harbour Tunnel and Northern Beaches Link, (M4 – M5 Link Main Tunnel Works and M4-M5 Rozelle Interchange); City West Link and Marrickville Tunnel (M8 New M5 Tunnel). WestConnex tunnel, is 12m directly underneath our property, causing more damages, cracking, noise and pollution and toxicity, health and safety concern, which will obviously devalue and affect our current value and resale value and have attached supporting evidence that my land value needs will also be decreased our market value, as WestConnex have already begun tunnelling, boring, drilling, excavation and vibrations explosions, being affecting my property at (see maps below, tunnelling is directly beneath my property, which will be further widened) this tunnel being constructed at the moment, directly beneath our property, increasing roads, increasing pollution and increased road capacity, and traffic growth, increased toxicity and fumes of the local area, cause more health risks, asthma, cancer, death and strokes and shorter life spans. This will also devalue and decrease our property value and will be very very difficult to sell in the future, with cracking already occurring and regular and ongoing maintenance and repairs, which will now be required to my property too. WestConnex motorway tunnels are designed to be wider, flatter and higher than most other tunnels in Sydney and as we are affected directly by this impact corridor, settlement, ground movement and noise vibration will cause massive problems and ongoing damages to all our properties along this tunnel corridor, and the right thing to do is to fairly compensated. Any photographs and reports can be provided upon your request.

I am available to attend a meeting and can be contacted on the below telephone number anytime.

I look forward to hearing from you and your team soon.

Yours Faithfully,

Richard Giovannini  
Kevin Giovannini  
Ada Giovannini  
Frank Giovannini

Richard, Kevin, Ada & Frank Giovannini