

**Submission
No 96**

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

Name: Ms Lynda Riley

Date Received: 9 June 2021

Beaches Link Objection and Recommendations

Objection-

I am a member of the public in Sydney; one of the “many” who are the intended beneficiaries of the massive transport infrastructure project Beaches Link. The government should be painfully aware following the WestConnex parliamentary inquiry, of the heartbreaking accounts from the “few” whose lives have been decimated because the RMS decided to build its infrastructure near their homes. The health, property values, and rights of these people to pursue the quiet enjoyment of their lives has been under siege and the damage does not end when the project is complete.

The Beaches Link EIS fails to properly address the existing evidence of an unmitigable human and community cost.

Construction of such major transport infrastructure in the middle of any residential community is shameful if the residents are expected to continue to live there. There is so much crown land available north and away from the Balgowlah golf course residential area that could have been allocated for this project. Of course, there are also environmental concerns in other areas, but surely any responsible person or government should be prioritising human health.

The WestConnex evidence of injury and damage to the people whose homes have been devalued and lives upended because of proximity to the project warrants compassionate attention. The devaluation of homes restricts the ability of residents to leave and reestablish homes elsewhere. Importantly, there is currently no “just terms” compensation available to the few, who must now bear the burden for the many.

The residents near these projects must endure-

- exposure to continuing adverse impacts of construction and permanent major infrastructure, including dust, noise, fumes, vibration, dangerous emissions, and disruption of daily life due to increased traffic during and after construction is completed.
- continuing interference with property rights and devaluation of property because homes are near major high-volume traffic infrastructure
- overwhelming emotional stress, effort, and time required to constantly engage with administrative bureaucracies, offering “mitigation controls” and “support services” for situations the residents should never have had to endure in the first place.

All these impacts have a continuing and cumulative long-term impact on physical and mental health, and necessarily diminish the quality of life we all have a right to.

In any other scenario these residents would have rights to equitable relief and common law damages arising from this continuing nuisance and tortious conduct. If they lived in the state of Victoria, New Zealand, Europe, Canada, the US, or any other part of the world that recognises the international human right to peaceful enjoyment of property, this interference with their vested property rights would not be permitted without reasonable compensation. Injury, damage, and emotional distress in this scenario are now real and predictable. Residents need the option of compensation upfront, so they have the option to escape.

Those whose homes are not required for the footprint of the project, are currently not offered any compensation under the Land Acquisition (Just Terms Compensation) Act 1991 (NSW). Their only other hope of compensation is the RMS Exceptional Hardship Land Purchase Guideline.

Unfortunately, RMS requirements for “Exceptional hardship” compensation require proportionality of hardship. The hardship experienced must be greater than the experience of

“most other owners in the vicinity of the project.” Since acceptable levels of hardship are not achievable with projects this massive so close to residences, it is manifestly unfair to increase the hardship threshold even further. There should be a right to compensation and compensation should not be dependent upon the existence of “appropriate funding;” the funding should be budgeted.

Any assumptions that in “most cases” mitigation measures can provide a solution, has been proven to be false by the WestConnex experience. Potential impacts are no longer hypothetical, they are real. Residents should not need to wait until damage is done. They should be afforded the opportunity to receive compensation and move on with their lives as quickly as possible.

An unfair interference with the right to quiet enjoyment of property, without compensation, cannot, in all good conscience, be justified by the NSW government, or the public. Compensation for the adverse impacts on these residents should be an inbuilt cost of the project(s); a cost the NSW Government and the public should be contributing to. If projects are not viable with this extra cost, then alternatives need to be considered; a human cost is not acceptable.

Recommendations-

- That the NSW government offer just terms compensation for the indirect expropriation of residential property that is within the vicinity of the Beaches Link but does not need to be acquired since it is not directly within the construction footprint. This could be achieved by-
 - o amendments to Land Acquisition (Just Terms Compensation) Act 1991 (NSW), or
 - o implementing new RMS compensation guidelines for residential property within the vicinity of major transport infrastructure projects.
- That the NSW government allocate compensation funds as part of the Beaches Link project budget, so the disproportionate burden of these few residents can be shared by the many that the project is intended to benefit.

Thank you for considering my submission and recommendations.
Your written response would be greatly appreciated.