

**PUBLIC ACCOUNTABILITY LEGISLATION AMENDMENT (SYDNEY MOTORWAY CORPORATION) BILL 2017**

*First Reading*

**Bill introduced on motion by Ms Jodi McKay, read a first time and printed.**

*Second Reading*

**Ms JODI McKAY ( Strathfield ) ( 10:59 ):** I move:

That this bill be now read a second time.

The Public Accountability Legislation Amendment (Sydney Motorway Corporation) Bill 2017 aims to restore accountability and transparency to the Sydney Motorway Corporation and in turn the project it manages, WestConnex. The concepts of accountability and transparency were completely and utterly trashed with the creation of the Sydney Motorway Corporation. It was established as a private entity, which effectively shrouded the largest infrastructure project in Australia in absolute secrecy and removed all accountability and transparency mechanisms that apply to every other New South Wales government agency and infrastructure project. Before working through the content of this bill, it is worth reflecting on why it is needed and how we found ourselves in this situation.

In 2015 the Government abolished the WestConnex Delivery Authority that was originally tasked with delivering the WestConnex project. In its place the Government established the Sydney Motorway Corporation. However, unlike the delivery of every other infrastructure project in the State, the Government established the Sydney Motorway Corporation as a private company, limited by shares under the Corporations Act 2001. This legal structure meant that the Sydney Motorway Corporation is not subject to the same accountability measures as every other government agency tasked with spending taxpayers' dollars.

As I said, that means the Sydney Motorway Corporation, and by extension, the WestConnex project, is operating outside the usual accountability and transparency mechanisms that apply to every other New South Wales government agency. It is an extraordinary situation. This is a shocking and deliberate attempt to shut down long-established and respected principles of public oversight and parliamentary scrutiny. I will say that the creation of the Sydney Motorway Corporation remains a deceitful decision that this Parliament must address urgently through this bill.

The actions of this Government have set what I believe is a dangerous precedent. By shielding the Sydney Motorway Corporation from scrutiny, restricting information effectively to glossy brochures and refusing to answer the most critical of questions, the Government is sending a clear message that the Westminster traditions that have been practised by this Parliament—the oldest Parliament in Australia—no longer matter and do not need to be followed. This bill unequivocally says enough is enough by enshrining in law that the Sydney Motorway Corporation and its subsidiaries will be subject to the same public accountability measures as every other New South Wales government agency. Under this bill, transparency and accountability will again be the cornerstone of the construction of major infrastructure projects in the State.

The bill amends the Government Information (Public Access) Act 2009 to ensure that freedom of information requests about this project and the operation of the Sydney Motorway Corporation must be answered by the Government. They currently are not. We cannot get any information out of the Sydney Motorway Corporation, or indeed the Government, about the WestConnex project. Currently, every request that the community, the media and I have made about the Sydney Motorway Corporation has been denied. This must stop, and this bill will do that. Never before have we had a government agency shielded from the Government Information (Public

Access) Act. Never before have we had a multibillion-dollar project not subject to freedom of information laws. It is an extraordinary situation.

The bill will also amend the Independent Commission Against Corruption Act 1998 to allow the commission to investigate allegations of complaints related to the Sydney Motorway Corporation and its employees. How can we have a government project operated by the Sydney Motorway Corporation such as WestConnex that is not subject to the Independent Commission Against Corruption? The bill will amend the Ombudsman Act 1974 to enable complaints to be made to the Ombudsman about the conduct of the Sydney Motorway Corporation. The Public Finance and Audit Act 1983 will be amended to allow Sydney Motorway Corporation financial reports and transactions to be inspected and audited by the Auditor-General. Finally, the bill will amend the Public Interest Disclosures Act 1994 to extend protections under the Act to employees of the Sydney Motorway Corporation who make disclosures in the public interest about any wrongdoing.

This bill seeks to bring not only the Sydney Motorway Corporation under these important accountability and transparency mechanisms but also its 10 subsidiaries, which are listed in the bill. Accountability, transparency, openness and truthfulness are not radical principles; they are fundamental principles that should underpin everything that government does. Under the Government of Gladys Berejiklian, these principles have been stripped away. They have been abandoned and wilfully ignored. This bill aims to restore and enshrine those principles so that once again we have accountability, transparency, openness and truthfulness in the delivery of the WestConnex project and the Sydney Motorway Corporation. To fully appreciate the Government's blatant attempt to trash parliamentary tradition we have to understand the history of WestConnex and the shambles it now is. I cannot and will not go through every issue with the project, but I will try to give members a sense of the problems that continue to plague WestConnex and make this bill needed so urgently.

The cost of this project has gone up and up. When it was first announced by Barry O'Farrell—three Premiers and four Treasurers ago, mind you—the Government said that the project would cost around \$10 billion. That is right: \$10 billion. The Government now says the cost is \$16.8 billion. Do we believe that is the cost? We do not, but we have no way of knowing because this Government denies all freedom of information requests. That is shameful. While we are looking at numbers, it is worth reminding members that in recent weeks we have discovered that there are about \$1 billion in contractor compensation claims pending against the project. We had to discover that through a leaked document because we are not allowed access to any information through the Sydney Motorway Corporation.

We have seen the most terrible treatment of Sydney families whose houses and businesses have been acquired to allow for the WestConnex project. It was only when Labor stepped in that the situation changed for those residents. We forced the Government to change the Land Acquisition (Just Terms Compensation) Act 1991 and forced it to respond to the Russell report into the compulsory acquisition process, which had remained hidden for years while the Government proceeded with an acquisition process that it knew was flawed. The Russell report was supposed to fix the Land Acquisition (Just Terms Compensation) Act but the Government did everything in its power to shut it down. Labor forced the release of that report and then set about trying to make things fairer for the impacted families.

Let us not forget the many changes that have been made to this project. It is right to say that WestConnex is being made up as it goes along.

Everything we know about WestConnex proves that the Government has no plan and no idea how to deliver this project. So every day the Government makes it up. Nowhere is that more obvious than in its recent decision to completely alter the financing arrangements for WestConnex. The business case for this \$16.8 billion project is now completely out of date. How can the Government proceed with the largest infrastructure project in New South Wales, and in Australia, under a business case

that is no longer relevant? How can it expect to have the confidence of the community when the business case no longer applies or supports the construction of this project?

Compounding this issue is the revelation, which was disclosed only a few months ago, that the Government will sell part, or all, of the Sydney Motorway Corporation next year. That was never included in the business case. In fact, it goes against all the advice given in the business case. The business case says:

... the approach of selling a controlling equity stake in Stage 2 prior to construction commencement was identified as potentially a sub-optimal strategy.

According to its own business case, the decision to sell the Sydney Motorway Corporation—a decision made a month or two ago—is a "sub-optimal" strategy. At the very least, the Government must provide an updated business case because all the critical financial assumptions have changed; they are no longer current. Let me be clear: The decision to sell part, or all, of the Sydney Motorway Corporation and its subsidiaries to change the entire financing of WestConnex has given urgency to this bill. That is why I am bringing the issue to the attention of the House today.

The Government then hired "Million Dollar Man" Dennis Cliché to head the Sydney Motorway and to take the heat for its incompetence regarding this project. Time and again, the Government has refused to reveal his salary. However, when the political heat got too much to handle, the Government sneakily listed it—at the last moment—on a government website under an obscure URL that no-one would have found. The Government had no intention of ever revealing that information. Again, the Sydney Motorway Corporation is not subject to any transparency mechanism to allow us to access that information. Labor eventually forced Mr Cliché to appear before a parliamentary committee hearing on tolling. Members will recall that Mr Cliché initially declined to appear because the Sydney Motorway Corporation is a private entity. The head of the Sydney Motorway Corporation, delivering the largest infrastructure in this State's history, thought he did not have to appear before a parliamentary inquiry.

Under this bill there will be nowhere for people like Mr Cliché to hide. He and others associated with the Sydney Motorway Corporation will be required to answer questions just like any other public servant. The bill will give us clarity around the Sydney Gateway—the link to the airport and the port. This was the entire premise of WestConnex, yet the Government still does not know how to make it happen. How can that be the case? The bill will allow us to know what is happening not only with the Sydney Gateway but also with perhaps the biggest rort of all—namely, the Government's decision to slap a huge tax on the residents of Western Sydney by reimposing a toll on the M4 four days from now. The toll will be in place for 43 years and will rise not at the rate of inflation but by at least 4 per cent every year.

Clearly, the people of Western Sydney are treated differently from those who reside in the rest of the Sydney metropolitan area. The M4 is not a new road; it should not be tolled. Again, as we near the start date of that tolling I plead with the Government on behalf of the people of Western Sydney not to reimpose a toll on the M4. This is a regressive, unfair tax and the Opposition will ensure that the Government pays for this appalling new tax in every seat along that motorway corridor come 2019, including that of the Minister for WestConnex Stuart Ayres, and of members representing the electorates of Mulgoa, Parramatta, Seven Hills and Drummoyne. Every neighbourhood impacted will know that this Government, the Premier and their local member want them to pay for a road that is not new.

We have been told that this toll to be paid by the people of Western Sydney will supposedly be used to fund the rest of the project. That is extraordinary. These tolls will not be meagre amounts. Regular users of the M4 will face a one-way toll of \$4.56, which equates to approximately \$2,188 a year for a motorist travelling to and from work each day, and the toll will increase by at least 4 per cent every year. That is shameful and unfair. Labor will continue its opposition to this toll

right up until the next election. I could go on and on. There is secrecy, incompetence, dishonesty and downright deceit everywhere one looks. That is why this bill is needed so urgently.

Those opposite are meant to believe in the rules and institutions of parliamentary democracy. They are meant to believe the Westminster traditions actually mean something, yet they have trashed everything they say they believe in. Under this bill there is a role for parliamentary accountability, but there is no role for a government that does not provide answers to the community. This is an example of the born-to-rule mentality of those opposite—the can-do-no-wrong Liberals at their arrogant best. This bill will change that. We have seen this story before. Last year Labor introduced the Government Information (Public Access) Amendment (Sydney Motorway Corporation) Bill, to amend the Government Information (Public Access) Act. The Government voted it down, including members whose constituents will be impacted by this project. They voted to ensure that freedom of information provisions that apply to every other government agency do not apply to the Sydney Motorway Corporation.

Those opposite then voted down the Roads Amendment Transparent Tolling Bill, which sought to establish a role for the Independent Pricing and Regulatory Tribunal and the Auditor-General in the setting of tolls. I have no doubt that the Government will vote down this bill also. Time and again, we have seen that the arrogance of this Government has no bounds when it comes to WestConnex. Shame on the Government. Shame on every one of its backbenchers who represent impacted communities but who do not have the courage to go into their party room, come into this Chamber or front the media and say about this project, "Enough is enough". The Sydney Motorway Corporation and WestConnex must be subject to the same accountability measures as any other significant infrastructure project in this State.

This bill will restore accountability and transparency to the WestConnex project, which should never have been taken away from in the first place. If those opposite have nothing to hide they will back this bill, they will back Labor and, importantly, they will back their communities because in supporting this bill they will finally end the shameful secrecy that has characterised this project from the beginning, and that continues to characterise it. I commend this important bill to the House.