

INQUIRY INTO IMPACT OF THE WESTCONNEX PROJECT

Organisation: Beverly Hills North Progress Association

Date Received: 30 August 2018

INQUIRY INTO THE IMPACT OF THE WESTCONNEX PROJECT

31 August 2018

Legislative Council - Public Accountability Committee

I thank the Members of the Public Accountability Committee for the opportunity to give evidence regarding the impact WestConnex on so many Communities across Sydney. Members of the Beverly Hills North Progress Association are willing to speak at the Inquiry to further elaborate on the issues raised in this document if invited.

Our key concerns are property damage and failed urban delivery.

Inquiry into the impact of the WestConnex Project

Terms of reference

1. That the Public Accountability Committee inquire into and report on the impact of the WestConnex project, including:
 - (a) the adequacy of the business case for the WestConnex project, including the cost-benefits ratio
 - (b) the cost of WestConnex project, including the size and reasons for overruns
 - (c) consideration of the governance and structure of the WestConnex project including the relationship between Sydney Motorway Corporation, Roads and Maritime Services, the Treasury and its shareholding Ministers
 - (d) the compulsory acquisition of property for the project
 - (e) the recommendations of the Audit Office of New South Wales and the Australian National Audit Office in regards to WestConnex
 - (f) the extent to which the project is meeting the original goals of the project as articulated in 2012
 - (g) the relationship between WestConnex and other toll road projects including the Sydney Gateway, Western Harbour Tunnel, F6 and Beaches Link
 - (h) the circumstances by which WestConnex and the Sydney Gateway were declared to be separate projects in 2017
 - (i) the cost of the project against its current valuation as determined through the sale of the Sydney Motorway Corporation and whether it represents a good investment for NSW taxpayers
 - (j) any other related matter.

1 Introduction

The WestConnex project is not in the Public's best interest. We will all pay dearly in terms of higher traffic impacts, poorer air quality, expensive tolls, and state and federal taxes having been diverted from public transport and other, more worthy causes. WestConnex fails everyone, including drivers, our economy, our livability, our mobility, community health and the urban and natural environment.

The weaknesses of the proposal have been amplified through poor project governance.

Many families have lived through the construction of the first M5 (circa 2000) and noted the impact this had on our community through the loss of neighbours, the increase of traffic through our residential streets, the increased pollution, and the loss of visual amenity with a failure to properly repair the urban environment and lost community recreational space and sports fields. The M5 had a detrimental effect on the well-being of the resident community and our quality of living. In our ignorance (and lack of accessible information) we were not made aware that there were far better options to improve commuting mobility. We thought that our elected Members and the Parliament of NSW, with access to transport experts, were doing the "right thing" for the Public.

We were promised that the legacy M5 will "take traffic off local roads". We were assured that the unfiltered exhaust stack located in the valley of Turrella was "safe". We were also assured that it was perfectly fine to leave our windows open whilst travelling through the M5 tunnel¹. We were told the legacy M5 was constructed with leading edge technology and world class experience².

It didn't take long to reveal that the legacy M5 was a dog's breakfast. Within 6 months of opening it was a car park. It featured as the first road mentioned each day on the traffic report, always queued to Revesby Road (evidence that congestion itself is an inhibitor for more congestion). Our local roads, such as Stoney Creek, Canterbury, and King Georges were hammered by additional traffic³. Two Parliamentary Inquiries⁴ into the Turrella exhaust stack revealed irregularities of project governance and that the community's health was at risk due to the concentrated diesel exhaust pumped from the single stack inappropriately located in a valley⁵.

Fast track to 2013 when we realised that significant road works were again on the table. We learnt that more progressive and better managed cities no longer thrust motorways into the heart of their city. Cities, like Paris⁶, Madrid⁷, Portland⁸ and Seoul have been active in the removal of motorways

¹ <https://www.smh.com.au/national/tunnel-safe-but-best-wind-up-your-windows-20060317-gdn65h.html>

² <http://www.abc.net.au/news/2008-11-07/m5-tunnel-among-worlds-worst/197156>

³ <http://cfsites1.uts.edu.au/find/isf/publications/zeibots2003beforeandafterm4.pdf>

⁴

<https://www.parliament.nsw.gov.au/lcdocs/inquiries/1970/M5%20East%20Tunnel%20Final%20Report%20dated%20051202.pdf>

⁵ <https://www.greenleft.org.au/content/residents-demand-clean-air>

⁶ <https://www.citylab.com/transportation/2017/04/fixing-a-fractured-paris/521967/>

⁷ <https://www.gizmodo.com.au/2014/03/6-freeway-demolitions-that-changed-their-cities-forever/>

⁸ <https://www.businessinsider.com.au/highway-closing-city-transformation-2018-5?r=US&IR=T>

for decades, returning the space for public use and focusing on mobility and urban livability via well connected public transport investment.

In the heyday of freeway building in the 1950s, the well-known architect and urbanist Lewis Mumford warned that trying to cure traffic congestion with more road capacity was like trying to cure obesity by loosening your belt. The result of too much belt-loosening can be seen throughout the USA, where 'suburban gridlock' is endemic. With each new road we have imported more of this problem; we should avoid making it any worse.

Congestion, it turns out, is an inevitable consequence when the private sector produces an unlimited number of vehicles and expects the public sector to spend limited resources to build an unlimited amount of space for them to run on.⁹

---Gordon Price, Transport Planner and former City Councillor, Vancouver

The Public deserves to know why Sydney and our politicians are completely out of step with global modern transport planning and release the full details regarding the vested interests poised to benefit at our expense.

⁹ <https://ptua.org.au/myths1/congestion.shtml>

2 Terms of Reference (J) Any Other Related Matter

2.1 Property Damage



Figure 1 - Hallway of No 8 identifying induced strain on internal brickwork

Reference Appendix A – 20180321 WestConnex KGR Interchange Home Damage for more details.

Our homes have been damaged by WestConnex construction at the King Georges Rd M5 Interchange section of the WestConnex project (M5KGRIU).¹⁰

We have found the conduct of RMS, SMC and WestConnex staff (WestConnex) to families experiencing home damage has been unconscionable. As like those with homes compulsory acquired, we have experienced WestConnex bullying, intimidation, and the denial of all responsibility.¹¹

¹⁰ <https://www.theleader.com.au/story/4553332/plea-for-help-after-westconnex-rejects-blame-for-cracks-in-home/>

¹¹ <https://au.news.yahoo.com/families-blame-west-connex-for-damage-to-homes-and-foundations-39680710.html>

BEVERLY HILLS NORTH PROGRESS ASSOCIATION

Our homes at Beverly Hills are just the first of many properties now reporting damage from construction and tunnelling.¹² I hope as an outcome of this Inquiry, that a proper compensation process and budget to be set by the Government to “fix”, rather than “address” the damages they have caused. It’s critical that WestConnex (and future infrastructure projects) does not set the precedent of allowing Agencies to abrogate their responsibility by simply ignoring valid claims and to demand a more professional and honest standard of behaviour.¹³

We are left with the knowledge that no responsible body is holding WestConnex to account to rectify home damages. Directions even from the Department Planning and Stuart Ayers, Minister for WestConnex to fix our homes are seemingly ignored.

Our insurance provider, NRMA, has rejected our claim based on their findings that the likely cause is due to WestConnex construction, which is a standard exclusion in home building insurance.

No family should be left to personally pay the repair bills for damages caused by WestConnex construction, yet the reality is that every homeowner across the route is exposed to the full financial risk of repairing their own property. In our case, our Engineer has indicated we may be looking at a repair bill of at least \$100,000 but more than likely upwards to \$250,000.

We have already incurred fees just to receive an independent assessment from a large, reputable Engineering Company. Something that we had requested, but was ignored by Westconnex, who appointed Inglis Engineering (sole operator keen for WestConnex gigs)¹⁴

2.1.1 Property Damage Brief

I invite the Committee members to view this Channel 7 news coverage of our situation, the state of our homes circa March 2018 (deterioration continues today), and the personal impacts this is having on ordinary families. <https://au.news.yahoo.com/families-blame-west-connex-for-damage-to-homes-and-foundations-39680710.html>

The issues being experienced now by residents at Beverly Hills are the entirely predictable consequence of deep excavation and changed subsoil groundwater. WestConnex failed to identify and mitigate a known engineering risk in the M5KGRUI EIS as well as the cumulative impact of the legacy 1999 M5 plus New M5 on the groundwater table under our nearby homes. They now endeavour to hide this oversight by issuing structural assessments that “cannot ascertain if the defects are a direct result of the construction work” and so lay the blame for the continued deterioration of our homes by clutching at spurious reasons, like a “dripping garden tap”.

¹² <https://www.dailytelegraph.com.au/newslocal/inner-west/residents-in-haberfield-and-beverly-hills-claim-westconnex-work-is-cracking-the-walls-of-houses-near-motorway-construction-sites/news-story/d1fe2685fa896aaa90fed7767cd0003d>

¹³ <http://www.abc.net.au/news/2017-08-09/westconnex-overshadows-house-and-leaves-it-falling-apart/8787194>

¹⁴ <https://www.inglisengineering.com.au/our-people/>

Given our experience of the dishonesty and underhand tricks we have encountered with WestConnex staff over the last 4 years, we engaged our own engineer to review the WestConnex assessments. Our engineer identified significant omissions contained in these reports including the “elephant in the room” having ignored the likely impact that deep excavation through the groundwater table and the instillation of a roadway runoff drain below the natural groundwater level caused just 30 metres from our homes.

WestConnex are also withholding requested information from residents relating to original geotechnical reports and the detailed designs. We have a right to access this information, and its concerning that the structure of the private “Sydney Motorway’s Corporation” enables them to hide behind “commercial in confidence” excuses or access via freedom of information.

It happens that this strategy is to stonewall residents to avoid compensation payments, as like the unfair property acquisition practices. They are deliberately making it so expensive and difficult to seek redress, that many families will find the stress, effort, delay and costs prohibitive in seeking compensation, which is the desired outcome. It’s as if their KPI’s hinge on no property damage claims, so energetic are the staff denials, right down to the office receptionist.

The number of families impacted by WestConnex property damage will continue to rise as construction progresses. The reason is due to a huge swathe of the inner west – from Ryde to Kogarah – is built on the residual clays from the weathering of Ashfield shales. This is a highly reactive soil type that reacts to lowered moisture content brought about by significant new drainage for roadway runoff and deep excavations. Older homes are particularly vulnerable.^{15 16}



Figure 2 and who caused the soil moisture change?

2.1.2 Brief description of construction activities

Water is the biggest risk to the longevity of road surfaces, hence drainage is a key feature of construction.

¹⁵ [http://dro.dur.ac.uk/18298/The impact of changes in the water table and soil moisture on structural stability of buildings and foundation systems : systematic review CEE10-005 \(SR90\).](http://dro.dur.ac.uk/18298/The%20impact%20of%20changes%20in%20the%20water%20table%20and%20soil%20moisture%20on%20structural%20stability%20of%20buildings%20and%20foundation%20systems%20%3A%20systematic%20review%20CEE10-005%20(SR90).)

¹⁶ Burland et al
[+Building+response+to+tunneling&ots=R1fZGrvGQP&sig=QX0IK1J2ZYFFNJTUvo_FttYMMI4#v=onepage&q=burland%20et%20al%20-%20Building%20response%20to%20tunneling&f=false](#)

M5KGRIU excavation penetrated the groundwater table around 6.4 to 7.4 metres below ground level, with new sub-soil drainage at the base of the excavation, and dewatering activities to facilitate the boring of over 50 pilings to a depth of some 10 metres for the vertical piled retaining walls. As can be indicated in Figure 3 in Appendix A, the distance of the M5 road surface runoff drainage system shifted much closer to homes from 48 metres (in 1999) to 30 metres. This drainage has caused dewatering of the groundwater table that would naturally flow south towards Wolli Creek situated behind our homes, to now flow north to the significantly deeper M5 drain at the front of these premises.

J.C. Small and J.P. Hsi (School of Civil and Mining Engineering, University of Sydney, 2006) published ["Analysis of excavation in an elasto-plastic soil involving drawdown of the water table"](#) in "Computers and Geotechnics" (Vol 13, Issue 1, p1-19). In this analytical study Small & Hsi surmise "When such (vertical) excavations are carried out, movement of the surrounding soil is caused by two main factors; firstly, there is movement due to stress release and secondly, if flow can occur into the excavation (and subsequent permanent drains installed), there is settlement caused by the lowering of the water table."

Please refer to Appendix A as it contains important information relating to the missing content in the M5KGRIU EIS relating to drainage.

2.1.3 Misleading Dilapidation Reports

2.1.3.1 Example one - AS2870-2011 Clause 1.3.3

The "independent" report of 19 July 2017 authored by Inglis Engineering for the WestConnex sub contractor Fulton Hogan referenced only selected parts of AS2870-2011, ignoring part (b) "unusual moisture conditions caused by drains, channels, ponds, dams or tanks which are to be maintained or removed from the site". Only an experienced Engineer, with access to the Australian Standards documents (as residents do not), could observe the significance of this key omission and alert the homeowner.

Instead, Inglis Engineering based his opinion of causation for the deterioration of our homes these last 2 years :

- I. Large advanced trees (that has been insitu for some 65+ years)
- II. Overflow/leaks from water tanks (insitu for 15+ years installed by professional plumber and inspected by Sydney Water as we were claiming the rebate)
- III. Removal of a frangipani tree (occurred 15+ years ago)
- IV. Possible subsurface saturation from No 10 (ie the non existent dripping garden tap)

Again, only an experienced Engineer can point out that items II to IV ADD moisture to the soil. It's the drying of our highly reactive soil that is the key issue for our damaged homes.

As mentioned above, the key item (b) of AS2870-2011, being the excavation deep into the groundwater table and more subsurface drainage for road runoff was ignored by Inglis Engineering, Fulton Hogan and WestConnex despite such construction 30 metres on the north side of our homes. The M5KGRIU construction is the only significant change to our environment in these last few years.

How could this major event within our urban environment be omitted when assessing damage causation.

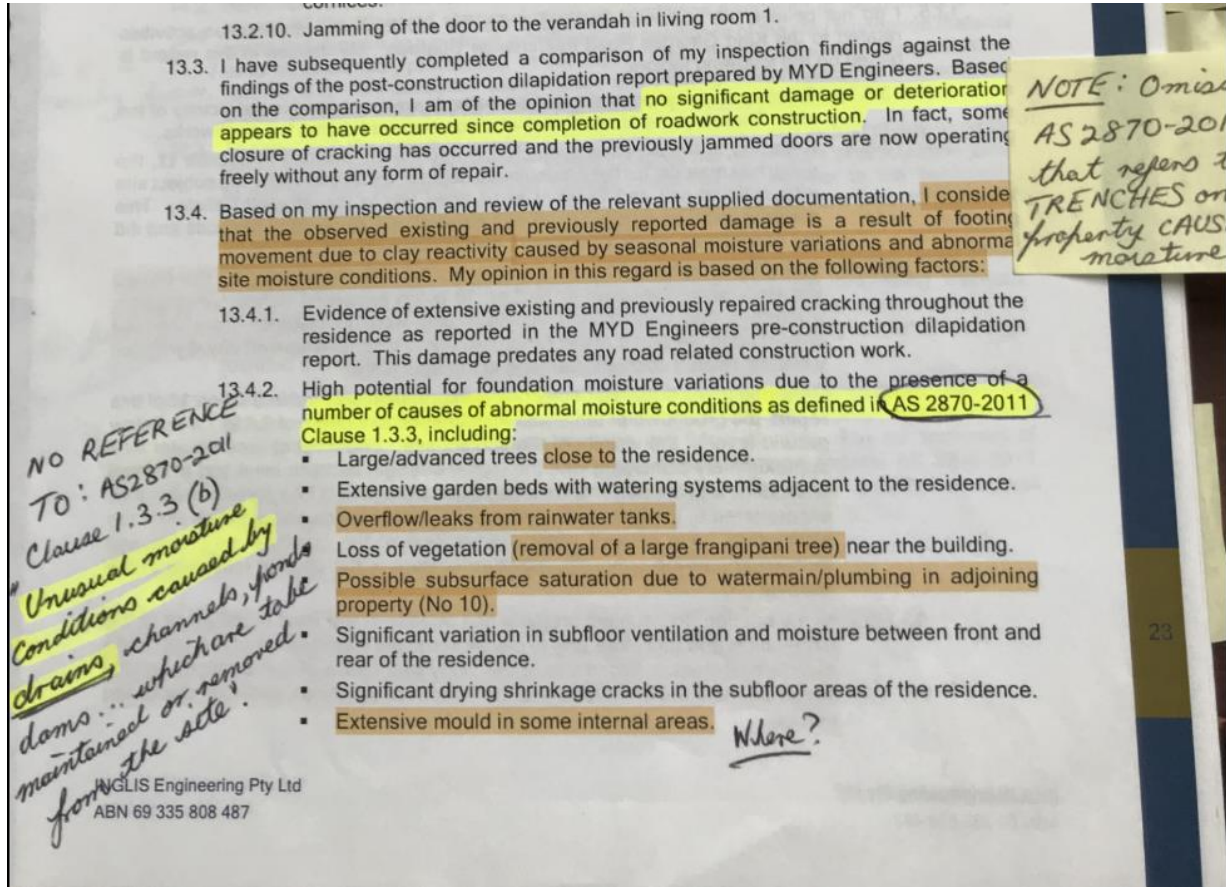


Figure 3 AS2870-2011 Clause 1.3.3 not listing in entirety

2.1.3.2 Example Two – Denial of damage

This is an example of homes significantly deteriorating since construction commenced. Homes that have been in-situ for 80 + years, suddenly experiencing significant internal cracking. Figure 4 is a photo from the (just after construction started) pre-dilapidation report. Figure 5 is a recent photo highlighting the significant change. Figure 6 demonstrates the size of the cracks. Figure 7 is a screenshot of the post dilapidation survey which stated “In our opinion we cannot ascertain if these new and re-occurring defects are a direct consequence of the New M5 construction works as they may be attributed to the continuous settlement and movement that is occurring in the building which has caused the other defects in the residence previously documented”

BEVERLY HILLS NORTH PROGRESS ASSOCIATION



Figure 4 - No 10 front bedroom October 2015 (a few months after construction commenced)



Figure 5 - Recent photo of same room



Figure 6 - Close up demonstrating size of cracks

This report documents a comparison of defects between the original photos of the dilapidation survey and the post dilapidation survey after the course of construction. We have photographed these defects and have attached them in appendix A.

We have compared the defects between the two surveys and we believe in the majority they have not generally changed; however there appears to be minor new defects and re-occurring defects in the internal parts of the building (refer to attached sketch for locations).

In our opinion we cannot ascertain these new and re-occurring defects are a direct consequence of the M5 construction works as they may attributed to the continuous settlement and movement that is occurring throughout the building which has caused the other defects in the residence previously documented. All the defects observed are not of structural significance.

Figure 7 Post dilapidation report "outcome"



Figure 8 Major cracks in No 8 plaster work – alleged possible cause a “dripping garden tap”

2.1.4 Property damage – suggested recommendations:

- That property dilapidation assessments be conducted at a genuine arms-length from WestConnex and their sub-contractors. They should not be conducted by sole operators that are likely to give a favourable outcome for the proponent in exchange for more contracts.
- That where deterioration is noted, or residents are claiming damage, these assessments be subjected to further independent reviews by an experienced independent engineer for completeness and accuracy.
- That original geotechnical and design documents be readily available for residents and their own engineers.
- Where there are damage claims, further geotechnical investigations (conducted or the results assessed by independent party) of the groundwater and soil moisture content be conducted and the results made available to residents and their Engineers.
- That the attitude be changed from the “the resident proving WestConnex construction caused their property damage” to “WestConnex proving beyond reasonable doubt they did not damage adjacent properties”
- Establishing appropriate procedures in place regarding damage claims that treat residents honestly and fairly and promptly deals with complaints instead of the current procedure of denial and stonewalling.
- That there be an in-depth investigation of the RMS / WestConnex culture to determine the root cause of the lack of co-operation and overall poor treatment of residents. An example that comes to mind – “are there bonus incentives for staff for not allowing any property damage claims?”

No family should be left facing the full financial risk of repairing their own properties damaged by WestConnex construction and operations.

2.1.5 Failed urban repair

Refer Appendix B – 20170215 Kingsgrove Urban Design Feedback

Refer Appendix C – 20161101 Does WestConnex keep their promises?

Refer Appendix D – 20180802 WestConnex adds insult to injury in St Peters

WestConnex have a track record of non-delivery of urban repair, witnessed at Beverly Hills, Kingsgrove and now St Peters.¹⁷

Quoting the IW Courier article 02/08/2018 “*WestConnex adds insult to injury in St Peters*” the failure to deliver urban repair envisaged by the EIS artists impressions the original master plan is a “missed opportunity for WestConnex to go some way to make amends for the immense physical and psychological damage the toll road has visited upon the local community”.

Residents can make presentations to local Members, Council, and the Dept of Planning to no avail.

The public needs to be assured that WestConnex and their sub-contractors comply with not only the advertised design, but to meet their stated objectives too. WestConnex and Fulton Hogan (of M5KRRUI Section) not only failed to design reasonable urban repairs, there was a failure of delivery to key elements in Beverly Hills, such as:

- a. Failing to install Perspex noise panels on the entire new section at Coolangatta Rd bridge. Only partial installation occurred, the reason supplied by Rachel E “was to afford visual symmetry from the carriageway for the motorist”. It is also a Breach of DPE planning conditions not to benefit the motorist at the expense of residents. We need these panels to better block off M5 traffic noise. Who cares about the appearance of symmetry for the motorist from the carriageway.
- b. Failure to install the promised community art as a feature wall on Elouera Rd North
- c. Failure to reinstate the critical noise walls within EIS timeframe of 14 weeks. It took 13 months.
- d. Failure to reinstate noise walls at the promised minimum of previous height and continued refusal to provide measurements until the Dept. Planning stepped in. Some sections are over a metre shorter than previous.
- e. Stepped height in noise walls which breaches RMS noise wall design guidelines as it looks cheap
- f. Priority given to the motorists for noise wall colour selection. We are left with the visually divisive noise wall colour of ‘concrete’ that does not recede into the

¹⁷ <https://www.innerwest.nsw.gov.au/news-hot-topics/media/media-releases/westconnex-adds-insult-to-injury-in-st-peters>

background behind plantings. The colour choice is a breach of RMS noise wall design guidelines.

- g. Failing to soften visually divisive noise walls with landscaping set as a priority. WestConnex staff advised residents at Beverly Hills that noise walls will be left predominantly bare “as it is easier for the maintenance crew to inspect a wall bare of foliage”
- h. Failing to maintain landscaping (eg watering) for stipulated 12 months
- i. Installing resident facing transparent noise walls at Beverly Hills. It was alleged it was for cyclist safety but WDA staff were unable to provide the guidelines to support this allegation. We later found it was to “reduce the appearance of bulk for the motorist” leaving residents with a view of 10 lanes of motorway and not permitted to landscape to hide this eyesore.

The environmental and human impact of such a massive footprint of the WestConnex tollroad, thrust through densely populated areas, was never an authentic consideration.

The RMS and Westconnex did not consider the cumulative impacts of road construction of the legacy M5 and the New M5 on suburbs like Beverly Hills / Kingsgrove, Arncliffe, Bexley North and the Strathfield community in the EIS. They then justify even further destruction of our suburbs as merely that our environment becomes ‘an already disturbed LGA’. To quote one of many examples, the EIS discusses the Motorway Operations Complex in the following way:

“The MOC2 shares a boundary with the M5 Linear Park. Although this narrow parkland is used for public recreation, the land is zoned SP2 Infrastructure and is closely associated with the M5 East Motorway, having been created as a legacy project for the construction of the motorway. The change within the MOC2 site (from public open space to the MOC2) does constitute a significant character change from the existing condition, but as the zoned SP2 Infrastructure, this change is (therefore) acceptable within the anticipated character of the site considering the current zoning. Using other areas within the M5 Linear Park as a bench mark, the narrowed pedestrian and cycle access around the edge of the MOC2 would not be out of character for this linear park.”

Yes, there were instances where the amenity of the pathway was a low standard, such as behind Gareema Circuit heading to Kingsgrove Road. Although these visually divisive sections did exist, the fact that they existed shouldn’t then be used as the benchmark of ‘the character’ that provides the excuse to degrade the rest of our walkway and urban environment to the same low standard.¹⁸

I would like the Committee to investigate:

- How does WestConnex operate outside the Conditions of Approval with impunity?
- Why isn’t the Department of Planning acting on this?

¹⁸ <https://m5eis.org/2016/01/15/beverly-hills-resident-explains-why-westconnex-impacts-on-south-west-sydney-are-unreasonable/#more-1796>

2.1.6 Failed objectives of Urban Repair

WestConnex Framework for design – objectives or merely buzzwords?. Who and when will WestConnex be held to account for these claims, as the Department of Planning and Environment appear powerless:

- leading edge environmental responsiveness
- connectivity and legibility
- place making
- livability and urban renewal
- memorable identity and a safe, pleasant experience
- a new quality benchmark.

Our urban environment is dominated by the visual impact of noise walls, the audio impact of high traffic noise, and our health and safety at risk from more pollution and higher volumes of traffic. Although there is always scope to make it better for residents, there seems to be either an element of malice or designers that are completely oblivious that a motorway is an eyesore. Either way, its not acceptable.

I hope that the recommendations from the Committee will include holding Agencies to account for breach of urban repair design and/or promises and that human and environmental impact must be given equal weight as the alleged “economic benefits” for project selection.

2.1.7 Failure to address complaints.

I’m sure the Committee will be receiving many submissions relating to complaints being ignored.

WestConnex aim to reduce complaints to nil. Not by acting and resolving issues, but by inaction hoping residents would give up. WestConnex rely on complaint fatigue.

Here is how one complaint at 3.30am on 3 February 2016 was treated. The key point was the mismanagement of failing to sign post the closure of the M5 resulting in 20 minutes of continuous horn blasting by multiple trucks waking a suburb. The below log inserted by Christine Keynes of Fulton Hogan did not represent the complaint. I later lodged a formal complaint to the DPE regarding false and misleading notification to their department by Fulton Hogan and the failure of WestConnex in having their 24 / 7 complaints hotline in place.

February 2016 **3.30 AM**

A noise complaint was received on the morning of the 3rd of February from a resident complaining about a horn sounding on the M5 motorway on ramp, east of the King Georges Rd Intersection. After investigations and discussions with the night crew it was discovered a motorist sounded the horn repetitively for a period of approximately 5 minutes when irritated by the short term lane closure required for the works. The ground crew tried to explain the delay to the driver who continued to sound his horn at the workers. The resident was called on the same day of the complaint to discuss what had happened and to confirm that the horn was not sounded by a Fulton Hogan worker.

Followed by a small
convoy of trucks
blasting their horns
for a continuous
period of 20
minutes

20
mins

The complaint was about traffic mismanagement, and not properly
sign posting the road closure

Figure 9 - Falsified resident complaint

Although the Conditions were set far too low, the Department of Planning and Environment nevertheless seem incapable to enforce WestConnex and their contractors to abide with noise mitigation measures. It's reasonable to conclude that WestConnex consider themselves above the law.

The community can be very tolerant of the impacts of infrastructure construction where it's recognised that it's the public benefits. Witness the success of the Dulwich Hill ¹⁹and Gold Coast Light Rail ²⁰. These projects aimed to relieve congestion, but its footprint in both construction and operation are minimal in comparison to a toll road project.

The long term psychological impacts of both construction and operations for WestConnex are heightened where the public is very aware that the key beneficiaries of the project are toll-road and construction companies and that the public will be paying for decades.

Members of the Beverly Hills North Progress Association are willing to speak at the Inquiry to further elaborate on the issues raised in this document if invited.

¹⁹ <https://www.dailytelegraph.com.au/newslocal/inner-west/state-government-announces-another-95-weekly-services-on-crowded-inner-west-light-rail-line/news-story/8a09044aeed9b31a23c94a435d75737b>

²⁰ <https://www.danielbowen.com/2017/01/28/gold-coast-light-rail/>