

INQUIRY INTO IMPACT OF THE ROZELLE INTERCHANGE

Organisation: Community Environmental Monitoring

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Submission to the Parliamentary Inquiry into the Impacts of the Rozelle Interchange

Community Environmental Monitoring

March, 2024

This submission was prepared on Gadigal lands. We recognise their continuing connection to land, waters, ecosystems and culture, and their long fight against ecological and cultural destruction. We pay our respect to Elders past and present.

Introduction

[Community Environment Monitoring](#) is a community-based group of scientists, journalists and community advocates who work to put rigorous data and knowledge about pollution in the hands of impacted communities, to hold polluters accountable and fight for healthy air and ecosystems.

This submission contains only part of the information that our group holds on the relevant issues. Should the Committee wish, CEM would welcome the opportunity to supply more information or answer questions about the points raised in the submission.

Some of our members were also involved in highlighting problems with the WestConnex project before CEM was formed and made or helped write submissions to the previous parliamentary Inquiry into the impacts of Westconnex. This submission draws on their earlier research work and submissions.

The Rozelle Interchange is part of the Westconnex project that was announced in 2012. The planning, decision making and impacts of the Rozelle Interchange are a reflection of underlying problems with the whole project. If these underlying problems are analysed and taken into account in considering its terms of reference, the committee will be able to produce a meaningful report, which if heeded by the government will enable better planning of transport infrastructure and a positive result for the community.

Is WestConnex a solution to traffic congestion?

WestConnex was supposed to provide a solution to traffic congestion. It has not delivered on that goal. Although the tollways do enable people who can afford to pay tolls to reach their destination more quickly through tunnels, many people - as predicted - avoid toll roads leaving some routes and local communities more congested than before the project began.

Rozelle provides a good example of this but it is not the only one. For example, a preliminary and limited review of the M8 revealed that traffic congestion at busy Stoney Road Intersections in the southern suburbs has gotten worse since the M8 opened. At other intersections, congestion remains, but is not considered a problem unless it gets significantly worse after tollways open. Intersections with a poor level of service that do not get significantly worse are not considered to be in need of remediation. Public money is not being spent to attempt to fix these problems, meaning that negative impacts and associated costs continue to be carried by the public while the private toll road operators make profits.

The underlying problem is that warnings from independent transport experts were swept aside because the decision to proceed with WestConnex was a political decision taken behind closed doors in 2012. Traffic reviews both before and after toll road construction are carried out by interests with a stake in the tollway system rather than by independent experts.

Parks as PR

Parks were always part of the Westconnex planning process. There are two major WestConnex Interchanges: one in St Peters where the M8 joins the M4 and one in Rozelle. Both have had a huge impact on their local communities, during and after construction. Both were known by the NSW government to be contaminated sites.

In both areas, Westconnex made much of the promise of open space to compensate for years of distressing disruption and negative ongoing impacts, such as ventilation stacks, widened busy roads and removal of hundreds of trees, small parks or in the case of St Peters, sections of Sydney Park. The promise of these parks was used by both politicians and Westconnex as part of their public relations strategy to sell the project to an unhappy public.

For example, in 2017 the Premier Gladys Berejiklian said in response to shocking impacts of the M8 project that, "When this project has finished, not only will you have less traffic on local roads, because traffic will be underground, but you're also going to be given open space you didn't have before. Former industrial sites, former landfill sites are going to be converted into beautiful green parks for the community to use." Even at this stage, the park was dubbed the '[world's worst park](#)'.

The planned St Peters park was being built on sites that the government knew were highly contaminated and on a landfill which had never been properly closed due to the rush to begin construction of the M8. Nevertheless, Transport for NSW went ahead and all but opened the park in 2020 when the M8 opened. They planned to hand ownership and maintenance of the site to the Inner West Council, which was ill-equipped to handle it. Landslips occurred in wet weather. It should be noted by this Committee that the contamination at St Peters was only made public by an independent scientist Charlie Pierce (now the Research Director of CEM), journalists and Councillors. Transport for NSW and the NSW EPA have never been transparent about the situation at St Peters and have failed to answer reasonable questions from Pierce and others.

The experience at St Peters should have led the NSW Government and Transport for NSW to take extreme care with the Rozelle Parkland. Environmental problems at St Peters had been reported prominently in the SMH. The Rozelle site was also known to be contaminated and not suitable without major remediation for such uses as residential, schools or childcare.

The NSW government promised two parks at the St Peters Interchange. One was supposed to open in 2020, the other in 2023. Eight years after they were promised and four years after the first of two parks was due to be open, no public recreational space has been provided to the local community at St Peters to compensate for the impacts of WestConnex.

Parks were used as a reason to proceed with projects. The failure to either deliver the parks, or deliver them with asbestos pollution, is indicative of a cavalier attitude to public amenity.

Earlier this year, CEM issued a report that focuses on environmental pollution and regulatory failures at St Peters WestConnex Interchange.

CEM's report, which is included as the last section of this submission, shows that problems with the Rozelle Interchange cannot be considered in isolation. The regulatory failures at St Peters and the relationship between Transport for NSW and RMS are highly relevant to the fiasco at Rozelle.

WestConnex's early history of poor handling of asbestos is also covered in the report. More details can also be found in this [New Matilda story](#) by Wendy Bacon and Cathy Peters that was published in 2015. (See further on asbestos below.)

CEM's report is relevant to the Rozelle Interchange Inquiry terms of reference. It reveals a litany of pollution complaints, and monitoring and regulatory failures. It demonstrates that government agencies have failed to respond adequately or ignored complaints from the community and local government. It also reminds the public that the poor management of asbestos by WestConnex contractors goes back a decade.

While each contaminated site demands its own investigation and action, it is equally as important for the community and all levels of government to focus on systemic failures. A lack of transparency that inhibits the capacity of community and local government to respond to environmental issues.

More transparency is needed about construction problems with WestConnex and impacts on communities. Confidentiality Agreements need to be abolished.

This is relevant to Terms of Reference J, K and L.

There was and is a lack of transparency around the development of WestConnex including the Rozelle Interchange. This lack of transparency around Stage 3 reflected a well established pattern.

CEM's investigation into documents submitted to the EPA reveal that Transport for NSW is currently undertaking remediation works to construction undertaken by WestConnex's private CPB contractors at the St Peters Interchange. We understand that there were cracks in a wall. This has further delayed the implementation of environmental pollution controls and monitoring programs essential for the public safety of the St Peters site.

To CEM's knowledge, there has been no public announcement of these works. They raise questions about whether there are other remediation works linked to the Westconnex projects.

What caused the need for these works? What are they costing? Are problems such as those occurring at Rozelle simply more visible and public than other impacts? Given the level of confidentiality, it is difficult to answer this question.

Two weeks ago a sinkhole appeared in the M6 construction in an area where tunnelling was happening close to the surface. CEM is aware that during tunnelling that was close to the surface in Crown Street, St Peters, major cracks occurred in homes causing at least one ceiling to collapse requiring a strong steel pillar to be inserted. Ultimately WestConnex did take responsibility for the damage. It was remediated but only on condition that the matter was kept confidential. We are also aware that litigation is still occurring over major damage allegedly caused by the first stage of WestConnex, the King Georges Road intersection project. Even for the most minor forms of compensation for impacts, such as the supply of headphones, the project staff required residents to sign agreements to keep the matter silent.

Are Councils sufficiently resourced to play a role of major stakeholders?

Councils have more access to information than the general public.

Under approval conditions, Councils get access to plans, audits and other documents that the general public do not see. They can provide feedback to some draft documents.

Given prior concerns about local traffic congestion after the interchange opened that were clearly laid out in Council and public submissions and acknowledged by RMS in its Stage 3 *Response to Submissions* report, the Inner West Council should have been fully aware of the impending potential traffic disaster.

One might have expected that the Inner West Council would have been more proactive in warning the public and raising questions about what RMS planned to do about the traffic problems. Under the Instrument of Approval conditions, it should have received draft traffic plans that were supposed to provide insight into potential traffic problems that could be created by the Interchange. Did Council receive these and how much time did it have to respond and advise on proposed plans?

The same questions apply to the contamination issues. Rozelle Parklands was known to be contaminated, quite apart from any additional problems caused by adding material contaminated with asbestos to the site. For this reason, CPB Contractors and John Holland were required to hire a consultant to conduct and audit and prepare a management plan for this site. They chose Epic Environment Pty Ltd. Epic's audit report was not finalised until November 23, 2023. A copy of it can be found [here](#). There was a lot of information in this report including about low level risks to recreational users. Some of the details were published by the SMH in [a report](#) on January 24, 2024.

Inner West Council should have been supplied with a copy of the report. Did they have time to read it and consider the implications for the Council and the public? Given heavy maintenance

requirements, how sure could they be that these could be met? Was the Council given the time to respond? If the answers to these questions are not in the Inner West Council submission to this Inquiry, they should be asked to respond to these questions. Should Councils dealing with major infrastructure projects be funded to hire additional expertise? After all, they are classed as significant stakeholders and have much more access and potential power than community groups and individuals.

Experience with the St Peters parks suggests that the Inner West Council struggles to keep abreast of the issues. Although some information about the contamination of the St Peters site was available on the EPA and Transport for NSW sites, an ordinary member of the public would find this information hard to find. When environmental scientist and CEM's research director Charlie Pierce supplied this information to the Council and enabled it to be publicised, Independent Councillor Pauline Lockie was appalled at what she saw as Council being "kept in the dark."

When she was told her about these reports and monitoring inadequacies Councillor Lockie was quoted as saying, "I'm shocked to know now that Transport for NSW knew the site was in need of serious remediation even as they were pushing Council to take responsibility for managing it. I had no idea that the NSW Environmental Protection Authority had already ordered a thorough risk assessment, which was clearly going to take a lot of time and provide evidence about the complex steps that will need to be taken to remediate the site. I'm appalled we were kept in the dark on a matter of public health."

Since this time, Council has passed three motions which led to letters to relevant Transport and Environment Ministers requesting more information and more adequate consultation. Only one response to these letters was ever received. This was from previous Minister for the Environment James Griffin. It did not answer Council's questions. A fresh motion was passed in November for Council to write more letters to the government. A letter was finally sent on January 31 this year. Six weeks later, no acknowledgment or answer has been received from the government. This raises further questions about whether the Inner West Council is sufficiently resourced to deal with these issues. Even more importantly it raises questions about the lack of responsiveness of the NSW government to Council's concerns over several years.

Long standing asbestos problems with Westconnex

The asbestos found at Rozelle came as no surprise to those acquainted with the handling of asbestos in Sydney and the history of Westconnex.

The issues that have led to the asbestos problem at the Rozelle Interchange are much deeper and longstanding than much of the reporting has revealed. An exception has been the Guardian's environmental reporting team led by specialist report Lisa Cox. See [this article](#) and many other articles. Given the important role of the EPA in ensuring compliance on WestConnex

sites it is not possible to simply relegate these issues to the 'environmental' basket. The problems go to the centre of the social and health impacts of transport projects.

Even before the WestConnex M8 project was approved in September 2016, residents and environmental lawyers raised concerns about unsafe removal of contaminated waste including asbestos from the site. Residents also laid many complaints with the EPA including about excessive dust and chemical fumes released during demolition. In October 2015, *New Matilda* published an investigation by Wendy Bacon and Cathy Peters into the handling of asbestos during its removal from the site. They reported that thousands of trucks laden with asbestos waste had been taken to the Transpacific landfill at Erskine Park in Western Sydney. A whistleblower truck driver who did not want to be named for fear of losing work had told one of the journalists that he had resigned his truckdriving contract because he was concerned about the lack of controls at the landfill site. Although the company website stated that it did not take asbestos, the company was licenced to accept asbestos contaminated soil. An email to concerned Western Sydney residents confirmed that the site was accepting asbestos materials from the St Peters site. The company assured the residents that it was correctly handling asbestos.

In 2016, ABC investigative reporter Lorna Knowles produced a [major report](#) on asbestos and WestConnex based on the evidence of a whistleblower. This story disappeared after defamation threats which are published on the ABC website. However a search of the EPA website reveals that despite the denials at the time, piles of asbestos were found at the company site only months later. Although this information is technically publicly available, it was never revealed to the public by the EPA or the media. How much contaminated asbestos waste ended up being delivered to WestConnex sites subsequently?

The Inquiry needs to explore further the delivery of processed waste to the Rozelle site. If the testing by CPB Contractors was not compliant, as this [report](#) suggests, no certificate can be taken at face value. The Guardian has revealed pervasive and serious issues with enforcing the ban on asbestos material. This [report](#) suggests that asbestos contaminated material may have also been delivered from the Bingo site at Eastern Creek. This site has had ongoing issues with asbestos contamination going back to at least 2018 when asbestos was found in the open during an audit by EPA inspectors.

In 2021, NSW AWU officials reported seeing asbestos at the recycling plant at the Bingo Erskine Park facility. This company is involved in the supply of mulch and other materials for road construction. There needs to be more investigation of the links between Bingo and the WestConnex asbestos issues. What was this final result of the investigation of this serious [report](#).

At the time when CPB contractors were selected to build the Rozelle Interchange, it had [recently been convicted of a serious environmental offence at St Peters](#). During proceedings in the NSW Land and Environment Court, the company admitted that it had failed to hire a suitable environmental consultant to manage the site. What measures were taken to ensure that this

lapse in compliance with Planning conditions was not repeated in other parts of the WestConnex project?

This [additional report on the CPB offences](#) outlines more details about CPB Contractors' previous offences and also the lack of information and planning detail available at the time when the then Minister for Planning approved the WestConnex Stage 3 not long after CPB had pleaded guilty.

Planning, design and development of the Rozelle Interchange project (Term of Reference D)

The fact that there have been problems with the Rozelle Interchange should be no surprise to anyone, and indeed it will be no surprise if other problems develop in the future. From 2017 onwards, the planning of Stage 3 of WestConnex was seen to be rushed and lacking in detail. NSW EPA concerns were overridden.

In 2017, the Australian Financial Review [reported](#) that investors were concerned about the lack of detail.

Thousands of submissions including from Councils and advice from the NSW Environmental Protection Authority warned against going ahead with the project without further investigation and advice. When RMS's Response to Submissions was published in 2018, it was clear that the RMS was not heeding this advice. The EIS had been submitted before anything more than a concept design had been produced for the Rozelle Interchange.

Despite substantial changes to the concept later, no new EIS was done. As was pointed out by critics at that time, this risky approach is possible under the State Significant Planning Process. A further major change of an overpass required no additional EIS.

The feeling that consultation processes are merely procedural rather than meaningful has bred deep cynicism in the local community. At the time North West Rozelle resident told City Hub, "I don't understand how, after a thorough EIS and approval process ... such a significant change in design isn't triggering a complete new approval and a halt to construction. The complete lack of detail in the proposed design changes is worrying as we don't know what the lines and blobs shown in the map really are. We don't know how deep these items are or how big they actually are." As a resident who will be living near a tunnel portal, stack and major construction, was hoping to get answers at a small information session. Anyone who lives further than 50 metres from the project was not invited to one of these sessions.

Even if the company had a perfect record of safety, proceeding with the project without a regulatory assessment of its detailed impacts is risky—and CPB Contractors' project record showed problems. The previous NSW Parliamentary Committee into the Impacts of WestConnex received a huge amount of evidence that the health of residents living near

WestConnex M4 East and New M5 projects had been damaged by unacceptable noise, dust and stress. Complaints procedures repeatedly failed, leaving communities feeling that they were treated with contempt. The committee acknowledged the “severe and multiple health impacts” including “constant noise and pollution from construction and endless night works have led to mental health issues for residents as well as disrupting daily life which has had profound consequences.”

NSW EPA’s lack of power to stop work on Critical State Significant sites such as WestConnex

On a normal worksite, the EPA can stop work. However, a little known change to the NSW Planning Act in 2012 removed the EPA’s powers to stop work on Critical State Significant Infrastructure sites such as WestConnex. In its case against CPB in the NSW Land and Environment Court, the EPA claimed that CPB knew that they could cover the leachate but chose not to do so because this would have meant stopping excavation until the water levels caused by the rain had dropped. This shows how the pressures for completion can mean that impacts or risks are not sufficiently explored in case delays have financial consequences.

During the CPB odours matter, the WestConnex Action Group wrote to the NSW Environment Minister, Gabrielle Upton MP, and the Chair & CEO of the EPA, Barry Buffier AM, denouncing the fines as completely inadequate sanctions, and calling for the issue of the ultimate sanction under the EPO Act, a stop work order, or Prohibition Notice. Last week Mr Buffier responded:

“ a Prohibition Notice is not available in this instance, as the project has been declared as Critical State Infrastructure and under section 115ZG (3) (d) of Environment Planning and Assessment Act 1979 (EP&A Act) and is exempt from this type of POE [Act] regulatory tool.”

This part of the EP&A Act (enacted by the NSW Govt principally to take WestCONnex outside normal planning laws and Council approvals) stops the EPA from issuing orders or notices “so as to prevent or interfere with the carrying out of approved Critical State Significant Infrastructure”. In other words, while the EPA can issue Prevention Notices, Clean Up Notices, licence variations and fines, it cannot require WestConnex to stop work if these are breached.

While the recent changes announced by the NSW Environment Minister Penny Sharpe which would increase fines are welcome, these changes will be of little assistance to communities, if the EPA continues being reluctant to prosecute and while it has no powers to stop work on some major projects.

Inadequate community consultation

Despite a lot of money being spent on public relations staff, inadequate community consultation has been a running sore with WestConnex since 2013.

Thousands of residents were left feeling sidelined after submissions were ignored during each stage of WestConnex. Formal Community Consultation Committees required by conditions are supposed to give the community a voice during the construction process. Some of these committees have functioned better than others. However, CEM understands that the Committee for Stage 3 was cancelled at some stage with little warning. This meant that the considerable knowledge and expertise of some members of that committee was lost. This matter should be investigated by this Inquiry.

Issues related to Traffic congestion

While the ultimate traffic disaster at Rozelle may have been even worse than anticipated, the problem itself should have been no surprise.

It was raised in thousands of submissions during the EIS process including those by the City of Sydney and the Inner West Council

In its Stage 3 Response to Submissions report, the RMS acknowledged that the Anzac Bridge would be over-capacity. It was already making plans for more roadworks by around 2031. Road projects always generate more road projects in Sydney, despite the fact that they were phased out in many of the world's global cities decades ago.

There is a huge amount of documentation around each Stage of WestConnex. While this is no doubt necessary, important information is often buried in technical reports. For example in 2018, Bitzios was contracted by Planning NSW to conduct [a peer review](#) of the traffic modelling. Much of this report deals with a description of the project and construction impacts but on page 28 includes these words in relation to the area around the Rozelle Interchange:

The 2023 AM peak modelling results show that, soon after opening, queues will extend back across the Anzac Bridge and into the Rozelle Interchange. Also, due to the faster and higher volume arrival rates from the M4-M5 Link components of the interchange, inbound City West Link traffic will also be affected. The same 'traffic confluence' issue is realised inbound in the PM peak although due to the higher outbound volume, the 'traffic dispersion' benefits of the M4-M5 Link apply to a larger proportion of the demand and therefore introduce more benefits than in the AM peak. These issues remain evident in the 2033 modelling essentially due to the 'capping' of the volume of traffic which can enter and pass through the network, given the constraints outside of the modelled area. Whilst no queue length plots have been provided in the EIS, it is conceivable that these queues could generate secondary impacts to non-radial movements such as between the Iron Cove Link and the M4-M5 Link to the south of the interchange. The intersection LoS results presented in Table 10-19 of the Technical Working

Paper: Traffic and Transport need to be interpreted with caution given the highly-saturated nature of the microsimulation model network from which the average intersection delay values were derived. Even minor changes in assumed signal phasing and timing at some intersections may have significant consequential downstream effects. The travel time comparisons reinforce the consequences of essentially ‘flooding’ the Anzac Bridge with traffic in the AM peak with queues filtering back and impacting the Rozelle Interchange and consequently Victoria Road and the Iron Cove Link inbound in 2023 and in 2033. Consistent with the overall network performance statistics, travel time benefits of the project are evident in the PM peak period for all routes except for City West Link. Queue length screenshots confirm these operating conditions with the project in 2023. In the AM peak in particular, queues extend from the Anzac Bridge back into the interchange ramps and the ends of the model near Victoria Road. In effect, these queues could, by 2033, be expected to block trips from the Iron Cove bridge intending to access the south via the M4-M45 link. Functionally, one of the key purposes of WestConnex was to connect origins and destinations within the Victoria Road, the M4 and the M5 corridors and the queueing back potentially undermines some of this functionality.

On page 23, this section concludes with the words:

These fundamental constraints suggest further consideration of how to manage these congestion pinch point issues so as to not undermine the investment made in the Rozelle Interchange works. The EIS identified a range of investigations to be undertaken to manage these issues and the scope of these investigations appears appropriate. However, without any commitment to works or management measures which can be modelled and assessed at this stage it is difficult to foresee that the measures under investigation would alter the fundamental constraints.

On St Peters Interchange, the Peer Review stated this:

With the Project *By 2033, the network is so overly saturated that the benefits of the project are small in absolute terms with many intersections still operating over capacity in both peak hours. The PM peak is worsened compared to without the project and this is expected with the M4-M5 Link essentially feeding more traffic into an area that is already heavily congested, particularly in the PM peak hour where airport demands and outbound peak traffic demands co-inside. The simulation modelling queue length outputs for the project case show no visually significant reduction in queues compared to the do minimum case. The network is so heavily saturated that it is very difficult to draw any firm conclusions regarding the relative impacts and benefits of the project in this area.*

The Bitzios peer review concluding with recommendations including:

- *The EIS could have considered augmenting the network-wide travel time benefits calculations with the microsimulation modelling results for the areas in the WRTM covered by the microsimulation models;*

- *Further evidence could have been provided regarding actual and modelled intersection traffic volumes and delay comparisons for each peak period to verify the suitability of the calibrated/validated models as the basis for future year assessments;*
- *Further information could have been provided in the EIS on how to interpret 2033 traffic volumes from the WRTM as idealised 'demand' flows, not flows that would, in all probability, actually be realised;*
- *The EIS could have included statistics on public transport person trips, public transport person-kilometres travelled and public transport person-hours travelled with and without the project for each modelled scenario to allow for interpretation of the impacts on public transport as required under SEARs item 2(d);*
- *The M4-M5 Link mid-block LoS assessment for the Anzac Bridge interface point with and without the project in 2033 could have been reported;*
- *Insufficient details of 'pinch point' effects and traffic queuing patterns without and with the project were provided in the EIS to understand key traffic signal phasing assumptions and any consequential impacts of traffic capacity limitations on queue propagation;*
- *No public transport modal share impacts on the rail system or bus system, or light rail due to the project have been documented in the EIS;*
- *No tangible measures have been offered to manage the impacts generated at the Wattle Street/Parramatta Road/Frederick Street intersection or the queue-back impacts from the Anzac Bridge into the proposed Rozelle interchange;*

How did NSW Planning respond to this Peer Review? What work was the RMS and its traffic modellers required to do? If work was required, what were the findings? Were the public informed?

While CEM claims no expertise in traffic assessment, this Inquiry needs to investigate the sources and previous knowledge of the traffic issues and the adequacy of responses to them.

The traffic congestion problems were also apparent in Traffic Plans that were required under the conditions before the opening of the Rozelle Interchange. These plans should be examined. Who received them and what feedback was given? Did Councils provide feedback during the development of plans? The warnings given to the public last year focussed on drivers' need to anticipate the new driving environment. The style and nature of these warning hid the lack of planning and knowledge that traffic congestion would get worse, not better.

Air quality costs

There is no doubt that there are costs as well as some benefits of the Rozelle Interchange. These cost include toll costs to drivers, the cost of public compensation for tolls, the cost to production of local traffic congestion and other social and health costs of road congestion.

These health costs include impacts on local air quality from roadside pollution to residents including school children and workers. Research has demonstrated that there are [no safe levels of fine particulate pollution](#) and each additional unit of PM 2.5 carries health risks. Roadside real time monitoring using low cost air monitors of the area around the Rozelle Interchange and other busy intersections should be conducted. The increased risks to air quality can only add to community concerns about the ventilation stacks in Rozelle.

Lessons learned from previous Inquiry into the Impacts of Westconnex

The last Inquiry into the impacts of Westconnex recommended a different approach to planning of major transport projects. This approach would involve the use of public hearings and more use of independent transport experts, rather than decision-making being left to those who have a stake in the continued reliance on roads.

There were also recommendations about more truthful costing of transport projects like Westconnex. More of the impacts should be costed into projects from the beginning rather than being offloaded to the public.

These recommendations should be revisited in this Inquiry and consideration given to whether any steps have been taken to implement them and if not, what obstacles lie in the path of these much needed reforms.

When the earlier Impacts of Westconnex report was published, the local paper *City Hub* [asked](#):

The report leaves a huge question for the people of NSW – what system of inadequate governance allows such a cascade of problems to pervade such a significant project on which billions of public money have been spent? What forces led to independent experts, Councils and the community being so sidelined in planning decisions that will fundamentally shape our city?

But privatisation is more than the sale of assets – it's also privatisation of decision-making. It began when Infrastructure NSW, led by ex-Liberal premier Nick Greiner and dominated by private interests, pushed WestConnex onto the NSW Master Transport Plan in 2012. It continued when companies involved with failed tollways steered WestConnex planning and drove its Environmental Assessment, reducing the function of government to a tick box exercise; and when construction companies were awarded contracts with only a concept in place. It also involves the removal of citizens' capacity to influence the planning agenda and their powerlessness in the face of corporate giants, who engage an army of community engagement officers, who block rather than resolve complaints. It's allowing WestConnex contractors to select and control 'independent' air monitoring companies that data from the public.

Six years later, these questions remain.

Part 2 of Submission

Part Two of the Community Environment Monitoring submission is our recent report on the St Peters Interchange, which follows immediately below.



St Peters Interchange: A litany of unsafe and illegal contamination failures

A report on the regulation of environmental issues
at St Peters Interchange 2014-2024

February 2024



We acknowledge the Traditional Custodians of Country, in particular the Gadigal, Wangal, Dharug and Dharawal on whose lands we live and work.

We recognise their continuing connection to land, waters, ecosystems and culture, and their long fight against ecological and cultural destruction.

We pay our respect to Elders past and present.

This always was and always will be, Aboriginal Land.

Preface

This Community Environment Monitoring report focuses on environmental pollution and regulatory failures at St Peters WestConnex Interchange. It is launched just as a NSW Parliamentary Inquiry [has been established](#) that will investigate the impact of the Rozelle WestConnex interchange on the Inner West community. The committee will inquire into the circumstances in which the discovery of asbestos on the site led to the closing of a public park at the interchange and the response of government agencies and contractors. Its terms of reference also include investigating how NSW planning, resource allocation and public communication systems contributed to traffic chaos that followed the opening of the Interchange. The NSW Greens spokesperson for Transport Cate Faehrmann, who moved to set up the Inquiry, said, “People who live near the interchange are far worse off than before it opened. After years of construction noise and roadworks, this is unconscionable for the local community to now have to experience this.”

Since bonded asbestos was found on the Rozelle Interchange, the Guardian has [published an investigation](#) which showed how a potentially more dangerous type of soil contaminated with asbestos has been used in developments across NSW, despite the NSW EPA knowing about the risks for more than ten years. This week, asbestos [was also found in mulch](#) at a primary school in Western Sydney.

Our report is relevant to the Rozelle Interchange Inquiry terms of reference. It reminds the public that four years after the first of two parks was due to be delivered at St Peters WestConnex interchange, the site remains contaminated and closed. It reveals a litany of pollution complaints, and monitoring and regulatory failures. It demonstrates that government

agencies have failed to respond adequately or ignored complaints from the community and local government. It also reminds the public that the poor management of asbestos by WestConnex contractors goes back a decade.

While each contaminated site demands its own investigation and action, it is equally as important for the community and all levels of government to focus on systemic failures. In addition to exposing systemic failures, this report highlights the lack of transparency that inhibits the capacity of community and local government to respond to environmental issues. As a result, NSW's planning system and environmental regulation continues to fail communities.

Community Environmental Monitoring

Gadigal Country, February 2, 2024

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About Community Environmental Monitoring

Community Environmental Monitoring (CEM) works to put rigorous data and knowledge about pollution in the hands of impacted communities, to hold polluters accountable and fight for healthy air and ecosystems.

Communities across Australia have frequently been let down by governments and companies when it comes to monitoring and responding to pollution risks, with serious consequences for the health of people and ecosystems. Accountability and rigour in the management of pollution depends on the strong demands and tireless attention of impacted communities. We believe that all local communities are made up of people with a wide range of knowledge, skills and creativity that can be used to investigate pollution and stand up for better outcomes.

CEM is a grassroots association of activist makers, scientists, journalists, academics, artists, designers and much more, brought together by our refusal to accept harmful government and industrial practices polluting the places where we live. Our team come from a range of backgrounds including activism, science, data analysis, art and environmental journalism.

We are an Incorporated association in New South Wales under the Associations Incorporation Act 2009, registered June 2020 (INC2000633).

Learn more about our work at pollutionwatch.org.au.

Acronyms

CEM	Community Environmental Monitoring See pollutionwatch.org.au
CLM Act	Contaminated Land Management Act 1997 See epa.nsw.gov.au/licensing-and-regulation/legislation-and-compliance
EIS	Environmental impact statement
EPA	NSW Environmental Protection Agency See epa.nsw.gov.au
HGGRA	Hazardous Ground Gases Risk Assessment
IWC	Inner West Council
NSW	New South Wales
POEO Act	Protection of the Environment Operations Act 1997 See epa.nsw.gov.au/licensing-and-regulation/legislation-and-compliance
RHGGRA	Revised Hazardous Ground Gasses Risk Assessment
SMH	Sydney Morning Herald

Executive summary

- Eight years after they were promised and four years after the first of two parks was due to be open, no public recreational space has been provided to the local community at St Peters to compensate for the impacts of WestConnex.
- Transport for NSW has failed to comply with NSW Environmental Protection Authority (EPA) licence requirements to publish a full set of its environmental monitoring results since 2020. Despite this, the EPA has taken no compliance action.
- Environmental scientist and Community Environment Monitoring Research Coordinator Charlie Pierce has identified serious flaws in Transport for NSW monitoring. Neither Transport for NSW, which is responsible for the St Peters Interchange site, nor the NSW EPA have responded to his concerns.
- A government department's failure to comply with environmental regulations and licence requirements is a matter of serious public concern.
- In 2021, 2022 and late 2023, the Inner West Council (IWC) passed three motions expressing concern and requiring information about contamination at St Peters Interchange site. The Minister for Transport in the then Liberal-National Coalition government failed to provide a response to letters in 2021 and 2022. The Minister for Environment did not reply in 2021 and provided a misleading response in 2022. The IWC is waiting for a response from Premier Chris Minns and relevant NSW Labor Ministers Penny Sharpe and Jo Haylen.

- Transport for NSW attempted to hand over sites with a legacy of contamination issues to Councils which do not regard them as suitable public recreation assets and do not have the resources to maintain them.
- The EPA needs to provide more public access to environmental reports. Unnecessary secrecy favouring industry players impedes the community's ability to have well-informed input into the management of the environment.
- The EPA and Transport for NSW have failed to deal in a responsible way with complaints and information supplied by a community member with specialist expertise.
- These failures at St Peters are part of a broader pattern of failures in environmental regulation and protection in relation to contaminants, including asbestos, at Rozelle Interchange and other parts of Sydney. These failures point to a need to better resource the EPA's capacity to protect the environment and empower it to take action.
- CEM's investigation has revealed that Transport for NSW is currently undertaking remediation works to construction undertaken by WestConnex's private contractors at the St Peters Interchange. This has further delayed the implementation of environmental pollution controls and monitoring programs essential for the public safety of the site.

Responsibility for the site

WestConnex St Peters Interchange was built on a recently closed landfill, and for this reason, the land was contaminated and required careful environmental management and monitoring. It is a massive site bounded by Campbell Road, Princes Highway, Canal Road and Burrows Road in St Peters, approximately 6 kilometres from Sydney's CBD.

The NSW [Protection of the Environment Operations Act](#) 1997 (POEO Act) is the primary legislation used to prevent and regulate pollution in NSW. The EPA grants licences with conditions to those carrying out certain activities including waste disposal and road construction. Responsibility for the management of pollution belongs to the licence holder. The EPA is responsible for ensuring compliance with the licence.

The POEO Licence for the St Peters site is [4627](#).

- Until 2014, the licence for the massive landfill at St Peters was held by Dial-a-Dump Pty Ltd (owned by the Ian Malouf family). During this period, the site had a long history of poor environmental compliance. Some of these [historical details were reported by the SHM](#).
- In 2014, the site was compulsorily acquired by the NSW government for the St Peters WestConnex Interchange. Dial-a-Dump immediately left the contaminated site.
- In the period between acquisition and construction, the licence was held by the NSW Roads and Maritime Services (now part of Transport for NSW.)
- Between 2016 and 2020, the licence was held by CPB Contractors Pty Ltd which was responsible for building the Interchange and M8 project.

- After the project opened in July 2020, [the licence was transferred to Transport for NSW](#) on 29 July.

2014-2020: Building the St Peters Interchange

Closing the landfill – environmental issues

The safe closure of landfills is a complicated process that takes years. Management of that process requires a strong understanding of releases of gases and the presence and movement of contaminants. The EPA [issues guidelines](#) which vary for putrescible (organic) and non-putrescible landfills. In the case of St Peters interchange site, a former landfill that was used for illegal dumping and was poorly managed, it was not clear what materials were contained on the site. For example, at the time when the NSW government took over the site, it contained a large amount of asbestos that should have been removed to an alternative site in earlier years.

Even before the WestConnex M8 project was approved in September 2016, residents and environmental lawyers [raised concerns about unsafe removal of contaminated waste](#) including asbestos from the site. Residents also laid many complaints with the EPA including about excessive dust and chemical fumes released during demolition.

In October 2015, New Matilda published an investigation by Wendy Bacon and Cathy Peters [into the handling of asbestos during its removal from the site](#). They reported that thousands of trucks laden with asbestos waste had been taken to the Transpacific landfill at Erskine Park in Western Sydney. Although the company website stated that it did not take asbestos, the company acknowledged that it accepted low level contaminated soil.

The NSW government was keen to move ahead with the WestConnex tollways so the approval process, including the NSW Planning consultation process, was completed in the shortest possible time frame.

A Landfill Closure Plan was developed. In January 2016, environmental scientist Charlie Pierce, who was then working at Water NSW, submitted an independent submission to NSW Planning during its consultation process for Stage 2 of the WestConnex. He expressed a number of serious concerns about the closure plan for the contaminated site.

More information is available about residents' complaints during the period before construction began, and a [summary of the Pierce submission](#), on the [Peoples' M5 EIS website](#) organised by residents between 2015 and 2017.

Community promised more open space

As a condition of approval for the WestConnex M8 and extension of M4 to Haberfield (previously called M4/M5), 8.5 hectares of parkland was promised to the community on the Interchange site as compensation for the impact of the construction and operation of the tollways including the removal of hundreds of mature trees and sections of the adjacent Sydney Park. In 2018, then NSW Premier Gladys Berejiklian said that the tollways would mean less traffic and more open space. "You're also going to be given open space you didn't have before...Former industrial sites, former landfill sites are going to be converted into beautiful green parks for the community to use."

Promotional videos were used to display a verdant park around the Interchange (shown below). At this time, local resident and now independent Councillor at Inner West Council, Pauline Lockie expressed scepticism and referred to the open space at St Peters as the "world's worst park." She said

that she doubted it would be delivered. Thousands of residents questioned whether the promises of more open space could be trusted.

Six years later, as of February 2024, no public open space has been delivered to the St Peters community by the NSW Government in compensation for loss of housing, additional traffic and pollution caused by WestConnex.



A promotional artist's impression of the future interchange and park, used by the NSW Government to sell the project during the planning and approvals phase around 2015.

Environmental record during construction

Construction of the Interchange and M8 from St Peters to Kingsgrove began in 2017. During construction, St Peters residents laid hundreds of complaints about the impact of dust and odours on their health.

In June 2018, the EPA fined CPB Contractors for allowing sediment from inside the site to be taken by trucks onto nearby roads.

In [June 2018](#) and again in [March 2019](#), Wendy Bacon, Luke Bacon and Henare Degan investigated air monitoring results in the area and found that local air quality had deteriorated after construction started. An air quality monitor at St Peters Public School recorded higher average levels of Particulate Matter than any other Sydney monitoring site during the period. Despite being promised official monitoring results, the St Peters parents were never provided with them.

In September 2019, CPB Contractors [was fined \\$445,000](#) by the NSW Land and Environment Court for emitting odours at the St Peters site for many weeks in 2017. The EPA found the odour was a result of untreated leachate — generated when waste comes in contact with water — or contaminated water pooling at the interchange site. "[It] caused substantial harm to the community and impacted human health," EPA Regional Director Metropolitan Giselle Howard said, adding CPB acknowledged in court the harm was foreseeable. CPB Contractors admitted that it failed to hire a suitable environmental expert to supervise construction at the old landfill site and that if it had done so, serious harm could have been prevented.

Even though the overpowering odours continued for many weeks, the EPA was unable to shut down the site to address the pollution because the project was designated 'state significant'. In 2012, the NSW Government had amended the Environmental Planning and Assessment Act to remove the power of the EPA to stop work on 'state significant' sites.

Two parks as compensation

When the final designs were made public, it became clear that there would only be two small public parks within the perimeter of the total site. These were proposed as compensation for the impacts of WestConnex on the local

community. The NSW government proposed that the Inner West Council (IWC) and City of Sydney should take over the management of these parks.

One proposed public park on the corner of Canal Road and Princes Highway was initially due to be open in 2019. The proposed park included a 'look-out', a mound or small hill of decomposing toxic waste capped with soil. It was near a busy intersection beside an unfiltered ventilation stack at the WestConnex M8 Interchange. In what follows, we refer to this as the Hilltop Park.

The second park was near a ventilation stack on Campbell Road on the northern perimeter of the exchange. It was originally due to open in 2023 after the Westconnex Stage 3 between St Peters and Haberfield was completed. In what follows, we refer to this as the Campbell Road Park.



Satellite photograph of the interchange during construction, showing the site of Hilltop Park in the upper left-hand corner.

2020 -2024: After the St Peters Interchange opens

Campbell Road Park

In 2020, the City of Sydney told the SMH that its own investigation had shown that the proposed park site was not suitable for a recreational space because it was "highly contaminated, of variable compaction and requiring leachate control structures to be managed".

Sydney Lord Mayor Clover Moore said the City of Sydney needed new parkland, not the liability for contaminated land under a motorway junction. "They tried to silence our opposition to WestConnex with the offer of new parkland – now they want us to pay for it," she said. City of Sydney said it wanted an alternative site.

Both IWC and City of Sydney have consistently stated that they would not be prepared to take over the maintenance of the parks, both of which are on land that has a history of contamination.

Hilltop park

The WestConnex M8 between Kingsgrove and St Peters opened in July 2020. Around the same time, a park bench and some corporate art sculptures were installed on top of the hill near the corner of Princes Highway and Canal Road. This led the community to assume that Transport for NSW intended to open the park in the near future.

In July 2020, the EPA approved the transfer of CPB Contractors' pollution licence back to Transport for NSW. Like the original owner Ian Malouf's

Dial-a-Dump, the construction company was allowed to leave the site without remediating it.

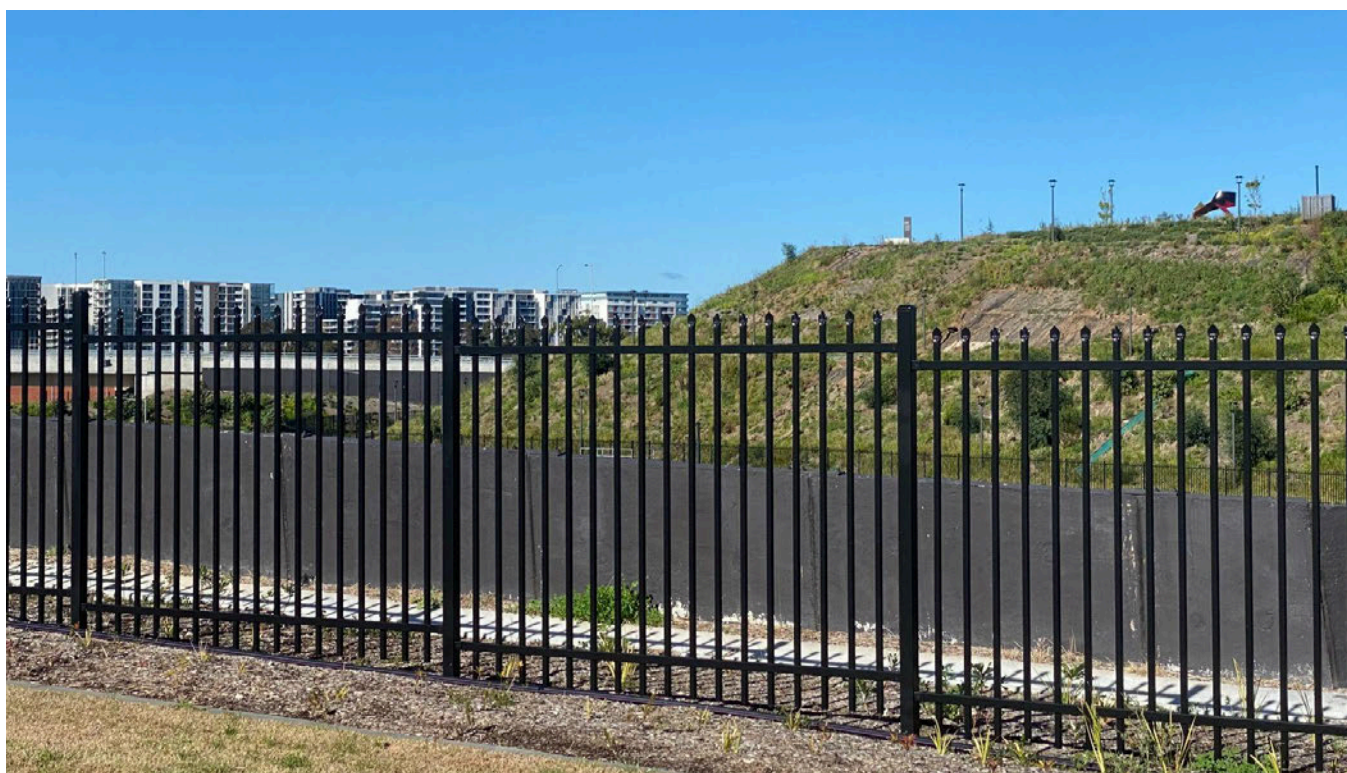
In September 2020, Transport for NSW told the Sydney Morning Herald (SMH) that the park was “not expected to be finished until late 2020.” IWC was quoted as saying that it had [“advised the agency that it would not take responsibility for the care, control and management of the interchange at St Peters”](#) and that it had “substantial concerns about the cost of taking on this maintenance burden.”

By July 2021, Transport for NSW had opened a nearby bike track alongside the Interchange but the Hilltop park remained closed. On July 6 2021, the SMH reported that the Hilltop park [had not opened](#) because of landslides caused by heavy rain. These were visible from nearby public sites. Inner West Mayor Darcy Byrne told the SMH that Transport for NSW is “still refusing to come clean” about contamination of the site. Transport for NSW said it was doing work to repair storm damage and stabilise the site but there was no date for the opening of the park.



Erosion at Hilltop Park, 2022.

Transport for NSW told the SMH that “additional planting and drainage may need to be undertaken later this year to ensure a stable surface. We want a strong network of plant roots under the surface to anchor the soil. Because of the nature of this work, we do not have a final completion date at this stage,” the agency said. There was no reference to reports that indicated problems with the management of pollution at the site.



July 2021, looking across the Interchange tunnel entrance towards Mascot. The un-opened Hilltop Park is on the right, showing surface erosion and sparse vegetation.

Transport for NSW kept public in dark about environmental concerns

The St Peters Interchange licence includes Section 5 which sets out pollution monitoring requirements. In accordance with section [66\(6\)](#) of the POEO Act

and written requirements issued by the EPA, licensees are required to publish pollution monitoring data that has been collected as a result of a licence condition.

In May 2021, the EPA [varied the Department of Transport licence](#) to include a 'voluntary environmental audit' and the completion of two pollution studies. The first Pollution Study required the licensee to undertake a revised Hazardous Ground Gases Risk Assessment (HGGRA) and submit a report to the EPA by 30 September 2021. The second Pollution Study requires the licensee to engage a NSW EPA accredited Site Auditor throughout the duration of works required under the Landfill Environment Management Plan (LEMP) and Landfill Management Closure Plan (LMCP) to review any previous reports on hazardous ground gases and contaminated land matters.

The NSW site auditor scheme provides for a pool of accredited site auditors who can be engaged to review investigation, remediation, and validation work done by contaminated land consultants. The scheme is administered by the NSW EPA under Part 4 of the [Contaminated Land Management Act 1997](#) (CLM Act), with the aim to protect the environment and human health through proper management of contaminated land.

It was now clear that contrary to what Transport for NSW had been telling the public, there was a lot of detailed environmental work to be done before the site could be considered safe for public use.

IWC was not informed about the need to require these additional reports and Independent Councillor Pauline Lockie [later accused the Department of Transport of keeping IWC in the dark](#).

On September 7, 2021, Lockie successfully moved a Council motion calling for a full investigation into the park and its contamination. In a speech to

Council, CEM Research Coordinator Charlie Pierce described the site as an “environmental nightmare” and said that Council should not take ownership of it.

At its meeting, Council resolved to write to the Premier and relevant Ministers to request that the NSW Government:

- “a. Conducts an immediate investigation into potential contamination at the site of the WestConnex St Peters Interchange;*
- b. Retains responsibility for the remediation, ownership and management of the parkland within the Inner West Council local government area, due to the ongoing challenges and financial costs Council would face if it were to take this on;*
- c. Works with Council to identify an alternative site to provide genuine open space and parkland as compensation for the impact WestConnex has had and continues to have on the surrounding area.”*

Lockie later told explained:

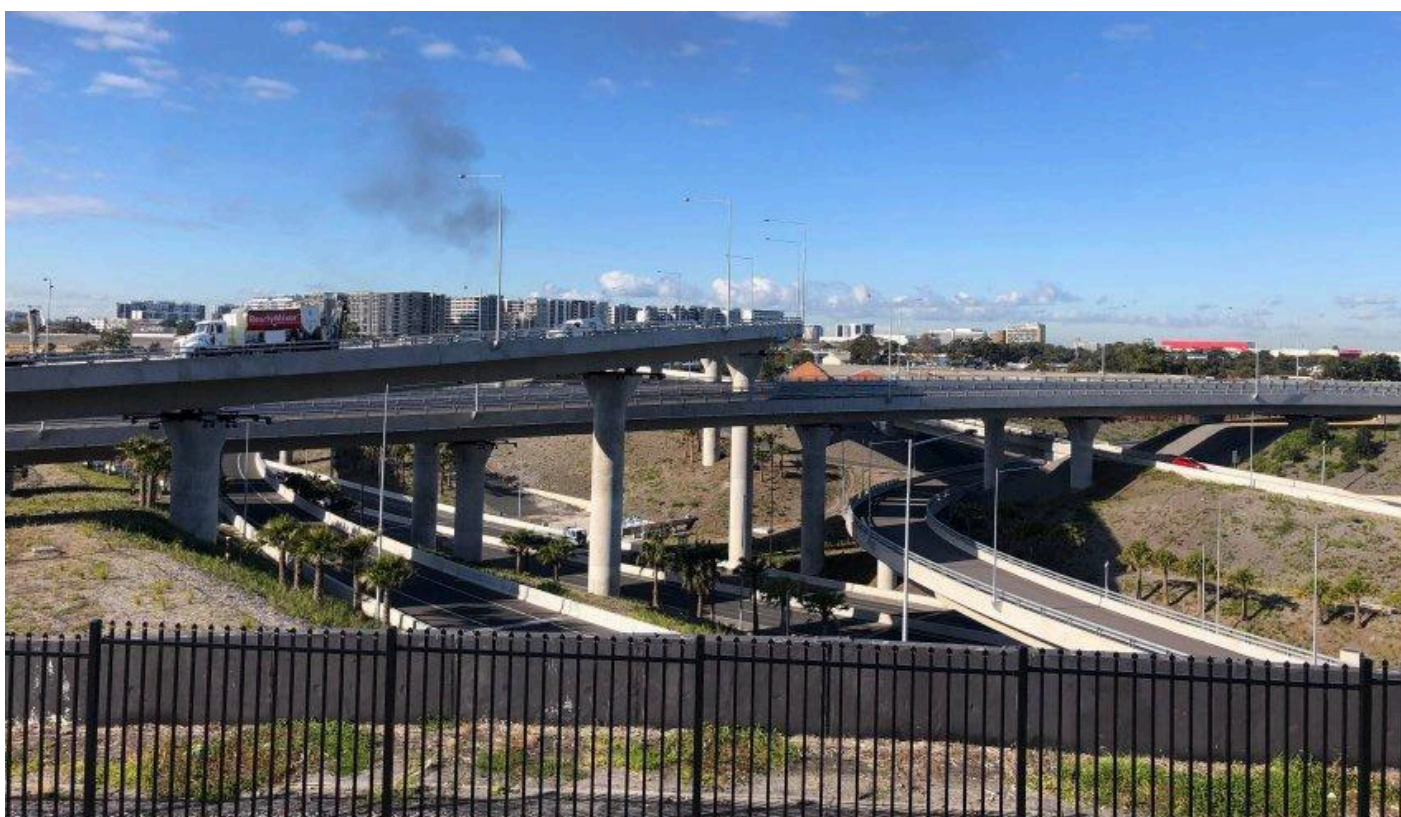
“I moved the motion because I was alarmed that Transport for NSW was pushing Inner West Council to take over the care, control and management of the St Peters Interchange 'parklands' when it was obvious that this toxic former landfill hadn't been remediated properly. There were land slips, dying vegetation, and methane readings that were way above what they should have been, which is why my motion also called for the NSW Government to conduct a thorough investigation into the potential contamination at the site.”

Following the Council meeting, a Transport for NSW spokesperson said the site would be “safe and enjoyable” when offered to IWC. He [told the Daily Telegraph](#), “Contamination of land at the St Peter’s Interchange is a legacy

from the past and is not a direct result of construction activities,” he said. “After assessment of the site, major remediation work was undertaken as part of the WestConnex project to address contamination issues and meet Environmental Protection Authority requirements. This type of remediation work is common across Sydney and has enabled some well-used public spaces, including at nearby Sydney Park. A small area of the land at St Peters Interchange remains closed while Transport for NSW works with WestConnex and their contractor to restore landscaping previously impacted by heavy rain,” the spokesperson said.

Once again, there was no reference to monitoring results, the independent audit or the need for serious ongoing investigation and remediation of the site. Instead Transport for NSW implied that the only issue was restoring “landscaping”.

The then IWC Mayor Rochelle Porteous wrote to the Minister for Transport in accordance with the motion. Neither the Premier nor the Liberal–National Coalition Ministers responded.



St Peters Interchange in 2022, photo by Peter Boyle.

CEM reviews site monitoring in 2022

In March 2022, Charlie Pierce (on behalf of Community Environment Monitoring) reviewed the published monitoring results and found that not all required monitoring results had been published. Pierce found that this represented an omission and reporting violation. Both Transport for NSW and the EPA were alerted to these omissions by Pierce but the EPA took no compliance action.

In May 2022, journalist Wendy Bacon (CEM member) [reported in City Hub](#) that:

- In 2020 to 2021, Transport for NSW reports showed that it had failed to collect monitoring data at 16 monitoring points.
- On several occasions, groundwater monitoring results showed elevated levels of ammonia and elevated levels of copper and zinc.
- Wrong standards were applied at another monitoring point.
- In 2021, the EPA found that a risk assessment that had been conducted by a private consultant was not sufficient and required Transport for NSW to appoint an independent auditor to conduct a fresh new hazard assessment. It then found that a draft version of the auditor's report needed to be revised because he had not been able to get the information required. Transport for NSW applied for an extension to complete the assessment in December 2021 and a further extension in February 2022.
- Monitoring documents revealed that consultants were unable to access parts of the WestConnex site where previously very high

methane levels have been recorded. This includes the entrance to the M8 tunnel and a building near the mound.

City Hub also reported that in February 2022, Transport for NSW had applied to the EPA for a pollution licence variation so that remediation works could be carried out to demolish and rebuild part of a bridge at the St Peters Interchange originally constructed by CPB Contractors. This work was predicted to take about 10 months.

When City Hub told her about these reports and inadequacies in the information, Councillor Lockie said, "I'm shocked to know now that Transport for NSW knew the site was in need of serious remediation even as they were pushing Council to take responsibility for managing it. I had no idea that the NSW Environmental Protection Authority had already ordered a thorough risk assessment, which was clearly going to take a lot of time and provide evidence about the complex steps that will need to be taken to remediate the site. I'm appalled we were kept in the dark on a matter of public health."

City Hub also revealed that CEM Research Coordinator Charlie Pierce had found that Transport for NSW monitoring data revealed that several gas monitoring wells within the toxic parkland had recorded gas methane above the lower explosive level of five per cent. Surface monitoring methane concentrations above 1 per cent are supposed to trigger an investigation because methane above this limit can accumulate and become an explosive hazard. Some monitoring wells showed levels more than 15 times above explosive level.

Pierce's 2022 findings are summarised in this [Community Environment Monitoring report](#) (published October 2023) which was also tabled at IWC. Pierce made both the EPA and Transport for NSW aware of this information.

Although the information in the City Hub article had not previously been published, it was publicly available to those with an understanding of how to search for the information on the Transport for NSW and EPA websites.

In June 2022, concerned that there had been no response to the first motion, Councillor Lockie moved a fresh motion at IWC that was unanimously passed:

"THAT Council:

- 1. Requests an urgent briefing from Transport for NSW about the reports ordered by the NSW Environment Protection Authority (EPA) about the WestConnex St Peters Interchange, and the remediation works being carried out at the site;*
- 2. Writes to the Premier and relevant Ministers to:*
 - a. Request that Transport for NSW shares the reports ordered by the EPA with Council, along with any other relevant reports and information about investigations into ongoing contamination [at] the WestConnex St Peters Interchange site;*
 - b. Request that the EPA takes enforcement action on any non-compliance issues and licence breaches at the site in order to protect our local community;*
 - c. Seek confirmation that the NSW Government will take responsibility for the care, control and management of the St Peters Interchange parkland, and work with Council to identify an alternative site to provide genuine open space and parkland as compensation for the impact of WestConnex."*

IWC did not receive the requested information. The “urgent briefing” never happened.

In late 2021, James Griffin became the Minister for Environment and Heritage, replacing Matt Kean. In August 2022, Griffin sent what is the only response received by the IWC to its letters. The letter confirmed the matters reported by City Hub which were publicly available on the EPA website.

Griffin also told the Council that the EPA was working on a long term environmental management plan for the site and meeting fortnightly with Transport for NSW. It stated that the Independent auditor had found that “if monitored and remediated in accordance with the Remediation Action Plan and Landfill Closure Plan, the site ***can be made suitable*** for its use as a motorway, a commercial space and public open space” (emphasis added).

What the letter did not reveal is the difficulties that the EPA was experiencing in moving Transport for NSW forward towards an environmental management plan for the site.

Continuing delays in completing pollution management plan

Transport for NSW was granted an extension for submission of the Revised Hazardous Ground Gasses Risk Assessment (RHGGRA) and Interim Audit Advice prepared by an EPA-accredited site auditor Chris Jewell. Jewell’s report was submitted on 31 October 2021. However, the EPA found that the report did not include enough information and required Transport for NSW to submit a fresh interim report by January 2022. Before this deadline, in December 2021, Transport for NSW requested a further extension until March 2022.

In September 2022, Transport for NSW successfully applied for further extensions “due to earlier disputes with a contractor and subsequent

investigations into whether the Passive Gas Collection System (PGCS) is operating effectively. As findings indicate that the PGCS will need ongoing assessment and potentially remediation, an extension ...was requested.” New deadlines were set for October 2022. In December 2022, further extensions were granted until September 2023.

The IWC also had trouble getting responses from Transport for NSW and NSW government ministers. Despite two letters from the IWC following Council motions in 2021 and 2022, the Coalition Ministers for Transport failed to respond. Transport for NSW did not supply the IWC with requested information or even provide it with an explanation for the delays.

Minns Labor government comes to power and delays continue

In March 2023, the Minns Labor government came to power and the delays continued. In June 2023, the EPA granted [Transport for NSW a further extension](#) due to “difficulty in procuring a contractor for investigation works, which are required to inform the actions” required by the EPA. Transport for NSW also granted an extension on deadlines for another condition due to “urgent ramp rectification works needing to occur in the same area of the premises until mid-2024”.



Satellite photograph of St Peters Interchange and unopened Hilltop Park, May 2023.

In July 2023, there was yet another variation requested so that Transport for NSW could [commence rectification works at the premises](#) “to repair a piled pavement deformation of the ‘Gateway to M8 Tunnel ramp” that was originally constructed by CPB Contractors. According to the EPA website, the rectification works are expected to take approximately twelve months to complete and require the demolition and reinstatement of the Gateway to M8 Tunnel ramp and its immediate surrounds. This meant that the area was again a construction site and new conditions for waste management and surface water monitoring points were added to the licence.

In September 2023, EPA granted a further extension for required reports on pollution issues due to delays in receiving approvals for unnamed ‘third parties’. The new deadlines now stretched into 2024.

In November 2023, a fresh motion was passed unanimously by the IWC. It requested Council to write to the Premier and relevant Ministers to:

- *“Request that Transport for NSW shares any reports ordered by the EPA, including those prepared by the accredited site auditor, and any other relevant reports and information about ongoing contamination at the WestConnex St Peters Interchange site with Council as soon as possible;*
- *Request that the EPA takes enforcement action on any non-compliance issues and licence breaches at the site to protect our local community, and for Council to be kept updated on such actions;*
- *Ask that they work with Council to identify an alternative site to provide genuine compensatory parkland for the community.”*

IWC sent these letters to the Ministers and Transport for NSW at the end of January 2024. At the time of publication, no reply had been received by IWC.

On November 30 2023, EPA granted further extensions to Transport for NSW because it was still “waiting on approvals” from unnamed “third parties”.

Dates for completion of pollution studies and the environmental audit have now been extended out to the end of 2024 with final submission of reports in October 2025.

CEM’s second review of monitoring data identifies more gaps and flaws

In January 2024, CEM’s Research Coordinator [Charlie Pierce published a new monitoring report](#). His report highlighted the continuing failure of Transport for NSW to publish required annual monitoring results and the failure of the EPA to take compliance action.

In summary, he found the Transport for NSW consultants:

- failed to report annual testing requirements;
- missed reporting the third quarter results for 2022;
- lost the samples for the December 2022 POEO Licence mandated monitoring before sending them to the laboratory;
- reported the exact same field test parameters for December 2022 and March 2023 (marked in red on table);
- reported analytes that are not required to be tested;
- renamed pollutants that are required to be tested; and,

- failed simple quality data objectives for ionic balance and TDS-Conductivity agreement.

On January 29 2024, Transport for NSW submitted its annual report to the NSW EPA. The full report is not publicly available but a limited amount of information can be viewed online. It reveals:

- On three occasions gas emission exceedances were not reported as required. This is a violation of the licence but no compliance action was taken by the EPA.
- Quarterly monitoring was missed at eleven monitoring points.
- Other monitoring points were missed due to damage, samples being lost or consultants not being able to access a site.

Under a column headed 'EPA actions', the report repeatedly states: 'EPA action determined as part of scheduled inspection program', but provides no explanation as to what this means.

Non-Compliance detail

[Search Again](#)
[Return to Licence Summary](#)

Summary

Licence number: 4627
 Annual Return Start: 01 Dec 2022
 Annual Return End: 30 Nov 2023
 Date Received: 29 Jan 2024

<u>Licence Condition number</u>	<u>Type of non-compliance</u>	<u>EPA actions</u>	<u>No. of times occurred</u>
M2.3 Water and/or La	During the Sept 2023 annual monitoring round, the groundwater and leachate samples from Points 3, 4, 5, 6, 7, 8, 9, 10, 11,12 and 16 were only analysed for the additional annual analytes, and the quarterly analytes for this round were missed.	EPA action determined as part of scheduled inspection program	1
M2.3 Water and/or La	Continuous logging of water levels at Monitoring point 10 not completed due to equipment failure.	EPA action determined as part of scheduled inspection program	1
M2.3 Water and/or La	Quarterly monitoring was not completed for monitoring points 2,4 and 15 due to blocked access from construction works and insufficient water in water body (Point 15).	EPA action determined as part of scheduled inspection program	4
M2.2 Air Monitoring	Quarterly subsurface gas monitoring not completed for monitoring points 28, 29, 30, 31, 32 and 33 due to water in tubing or damage of tubing which prevents measurement of gases.	EPA action determined as part of scheduled inspection program	4
M2.2 Air Monitoring	Quarterly subsurface gas monitoring was not completed	EPA action determined as part of	4

Screenshot of 2022-23 [annual report of non-compliance for NSW EPA POEO License 4627](#), currently held by Transport for NSW covering the St Peters Interchange site, retrieved from epa.nsw.gov.au February 2024.

Pierce has previously asked Transport for NSW for the name of the consultants who conducted the monitoring but has not been given this information.

Another environmental concern

Charlie Pierce has identified another significant ongoing issue: the lack of any published reports for monitoring of [Polycyclic Aromatic Hydrocarbons \(PAHs\)](#). PACs are known to be persistent in the environment and highly toxic, mutagenic and carcinogenic to various life forms. Pierce raised the issue of non-reporting of PAHs other than Naphthalene in 2016. PAHs are pollutant compounds included in Transport for NSW's annual groundwater and leachate monitoring requirements. However, although Section 66(6) of the POEO Act compels licensees to publish results of required monitoring activities, Transport for NSW has not publicly released any monitoring data related to these pollutants. Access to this information would assist the local community to understand the extent of pollution caused by illegal historical practices in St Peters.

Recommendations

Parliamentary Inquiry should include the matters raised in this report in its investigation into Rozelle Interchange and 'related matters'

This report has raised systemic and specific issues that should be investigated by the Parliamentary Committee into the Rozelle Interchange. Matters of concern include the disposal of waste including asbestos during motorway projects, time pressures which lead to cutting corners on environmental management, the capacity of the NSW EPA to regulate, the competence of Transport for NSW to deliver environmentally sound projects and the oversight of CPB Contractors that built both the St Peters and Rozelle Interchanges.

EPA needs to be more transparent

CEM has compiled this report from available public sources. This limited information is available for those who know how to find it. However, far too much information is kept hidden from the public. For example the interim NSW Environmental Auditors report was not published and it is not clear if the final one will be.

More transparency would enable groups like Community Environmental Monitoring and independent experts to look at professional assessments and inform the public about their content in easy to understand language. Even the monitoring results that are required to be published online are often hard to find, and for the layperson, difficult to understand.

The EPA does provide summary reports when it approves a Licence Variation, issues a Clean-Up Notice or Prevention Notice. Once again, these are published in a way that discourages public access and the information that is published often raises more questions than it answers.

More transparency needed on transport projects including WestConnex and other motorway projects

There should be more transparency about the costs of motorways including WestConnex. All costing should include social and health costs for communities both during construction and operation.

The Minister for Transport should provide a public explanation about the nature of all defects and the processes and costs for remediating these at St Peters Interchange and elsewhere.

NSW Government should provide a full explanation about why Transport for NSW has not been able to meet deadlines at St Peters Interchange, why it has not published monitoring results, why its monitoring of pollution is of a poor standard and why it mislead the public about the state of the potential parks at St Peters Interchange.

Government public communication should focus on informing the public not selling projects

The NSW government used over-the-top visualisations to sell the controversial St Peters Interchange. In some cases, these were used by news outlets as easy and cheap ways to illustrate stories. The visualisations were misleading and were part of selling, not communicating the reality of the project for people to consider.

Journalists often do not have sufficient time to do their own investigations and therefore rely too heavily on government public relations. Even when journalists do try to investigate in the public interest, they find themselves stonewalled. CEM members have also observed that the NSW EPA and other government departments often answer questions in ways that sidestep serious issues.

NSW EPA needs more resources and powers to act in the public interest

There are good scientists and other hard working public servants working for the EPA. However there are insufficient staff. Existing staff are under-resourced. Matters raised in this report and recent findings of asbestos at Rozelle Interchange and elsewhere in NSW raise serious questions about the conduct of the EPA. Does it have sufficient powers to regulate State Significant Projects? Is it sufficiently resourced to protect the NSW environment? Is it under pressure to protect industry interests? These matters should be raised in the Rozelle Interchange inquiry. There should be a separate Inquiry into the EPA.

Reform the NSW planning system that fails to operate in the public interest

Sydney's planning system has not provided for the protection of ecosystems; prioritisation and improvement of peoples' health and wellbeing; adequate housing; the protection and expansion of green space; or a city that is accessible and easy to get around for many of its residents.

Many problems that occurred both during the construction and during the operation of WestConnex were signalled by community, local government and independent expert submissions during the Environmental Impact Approval processes, but were ignored. They were also the subject of

evidence before the NSW Parliamentary Inquiry into Impacts of WestConnex in 2018. The strong concerns of local governments were pushed aside.

The predictions of consultants who prepare environmental impact statements (EIS) for major projects, which the government relies heavily upon, should be publicly reviewed and deeply scrutinised. EIS predictions should be reviewed and matched against the actual outcomes.