



**Legislative Council**  
**Select Committee On The M2 Castlereagh**  
**Tollway Hansard**  
**Extract**

01/06/95

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**SELECT COMMITTEE ON THE M2 CASTLEREAGH TOLLWAY**

**Suspension of certain standing and sessional orders agreed to.**

**The Hon. I. COHEN** [11.08]: I move:

1. That a Select Committee be appointed to inquire into and report on the financial, social and environmental costs of the M2 Castlereagh Tollway and the legality of the project, with regard to the following matters:
  - (a) the impact on Government finances of a subsidy to private investors in the M2 including ancillary roadworks;
  - (b) the profitability or not of the tollway and the impact of this on the investors' funds and the state of New South Wales;
  - (c) the legality of the M2 prospectus under the Trade Practices Act;
  - (d) the impact of the development on Sydney's future urban planning;
  - (e) the veracity of information produced by the Roads and Traffic Authority (referred to as RTA) and the Department of Planning (referred to as DOP) and the Department of Transport (referred to as DOT) and those agencies' consultants in promoting this road and in assessing its environmental, social and economic impacts and in providing information to community consultative committees;
  - (f) the adequacy of the RTA's, DOP's, EPA's and DOT's assessment of feasible alternatives to the M2 and their power to require changes to the project;
  - (g) the concealment and omission of known and relevant data from the Environmental Impact Study processes;
  - (h) the opportunities for renegotiation of the M2 contracts; and
  - (i) the impact of the development on:
    - Sydney's urban environment;
    - remnant urban bushland in the north-west;
    - Sydney's greenhouse gas emissions and air pollution levels;
    - moving commuters away from excessive private motor vehicle use to patronising public transport, with particular regard to the growth area of Rouse Hill; and
    - any possible sites of Aboriginal heritage.
2. That, notwithstanding anything to the contrary in the Standing Order, the Committee is to consist of eight members, comprising:
  - (a) four Government members nominated by the Leader of the Government;
  - (b) two Opposition members nominated by the Leader of the Opposition; and
  - (c) Mr Cohen and Mr Jones.
3. That nominations for membership be made to the President within seven days of the passing of this motion. In the absence of agreement notified to the President, the question of the representation on the Committee is to be determined by the President.
4. That the time and place for the first meeting of the Committee be fixed by the Clerk of the Parliaments.
5. That the Committee have leave to sit during any adjournment of the House; to adjourn from place to place; to make visits of inspection within New South Wales and other States and Territories of Australia; and have power to take evidence and to send for persons, papers, records and things; and to report from time to time.
6. That should the House stand adjourned and the Committee agree to any report before the House resumes sitting:
  - (a) the Committee have leave to send any such report, minutes of proceedings and evidence taken before it to the Clerk of the Parliaments;
  - (b) the documents be printed and published and the Clerk forthwith take such action as is necessary to give effect to the order of the House; and
  - (c) the documents be laid on the Table of the House at its next sitting.
7. That the Committee report no later than five months from the passing of this motion.
8. That on receipt of a request from the Committee for funding, the Government immediately provide the Legislative Council with such additional funds that the Committee considers necessary for the conduct of its inquiry.

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It is an honour to stand before the House today as the first Green to be elected to the New South Wales Legislative Council, knowing that I represent the diversity of voices that make up the Greens movement. I should like to begin by thanking my coworkers, who have endured the hardship of campaigning and are now enthusiastically taking up the challenge of parliamentary office, which is no small leap of faith for a grassroots organisation such as ours. Their dedication and

commitment have been inspiring, as has been the support of friends and family both within and outside the Greens political movement. It has at times been convenient for the news media to dismiss activists as a group of thrill seekers or socially dysfunctional individuals giving vent to their frustrations, but behind the raucous image is a cohesive philosophy that has existed as a minority tradition throughout history.

In the modern context, with the political freedom we enjoy in Australia combined with access to modern communication technology, this voice is emerging. Although I stand before you as a member of Parliament, I do not resile from the fact that I am an activist who has participated in actions of environmental and social change in New South Wales over the past 15 years. I give my absolute support to those people continuing that tradition for they represent the foundations for a future heart society. They take risks and suffer considerable discomfort, their only investment being their ideals. I am the eleventh Green to be elected to the parliaments of Australia. Seven of my elected colleagues are women. We are part of an emergent culture asserting itself at this time of planetary crisis.

There exists a Greens global political movement. Internationally, in the 1994 European Union elections the Greens won 23 seats. Of those, the German Greens won 12 seats, doubling their vote in the most populous State of North Rhine-Westphalia to 10 per cent and gaining 13 per cent in the city state of Bremen. The Deputy Prime Minister and three Ministers in the Georgian republic are Greens. The lord mayors of Dublin and Rome and three Brazilian mayors are Green. The Greens have emerged in response to a global crisis. Centuries of anthropocentric philosophy have decreed that the earth is an infinite resource that exists to serve humanity. Such arrogance has cast a shadow over our very existence.

Global destruction of forests, extinction of species, the nuclear threat, mountains of toxic wastes and the poisoning of our sea, air and water have visited upon us a stark lesson about the consequences of blinkered technological development. Our poisoned and declining food chain shows us the folly of ignoring the interconnectedness of all life. In order to grow individually and to survive collectively we must become agents of healing and change on an earth under threat of becoming a wasteland. Amidst the artificial construct of civilisation is the faint memory of an ancient belonging. Wilderness resonates with a wildness in our hearts. In this modern world, often bereft of vision, there is a shared conviction for social change. The Greens can, as part of a global movement, change the world.

As agents for social change, the Greens are breaking new ground. Concurrently we draw on the old traditions such as those of the indigenous Australians and American Indians. The American Indians judged decisions by asking, "Will our children seven generations in the future thank us?" This is in stark contrast to the four-year responsibility span exhibited by State governments of today. In modern terms the concept is referred to as intergenerational equity. This represents a philosophical plank accepted by the Federal Government as a core objective of the national strategy for ecologically sustainable development. As a member of the Standing Committee on State Development, I will promote the spirit of that strategy. I should like to address a classic ecological folly unfolding at this moment. Diametrically opposed to a positive future direction, and definitely not the road to be taken, lies the M2 project. A great Australian, Manning Clarke, said:

This generation has a chance to be wiser than previous generations. They can make their own history. With the end of the domination by the straighteners, the enlargers of life now have their chance.

No other "straighteners" have dominated this society with ecologically unsustainable development like those pavers of the planet the Roads and Traffic Authority, an arm of this Government. What the RTA is doing at the M2 site is wrong and should be, and is being, resisted. As a parliamentarian, I seek to represent my constituency. But I remind honourable members that public participation and community consultation are basic rights in a democracy and that when citizens with fair complaint are not heeded they have a right to act, non-violently, beyond the law. I ask that this Government take heed of lessons learnt by its recent predecessors. Historically, the Greens have been proved right. The Australian Labor Party Government recognised our just cause a decade ago. The Premier of the time, Premier Wran, said:

I know it was not everyone who thought it was a great thing to save the rainforest but I make this prediction here today: when we are all dead and buried and our children's children are reflecting on what was the best thing the Labor Government did in the twentieth century they will come up with the answer that we saved the rainforests.

History will judge the protesters opposing the M2 as being equally as correct in their actions as were the rainforest blockaders of a decade ago, of which, I am proud to say, I was one. Will the Carr Government also have the vision to recognise just cause by acknowledging the need for an inquiry into the M2? In recent times, as environmentalists, our just causes have often led us to the courts of this State, where time and time again our position has been vindicated. Again we find ourselves questioning the very legality of the contract deed under which work on the M2 proceeds. I believe that the following legal issues should be considered. Firstly, the peculiarities of the agreement between the RTA and the contractors allow

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the latter to impose rather than just collect tolls. That is illegal, as the RTA in itself has no power to grant this right independently of Parliament.

Secondly, the nature of the deed agreement may in fact breach the Monopolies Act 1923 by allowing the M2 contractors to block competition from other forms of transport, including light rail, by requiring financial compensation from the Government. Thirdly, the deed itself may be void because of the illegalities of the toll arrangements. Ironically, if the M2 is stopped, the Government may not be required to compensate the consortium as the whole contract, complete with compensation obligations, may be as if never made. Fourthly, the Public Authorities (Financial Arrangements) Act 1987, under which the deed was signed, weakens responsible government and, if it is not one day shown to be illegal, should be amended. It allows the transference to private operators of State powers, including taxation, arrest, search, seizure and compulsory acquisition of private property, with no accountability to ombudsmen, the Independent Commission Against Corruption, the Auditor-General or the Freedom of Information Act. I shall outline the sorry history of the M2 project, but first I seek leave to table, for the information of honourable members, a document entitled, *A Financial Analysis of Debt Obligations*, by Mr R. J. Tanner, dated 30 May 1995.

#### **Leave granted.**

I will continue the sorry history of the M2 project. The M2 tollway is a privately funded, government-subsidised scheme instigated by the former New South Wales coalition Government. It will stretch 21 kilometres from Baukham Hills to North Ryde. The stated purpose of the road is to facilitate the movement of traffic, including freight, from the growth areas of Cherrybrook, Castle Hill and Rouse Hill to the city. The M2 tollway is a road project conceived in the mid-1960s and opposed for the last three decades. In 1989 public opposition resulted in the then Minister for Planning

directing an inquiry in accordance with section 119 of the Environmental Planning and Assessment Act.

The then Minister appointed Commissioner John Woodward, Commissioner of Inquiry for Environment and Planning, to constitute the commission of inquiry into the M2. This inquiry was the most exhaustive road inquiry in New South Wales, receiving 829 submissions. The principal findings were that the proposal should not be constructed, that extensions to the public transport network should proceed as a matter of priority, and that an upgrading of the existing east-west road system between Pennant Hills Road and Epping Road should be implemented. The commission found the project to be unjustified on economic, environmental and social grounds.

As for environmental issues, the M2 is a microcosm, with 70 hectares of remnant bushland and approximately 115,000 trees to be destroyed by the construction of the M2. The resulting deterioration of the urban environment, siltation of local creeks and the loss of habitat for endangered species found in the area are unacceptable results of this development. The development contravenes State environmental planning policy 19, which is intended to protect remnant urban bushland in Sydney. A motorway that carves through the middle of important areas of bushland in the north-west - including Excelsior Reserve, Devlins Creek and the Beecroft bush - will completely destroy the integrity of these areas. Furthermore, the M2 will dramatically increase traffic through the north-west and into the city. Traffic congestion is estimated to jump by 600 per cent.

I attended the M2 site and watched as members of the Aboriginal community stood by outside the barbed wire fence whilst the bulldozer bore down on sacred scar trees. There has been clear complaint and indication by people of that group that there are many sacred sites in the path of the M2. This has been ignored utterly. The company has said that it has made archeological investigations. The people know and the people have been ignored. Many sites have been destroyed. This treatment of those people is a microcosm of what is happening to the indigenous people of this State. To see the face of that man whilst that scar tree was being borne down on by the bulldozer was a microcosm of the tragedy that is taking place.

Increased air pollution and greenhouse gas emissions will result from the M2 tollway. Air quality will decline by 36 per cent, fuel consumption will increase by 23 per cent, and accident costs will increase by 68 per cent. The Government claims environmental credibility and is keen to make public its green credentials. The Government needs to bite the bullet on this issue. Much is heard about power generation and saving on electricity and alternative forms of power generation. Greenhouse gas emissions will increase markedly. The rail transport systems - alternative light rail and underground rail transport systems - are being completely ignored in this headlong Los Angelisation of western Sydney. The figures I quoted are from the 1990 "Road Transport Future Directions" report of the Roads and Traffic Authority.

The M2 will encourage car-based urban sprawl throughout Sydney's west and north-west, pushing the city to the edges of the already fragile Hawkesbury River. Development of the northern sector should not proceed unless the area is adequately serviced by public transport. The M2 tollway contract specifically addresses the issue of future public transport initiatives in the north-west. This contract requires that if a New South Wales government builds any public transport in the north-west over the next 45 years it will compensate the motorway consortium for any loss in toll revenue in the event that people are not using the tollway. What a joke!

The Government, which is supposed to be committed to public transport, is allowing the excision of an area that will disallow any development of public transport for the greater good of the majority of people in this State, in order to allow a private consortium to continue with a foul, polluting

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motorway. When countries all over the world are moving away from the construction of motorways, we are still moving in the direction of Los Angelisation of the west of Sydney. In 1993 a survey was undertaken by the RTA of residents of Sydney's north-west. The response was in favour of an expressway. That was not surprising, because no questions were asked about public transport. Typical push-polling tactics have been undertaken by the consortium in concert with the government of the day. That should be investigated.

There are alternatives to motorways and the M2. In recognition of the environmental impact of the car, the United Kingdom Government has now embarked on a program to extend the public transport network and encourage commuters to use the existing system. New rail lines and extensions to the existing rail network are the desired and necessary additions to the transport needs of the expanding north-west sector. There has been a proposal for a Macquarie rail link to run from Epping to Chatswood, predominantly underground, via Macquarie University. There is also a feasibility study for the Epping to Parramatta line. Together, these two proposals could become part of a Sydney orbital rail network.

The M2 represents not only environmental vandalism but also financial vandalism of the worst kind. The RTA is culpable inasmuch as it knows the traffic volumes are incorrect. By lending support to this fiasco the RTA has committed the State to between \$0.7 billion and \$1.4 billion for ancillary works, which will further devastate the environment. If the M2 is allowed to proceed, the ancillary roadworks constructed at public expense will cost the people of New South Wales \$1 billion or more. Neither the Auditor-General in his report on the M2 contract nor the RTA have addressed the cost of the RTA's guarantee to the consortium that it will ensure free-flowing traffic on roads serving the M2.

The bill for the following list of ancillary costs will at least treble the estimated motorway costs of \$369 million. Ancillary features to the M2 motorway include: a four-lane tunnel from the Gore Hill freeway to Lane Cove west, \$250 million; widening of the Gore Hill freeway, \$100 million; widening of Mowbray Road West, \$250 million; a possible new Fullers Bridge and a new link to the Pacific Highway; the B3 road joining the F3 to the M2, possibly \$200 million; and the possibility of many more. It appears, without appropriate inquiry, to be unknown what the exact works and, therefore, costs would be. Prospectus figures, which lured a gullible public, seduced by the lure of a supposed guaranteed return during the construction phase, demand investigation.

The RTA's transport study group's figure for traffic flow has been reprocessed by Gutteridge, Haskins and Davey. In the prospectus the magnitude of the chicanery is revealed by reference to untold estimates for Epping Road being increased by 250,000 vehicle movements a day. Gutteridge, Haskins and Davey are the linchpin in the whole financial scam. They were paid \$1.2 million for design work on the M2 by Abigroup Limited, so they had 1.2 million reasons for giving the false independent report for inclusion in the prospectus.

Macquarie Bank has been lured by \$10.1 million for a fundamentally unsound corporate structure.

Mallesons Stephen Jaques has lied to the stock exchange in relation to the independence of Gutteridge Haskins and Davey. The Australian Securities Commission has been asleep while all this chicanery has been going on. Perpetual Trustees has entered into trust obligations which it has no hope of meeting. The public investors and superannuation funds have been lured into investing by a promise of their own money back for the next three years. Coopers and Lybrand, the investigating accountants, has not done its homework, and has merely given these nefarious arrangements a koala stamp.

There are grounds for believing that, on financial considerations alone, the consort will go broke before the construction is completed. If the construction continues, we will have the worst of both worlds: the environment along the route will have been destroyed, and the project will not ever be completed. The only responsible course for financial reasons is to stop construction forthwith to save the reputation of investing in New South Wales. The Premier has made great play of the fact that this project should proceed to save the financial reputation of New South Wales, but by proceeding this will give rise to one of the biggest financial scandals this State has ever seen. On 22 November 1994 the Leader of the Opposition at that time said:

This Minister has signed away the rights of a whole region of Sydney for decades to come. He has signed away their access to public transport, regardless of what data may come to light in the next 20 or 30 years about the greenhouse effect, pollution in the Sydney basin, and the damaging health impact of a Los Angeles style dependency on private motor vehicle use. We are condemned to this dependence, this monopoly servicing a region that will have one million people living in it. That is why this is a major debate in the Parliament . . . Therefore, any roadworks of that description over a 45-year period will result in the ring of the cash register; people will say, "Thank you taxpayers."

The M2 contract is tainted with conspiracy to cheat the New South Wales taxpayers and subscribers to the public float, that is, \$155 million of private investment contributions. I call on the Legislative Council to give consideration to these concerns and to recognise justifiable cause for a select committee for the people of New South Wales and for the Earth.