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**Submission re M4 widening – WestConnex – Destruction of Protected Species - Ibis**

I make a submission in respect to the destruction of Ibis and their habitat.

The WestConnex project has made a mockery of the NSW planning process. It is the largest road project in the world costing at least \$18 billion dollars yet it remains without transparency.

***WestConnex M4 Widening Land within the M4 corridor between Parramatta and Homebush SSI 6148***

The EIS for the M4 widening was on public view between August/September 2014 for 30 days.

**Background**

Between October - November 2015 (and likely earlier) the clearing of lands for the widening of the M4 proximate to Stubbs St and Hill St towards Silverwater Road resulted in critical devastation of a large nesting population of a protected species, the Australian Sacred Ibis.

It is currently their nesting season and despite that the contractors Leightons, bulldozed a substantial amount of their breeding grounds. As a result chicks fell to the ground dying en-mass. There was nothing the mature birds could do to save them as the construction company continued to destroy these animals without rendering them any assistance until civilians, WIRES and National Parks stepped in to halt the process pending a rescue plan.

Those mature birds without nesting trees tried to find other places to nest places already struggling under the impact of this avoidable man-made mess.

Many birds were killed on the roads (at least 11 counted). The NSW Environment and Planning, basically recommended this could happen through their credits, Offset, like for like schemes but in this case the Ibis fell through a hole. You cannot convince me that these animals should die so we can drive more cars.

**Discussion**

The Offset scheme should focus on what it was meant to focus on the natural degradation and loss of habitat etc. and not paving the way for developers to ruin the natural environment of our city. There is a once in a lifetime opportunity to save and commit to what little natural environment we have left by the government shuns this.

The WestConnex M5 agenda is to build the road regardless using any means or loophole they can find. The NSW Government has allowed this to happen through like for like, credits and offsets to clear native vegetation including threatened and critically endangered species. In doing so the NSW Government has sidestepped their responsibility to the state allowing a free ticket for environment destruction.



(Photo by V. Elton 10/12/2015 – construction zone Adderley St, Auburn)



(Photo by V. Elton 10/12/2015 Adderley St towards M4 construction zone. The Ibis nesting tree is towards the rear of the truck)



(photo by V. Elton Ibis in tree next to nesting tree M4)



(Photo V. Elton 10/12/2015 – Ibis nesting M4 right next to an area underneath that has been cleared which can be seen in another photograph)



(Photo by V. Elton 10/12/2015 – Ibis in brackish water and along bank – M4 in background)



(Photo by V. Elton 10/12/2015 – 1.30pm westbound moving towards Stubbs St overpass from east. Ibis are white dots in middle right ground)

### **The Sacred Ibis – M4**

This is what one citizen had to say on the heartbreaking scene they came across in October-November 2015.

"I have counted 7 dead Ibis on the M4 between the Parramatta Rd turn off and the Silverwater Rd turn off...between Church St and Homebush Bay Drive [an] entire large colony of Ibis, their chicks and nests have been destroyed.

"I witnessed the heartbreaking scene of 4 Ibis amongst decimated trees and upturned earth with a few remaining tree stumps where they tried to continue nesting. The scene was apocalyptic as these birds attempt to nest nearby huge metal machinery and a devastated landscape plus nearby 4 Ibis lay dead on the road - hit by cars due to the upheaval and entire destruction of habitat..."

The M4 Widening project noted the existence of the Ibis at page 82 of the M4 Widening Biodiversity Assessment.

- M4 Motorway near Hill Road requires specific management actions during construction to minimise impacts. Sacred Ibis breed from August to November, laying two or three eggs which are incubated for about three weeks (Brandis *et al.* 2009). Once hatched the young are dependent on their parents for a further five to six weeks (Brandis *et al.* 2009). A 40 metre buffer should be implemented around the colony during the breeding season to mitigate disturbance to adults and young. Actions which are likely to affect hydrology at the breeding site should also be avoided, because ibis are sensitive to declines in water levels during the WestConnex M4 Widening 83 Biodiversity Assessment breeding season (Brandis *et al.* 2011).

According to Ashfield Council's Ibis Information Sheet Ibis are colonial birds, this means that they naturally gather in numbers during the breeding season (usually August to December) which supports my observations in Marrickville that there is no strict breeding season between August and November as advised by the WestConnex EIS M4 Widening Biodiversity Assessment - Appendix I. Non breeding Ibis commonly congregate in a tree or trees overnight to roost (rest and sleep), but depart to feed and forage during the day. If no nests or young birds are present and it is a roosting site only, the birds can be dispersed and discouraged from roosting (Ashfield Council).

Below is an extract from page 82 of the M4 Biodiversity Assessment – Appendix I

#### **Minimising fauna injury and mortality**

To prevent injury and mortality of fauna during the clearing of vegetation an experienced and licensed wildlife carer and/or ecologist should be present to supervise vegetation clearing and capture and relocate fauna where required. Further details regarding fauna handling and vegetation clearing procedures are provided in the Roads and Maritime Biodiversity

Guidelines (RTA 2011). The following should be implemented to avoid injury and mortality of fauna:

- Allow fauna to leave an area without intervention as much as possible.
- In circumstances where the handling of fauna is completely unavoidable, best practice methods need to be followed as outlined in the Roads and Maritime Biodiversity Guidelines – Guide 9 Fauna Handling (RTA 2011).
- Include the procedures in project inductions for construction staff to implement if fauna is found or injured on site and also the importance of not feeding any wildlife that may be encountered on construction sites.
- Never deliberately kill any native fauna, including snakes, as all native species are protected under the *National Parks and Wildlife Act 1974*.
- Keep records of fauna captured and relocated.
- Report any injury to or death of a threatened species to WDA environmental staff.

At the zone I took photographs there is **no** 40 metre buffer zone around these animals and the birds are still in breeding mode. Although I couldn't see any chicks I can only imagine the majority of them met a sad demise when their environment was bulldozed. At the time I was on the public side of the fence and I did not see any signs on how to manage Ibis.

The WestConnex has given the Ibis situation no serious or binding management focus or looked into it when it was their responsibility to do so. There is no mention of independent observers or an independent group to monitor the integrity of the M4 widening they left it up to no one. It is also evident from the many bird's deaths that either the measures were not genuinely discussed or even passed on to the contractors or worse the contractors may be liable to criminal charges for deliberately harming/killing the Ibis.

It is a serious offence to harm an Ibis (a protected species) National Parks and Wildlife Act 1974 under section S98 (2) A person shall not: (a) harm any protected fauna.



(Photo by V Elton 10/12/2015 – M4 road works were in action, was just off Adderley St W, between Melton and Stubbs Sts) In the above photo the trees in the background abutting the cleared area (top right) are where Ibis have nests and at least 5 Ibis spotted in two favoured trees. In the below photo at least 17 Ibis are at an uncleared grassed area (which is also part of their habitat). This site is about forty metres away from their nesting tree the birds share a brackish waterhole at lower left of picture. The M4 is in the background.



(Photo by V. Elton 10/12/2015 – M4 widening near Adderley St towards Stubbs St over-pass - Ibis proximity to roadworks) The work on the M4 should never have started and certainly not until the Ibis nesting season was over (extended to at least March 2016). The M4 Widening from Church St Parramatta to Homebush EIS was made public in August/September 2014. Contracts (shortlisted) were awarded in December 2014 to Leighton Holdings' company Leighton Contractors has been selected by the WestConnex Delivery Authority (WDA) to design and construct the M4 Widening, in a joint venture with Rizzani

de Eccher Australia. Leighton Contractors' share of the contract value is approximately \$150 million (Leighton media release 5/12/2014 - <https://www.leightoncontractors.com.au/news-and-media/news/leighton-contractors-selected-for-westconnex-m4-widening/>)

The project was approved by the NSW Department of Planning and Environment (DPE) subject to a number of conditions. In the DPE website their **MAJOR PROJECT ASSESSMENT (MPE): WestConnex M4 Widening Land within the M4 corridor between Parramatta and Homebush SSI 6148**, at page 65 (headed Biodiversity)

## 5.7. Biodiversity

### Issue

The proposal has the potential to impact upon three threatened ecological communities (TEC) listed under the NSW *Threatened Species Conservation Act 1995*. Impacts to the identified TECs involve the removal or modification of small isolated areas of low to moderate condition vegetation, including:

- removal of 0.09ha of Shale Gravel Transition Forest; potentially remanent vegetation which has been exposed to disturbance and presents minimal floristic diversity;
- removal of 0.08ha of Swamp Oak Floodplain Forest along Duck River; and
- overshadowing of 0.35ha of Freshwater Wetlands, assessed as highly disturbed.

The following is all I could find in the entire document of 79 pages that mentioned the Sacred Ibis; *'The small area of Shale Gravel Transition Forest at Hill Road is currently used by the Sacred Ibis as a rookery.'*

The DPE in its report advises that in December 2014 it was currently used by the Sacred Ibis as rookery yet works commenced in or before October 2015, their breeding season.

**In assessing the biodiversity impacts the DPE also concluded (p66)** the Department has been mindful of project design and location limitations and the inability of the proponent to avoid the impacts described in this report. Given the generally poor and fragmented nature of the surrounding natural environment, and the small quantity of TECs impacted, the Department concludes that the proposal is unlikely to have significant biodiversity impacts. **Proposed mitigation measures** are considered to be acceptable, and the recommended **Biodiversity Offset Plan** are expected to adequately offset residual impacts.

Evidence from various approved mining and development projects reveals it is becoming increasingly clear that the (NSW Environment and Heritage) Biobanking scheme (credits, like for like, offsets - call it what you will) is subject to dishonesty and manipulation by firms applying for licences to remove native vegetation. Multiple examples here and overseas are found in a web document titled: Critical Review of Biodiversity Offset track record (Fern - <http://www.fern.org/sites/fern.org/files/Critical%20review%20of%20biodiversity%20offsets.pdf>)

Re Biodiversity offsets and like for like **at 5.8. (DPE-MPE)** titled Other Issues

It is expected that these issues would be appropriately addressed through the implementation of best practice management and mitigation measures. Where required, supplementary management and mitigation measures have been identified through further recommended conditions of approval.

The proposed mitigation measures and The Biodiversity Offset Plan as mentioned by the DPE that I have located are not relevant to the Ibis.

In the DPE website in the section Reply to Submissions M4 Biodiversity Offset Strategy there is no mention of the Ibis in the entire document only the mention of the three threatened forest types which include mangrove. At page 7 the DPE *seem to have come to a conclusion about the sites (in which Ibis are breeding but they don't mention) when it talks about Offsets and then at point 6 titled 'Supplementary measures can be used in lieu of offsets.*

It is **unlikely that supplementary measures will be required** by the project as the ecosystem credits required to fully offset the proposed development are readily available on the market at time of preparing this Biodiversity Offset Strategy.

So what actually happened to the offsets and credits and where did they go to? I have no idea. I think I'll be digging forever.

The point here is that the assessment process is completely flawed as it has gone from one document (EIS Biodiversity assessment App I) talking about the Ibis breeding season and their proper management then to another mentioning (only once) the bird as breeding in Threatened Species habitat (the Shale Gravel Transition Forest) then to the DPE document addressing biodiversity from public submissions where the Ibis is not mentioned at all.

### **Conclusion**

I have not seen evidence of any effort by the WestConnex to help the Sacred Ibis in fact all I've seen and heard about is the opposite.

The WestConnex EIS and the DPE (both NSW Government departments) response to public submissions have followed a callous path to the destruction of the Sacred Ibis and their habitat where it could have waited. It had no integrity or merit in its process.

I cannot trust the WestConnex Biodiversity Reports or any other report (heritage, vibration, ventilation, oversight) by the WestConnex because they seriously underplay then dismiss the immensely important issues at hand to ensure the road it built. □□□□□□

The WestConnex cannot abrogate its responsibility to any issue of concern by saying the contractors are responsible or duck shoving it to another area. However the overarching responsibility for this mess is solely in the hands of the NSW Liberal Government which has done nothing to answer genuine public concerns including the lack of transparency for our health, the fauna and flora environment, Sydney's health, and our heritage.

Therefore I submit that the WestConnex and Leightons Contractors are responsible for the destruction of Ibis and should be accountable.

I submit this request for your consideration.

Vj Elton