

Director Infrastructure Projects
Department of Planning and Environment
Application number - SSI 13_6136
Major Projects Assessment
GPO Box 39 Sydney NSW 2001

9 September 2014

Dear Sir or Madam

Re: EIS Submission - NorthConnex M1 - M2 Project

I object to this proposal and I believe that it would be illegal to approve the project.

1) The EIS is deceptive and misleading to the public

Two example of how the EIS is misleading to the public are:

- a) The EIS assesses the emissions against a standard instead of existing levels. For instance, emissions of NO₂ are measured as a percentage of an assessment criteria based on a NSW standard (that is over 10 years old and a long way behind comparable standards in the US and Europe) rather the actual increases.

The EIS states that the NSW standard critical level is 246 ug/m³ is 'similar' to that specified by the US EPA of 189 ug/m³. It is actually a difference of 30 %.

If we search the EIS, we can find in Appendix C that background levels of NO₂ (based on OEH observations in Prospect and Lindfield) are likely to be around 17.1 ug/m³, while on page 73, the project contribution is given as 74.6 ug/m³. The new background level of 91.7 ug/m³ is therefore a 536% increase of NO₂ levels due to the project. The EIS tells us that this change is 'negligible and insignificant'.

- b) The EIS contains loads of useless information that acts to take away the attention from the main facts. For example the volume on air quality alone is 494 pages and it manages to never make a direct comparison between the levels of pollutants from vehicle emissions in Wahroonga today with what they will be after the project. It could be construed that the detail has been provided to make the document unreadable and obscure the lack of real information.

2) This EIS does not meet the objectives of the Environmental Planning and Assessment Act 1979 (EPAA)

Section 5a (vii) sets out the objectives of the EPAA to include ecologically sustainable developments (ESD). One of the dominating principles of ESD is the precautionary principle.

Stein J has concluded that ‘the precautionary principle is a statement of common-sense...It is directed towards the prevention of serious or irreversible harm to the environment in situations of scientific uncertainty. Its premise is that where uncertainty or ignorance exists concerning the nature or scope of environmental harm (whether this follows from policies, decisions or activities), decision-makers should be cautious.’

This principle of precaution should apply to protect the existing environment in Wahroonga from the clear potential for harm from vehicle emission pollutants that are intended to be discharged from the northern ventilation outlet.

This EIS fails to take any element of precaution into account:

- a) It uses estimates of current levels of pollutants drawn from areas that have little relationship to the environment that will be adversely impacted by the project and averages them so that they are artificially increased by infrequent events such as bushfires
- b) It uses estimates of meteorological data based on data from areas that are also remote from the area impacted. The impact of the specific environment of Wahroonga such as having the highest rainfall in the Sydney area has not been taken into account
- c) Poor choice of location for the northern ventilation stack and portal

I understand that placing the northern ventilation outlet NorthConnex directly above the tunnel exit portal is important for efficient ventilation. However, with the current design, this means it will be in a valley in the middle of a residential area and close to numerous schools.

The residents of Wahroonga and the children attending the nearby schools will be subjected to an unreasonable risk of harm and no attempt has been made to properly evaluate that risk.

- d) The EIS has been written with the sole intention of supporting the project. Instead of evaluating risk, it obscures the extent of the increase in pollutants (refer to 1 (a) above) with the use of misleading statistics and attempts to ‘baffle with bullshit’ rather than highlight the very real.

The risk or expectation of harm does exist and is not negligible.

Evidentiary burden of proof with scientific Uncertainty

Since the important judgement from Preston J in *Telstra Corporation Ltd v Hornsby Shire Council* In 2006, there has been a shift from evidentiary burden of proof. This means that

once a threat of irreversible harm has been established, the precautionary principle operates and requires the decision-maker to act as though the threat is certain.

This project threatens the health and wellbeing of many residents of Wahroonga and so decision makers should act to ensure that it is stopped or a more sensible alternative adopted.

Precautions needed to meet the ESD requirements

The following steps should be undertaken to ensure ESD requirements have been fulfilled.

1. Tender the project, review options presented and select one that is not flawed.
2. Have an independent body evaluate the impact of this or any other proposal to ensure that the community is not harmed.
3. Take the time to get correct background air-quality data and correct meteorological measurements.
4. Provide direct comparisons of pollutant levels for before and after the project at various locations around any ventilation arrangements.
5. Reconsider the 2004 report and the Corridor C option.

Corridor A was recommended as the solution to improve the movement of state and national freight from M1 to M2 by the SKM 2004 report and the Pearlman review 2007. The report lists Corridor C as having a higher environmental impact than Corridor A. If this is the best Corridor A option, then the report outcome might be revised in favour of Corridor C. I don't believe that the report would have anticipated this outcome and Judge Pearlman indicated his preference for Corridor C as the long term (20 year) goal in 2007.

6. Look at alternative solutions for Corridor A. For example:
 - a. Make Pennant Hills Road the corridor. Some simple over and underpasses may provide an effective solution at a much lower cost to the Australian public.
 - b. Relocate the tunnel stack and exit portal. For instance:
 - Next to Wahroonga is vast unhabitated area (i.e. Bobbin Head National Park).
 - Cover the tunnel and move the portal out of the Wahroonga area
 - Move the stack to an industrial area

3) Existing Use rights

The ventilation stack and its associated pollution has the nature of an industrial activity that does not belong in a residential area. It also impacts an area considerably larger than its own footprint. It seems that some sort of change would need to be made to the permitted uses of the land around Wahroonga to allow this. Such a change would impact the 'existing

use' rights of current residents under section 106 of the EPAA and should therefore not be allowed.

The impact of the project has been compared to sitting next to an open fire. At the moment I choose not to sit next to open fires [REDACTED]. I should not be put in a position where the equivalent of an open fire is continuously polluting my home and I have no option to escape it. My Husband and I feel that we would be forced to move our family if this project goes ahead and that we would be entitled to compensation for the fact of having to do that.

Conclusion

This project appears to be illegal. The EIS:

- is misleading to the public
- does not comply with the ESD requirements of EPAA as limited precaution has been undertaken and thus project should not be approved
- changes the existing use of my property

Please contact me at wellham_suzanne@hotmail.com if you have any questions. I would appreciate a confirmation that this letter has been received.

Regards

Suzanne Wellham