

Actions vs. Promises on Climate Change

Read and Distributed at WNY Environmental Listening Session

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Niagara Arts and Cultural Center

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By Douglas Funke

President, Citizens for Regional Transit

Now that we understand the existential threat of climate change and have passed a myriad of laws and guidelines to mitigate its existential threat (References 1 through 4 and others), why do we continue to develop highway centric projects that violate the new laws and guidelines (References 5 through 8). We now even have a NYS Constitutional Amendment (passed by the voters by a 2 to 1 margin) that says “*each person shall have a right to clean air and water, and a healthful environment.*” (Reference 9). How can we make NYS agencies follow the new environmental and associated social justice goals and the NYS Constitution’s “Green Amendment”?

This includes NYSDOT whose Kensington Expressway Project’s preferred plan violates the new environmental laws and social justice goals established to fight climate change and rectify past racist policies.

The NYSDOT Kensington draft preferred design document says that it is “consistent with” the CLCPA law because CO₂ is reduced by 0.04% by 2047. But the CLCPA requires 40% reduction by 2030 and 85% by 2050. The plan also admits that particulate pollution near the portals goes up by 6%. It is not following the CLCPA.

The NYS Draft Scoping Plan (for meeting the CLCPA requirements) calls for reductions in vehicle miles travelled (VMT) and investments in alternative clean transportation modes, like and especially public transit. Note that the \$1B being spent on the Kensington would be enough to extend Buffalo’s hydro-powered light rail to the airport and a park & ride near Transit Road. But the Kensington plan’s stated objective is to maintain current VMT and does not consider alternative transit solutions.

All projects in the GBNRTC 2024-2026 Unified Planning Work Program (Reference 10) identify how projects address the FHWA / FTA Planning Emphasis Areas (PEAs). But the Kensington Project is omitted from the UPWP so no accountability vis-à-vis the PEAs is available. See Attachment 1 for our assessment of how the Kensington meets the PEAs. The PEAs call for projects emphasize:

- Tackling Climate Change
- Equity and Justice 40 in Transportation Planning
- Complete Streets

- Public Involvement
- Planning and Environmental Linkage (PEL)
- Data in Transportation Planning

The USDOT Equity Action Plan (Reference 7) calls for focus on equity and a emphasizes community involvement. NYSDOT community outreach was with invited groups only. When CRT asked to attend, we were told we were not welcome at that we had to go the NYSDOT office to give our feedback privately. Public meetings were only held after the design approach was selected.

We call on NYSDOT to slow down, do a full Environmental Impact Statement (EIS) with full public and community involvement like was done for the Region Central Project. It's not too late to follow environmental guidelines and the NYS Constitution's "Green Amendment".

Sincerely,

Douglas Funke
President. Citizens for Regional Transit

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2. [UN Climate Press Release](https://unfccc.int/news/new-analysis-of-national-climate-plans-insufficient-progress-made-cop28-must-set-stage-for-immediate). New Analysis of National Climate Plans: Insufficient Progress Made, COP28 Must Set State for Immediate Action. 14 November 2023 (<https://unfccc.int/news/new-analysis-of-national-climate-plans-insufficient-progress-made-cop28-must-set-stage-for-immediate>)
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4. Intergovernmental Panel on Climate Change (IPCC). WMO and UN Environment Program. IPCC Sixth Assessment Report. (<https://www.ipcc.ch/assessment-report/ar6/>)
 - a. The Working Group I contribution to the Sixth Assessment Report, [Climate Change 2021: The Physical Science Basis](https://www.ipcc.ch/report/ar6/wg1/) was released on 9 August 2021.
 - b. The Working Group II contribution, [Climate Change 2022: Impacts, Adaptation and Vulnerability](https://www.ipcc.ch/report/ar6/wg2/) was released on 28 February 2022.

- c. The [Working Group III contribution](#) , *Climate Change 2022: Mitigation of Climate Change* was released on 4 April 2022.
 - d. The [Synthesis Report](#) , *Climate Change 2023: Synthesis Report* was released on 20 March 2023 to inform the 2023 Global Stocktake under the United Nations Framework Convention on Climate Change.
5. NYS Climate Leadership and Community Protection Act (CLCPA).
(<https://climate.ny.gov/Resources/Scoping-Plan>)
 6. NYS Climate Action Council. Scoping Plan, Full Report, December 2022.
([file:///Users/douglasfunke/Downloads/NYS-Climate-Action-Council-Final-Scoping-Plan-2022%20\(8\).pdf](file:///Users/douglasfunke/Downloads/NYS-Climate-Action-Council-Final-Scoping-Plan-2022%20(8).pdf)).
 7. USDOT Equity Action Plan. September 2023.
(<https://www.transportation.gov/priorities/equity/equity-action-plan>).
 8. FHWA and FTA Program Emphasis Areas (PEAS).
<https://www.transit.dot.gov/sites/fta.dot.gov/files/2022-01/Planning-Emphasis-Areas-12-30-2021.pdf>
 9. New York’s Green Amendment. “Environmental rights. Each person shall have a right to clean air and water, and a healthful environment.”
(https://www.google.com/search?q=NYS+Constitution%27s+green+amendment&oq=NYS+Constitution%27s+green+amendment&gs_lcrp=EgZjaHJvbWUyBggAEEUYOTIHCAEQIRigATIHCAIQIRigATIHCCAMQIRigATIHCAQQIRigATIHCAUQIRigAdlBCTExOTg3ajBqN6gCALACAA&sourceid=chrome&ie=UTF-8#ip=1)
 10. The GBNRTC 2024 - 2026 Unified Planning Work Program (UPWP).)
<https://static1.squarespace.com/static/56ccbafd3c44d8670dbd1d84/t/65dcf57d77c7566e091b994e/1708979583879/GBNRTC+UPWP+24-26+Final.pdf>)

Attachment 1. CRT Spring Newsletter President's Column

President's Column

Why Is the Kensington Expressway Project Not Included in the GBNRTC 2024 - 2026 Unified Planning Work Program?

By Douglas Funke, CRT President

As defined in the 2024-2026 Unified Planning Work Program (UPWP) Report the UPWP is a:

"... biennial statement of work identifying the planning and work priorities and activities to be carried out within a Metropolitan Planning Organization" (MPO).

Our Metropolitan Planning Organization is the Greater Buffalo Niagara Regional Transportation Coalition (GBNRTC) covering Erie and Niagara Counties. The UPWP report identifies and describes major WNY transportation projects. For example, the 2024-2026 UPWP includes the Buffalo Metro Expansion Project along with many other projects in various stages of planning and development. Here's a link to the report.

<https://static1.squarespace.com/static/56ccbbfd3c44d8670dbd1d84/t/65dcf57d77c7566e091b994e/1708979583879/GBNRTC+UPWP+24-26+Final.pdf>

Shockingly, the Kensington Expressway Project is not included in the 2024 – 2026 UPWP. CRT reviewed the draft UPWP and submitted formal comments that asked why. Here's GBNRTC's response:

"Regarding the Kensington Expressway, NYSDOT is advancing its project through environmental review as of the time of the UPWP development. Any future planning for the Rt. 33 corridor, including connecting the Region Central concept, would be best suited to be undertaken after the conclusion of the environmental review for the current project. "

Really? Other projects that are in planning and environmental stages are included in the UPWP. For example, the Bailey Avenue Corridor Study, the I-90 Exit 50 Planning and Environmental Linkage Study and the Buffalo Metro Expansion are included. Why isn't the Kensington included in the UPWP?

This is disappointing because every project in the UPWP is analyzed with respect to the FHWA Planning Emphasis Areas (PEAs). According to the UPWP draft report:

"GBNRTC has incorporated FHWA Planning Emphasis Areas (PEAs) into all of its UPWP tasks."

Since the Kensington Expressway Project is not included in the UPWP there is no accounting of whether and how the PEAs are incorporated. Here are the FHWA PEAs and our assessment of how well or whether the Kensington Project incorporates them.

| FHWA Planning Emphasis Areas (PEAs) | The Kensington Expressway Project |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Tackling Climate Change – Transition to a Clean Energy, Resilient Future. “... reducing single-occupancy vehicle trips and increasing access to public transportation, shift to lower emission modes ...”</p> | <p>FAILS. The expressway project is designed to maintain the same vehicle capacity and ignores potential East Side Metro Rail public transit options.</p> |
| <p>Equity and Justice40 in Transportation Planning – “... deliver 40 percent of the overall benefits of relevant federal investments to disadvantaged communities” ... “implement the goals of the Justice40 Initiative utilizing existing data sources and indices that are currently used by programs serving low income, vulnerable, and underserved communities ...”</p> | <p>FAILS. The benefits of the project go to suburban commuters while the pollution remains concentrated in a disadvantaged minority community. Only a portion of the road will be in a tunnel. Pollution will increase at portals with no improvement in uncovered portions of the expressway.</p> |
| <p>Complete Streets – “... promote Complete Streets principles in the region... provide an equitable and safe transportation network for travelers of all ages and abilities, including those from marginalized communities facing historic disinvestment. ...”</p> | <p>FAILS. This project is the opposite of a complete street. While there will be some green space on top of the tunnel the 6-lane expressway will continue to deliver 70,000 cars at highway speeds through the historically disadvantaged neighborhood. Only a portion of the expressway will be covered.</p> |
| <p>Public Involvement – “... early, effective, and continuous public involvement brings diverse viewpoints into the decision making...”</p> | <p>FAILS. Project planning was restricted to invited community groups only. <i>CRT was told we were not welcome</i> and were directed to the DOT office to register comments privately. Public Meetings were held after the project design was selected. Only one Public Hearing with public microphones was held after the Draft Design Report / Environmental Assessment was published. Most speakers were against the tunnel.</p> |
| <p>Strategic Highway Network (STRAHNET) – ... consider national security ramifications...</p> | <p>Not Applicable. The Kensington is not part of the STRAHNET.</p> |
| <p>Federal Land Management Agency (FLMA) Coordination – “... consider needs related to connecting to Federal lands ...”</p> | <p>Not Applicable.</p> |
| <p>Planning and Environmental Linkages (PEL) – “... decision-making that considers environmental, community, and economic goals early in the transportation planning process, and uses the information, analysis, and products developed during planning to inform the environmental review process ...”</p> | <p>FAILS. A full Environmental Impact Statement was not conducted, let alone a full PEL. CO₂ pollution requirements of the CLCPA were ignored. Particulate pollution will increase by 6% and be concentrated at the tunnel portals with no improvement in uncovered parts of the expressway. Public health impacts were not evaluated. The NYS Constitution’s “Green Amendment” is being violated.</p> |

Data in Transportation Planning –
 “...incorporate data sharing and consideration into the transportation planning process ... allows for efficient use of resources and improved policy and decision-making. ...”

FAILS. The East Side Parkways Coalition had to FOIL NYS DOT to get arterial traffic impact data, which show that the arterials can handle the Kensington traffic.

Is this why the Kensington Expressway Project was omitted from the 2024-2026 UPWP? It fails to address and does not meet any of the FHWA PEAs. Its omission from the UPWP hides this failure. We call on the DOT to slow down, evaluate compliance with the PEAs and make modifications needed. This should at least include a full EIS and a public health effects analysis. It should seek and integrate community inputs. CRT has joined many other community groups – including GOBike Buffalo, WNY Olmsted Conservancy, East Side Parkways Coalition – to oppose the tunnel approach and implement a community-driven process that considers all alternatives including full restoration of the Humboldt as a surface parkway. ***Other NY cities are getting highway removal, why not Buffalo’s East Side?***

Will you join us in signing an ESP e-letter to government and political leaders across local, state, and national levels? Please take a minute to add your name to this important e-letter. Here’s a link: <https://actionnetwork.org/letters/humboldt-parkway-restoration-project>



Today’s Kensington Expressway cuts through Buffalo’s East Side

NYS DOT’s tunnel proposal leaves vast sections of the Kensington unimproved! Particulate pollution will be increased and concentrated at tunnel portals in violation with NYS environmental laws and the NYS Constitution’s “Green Amendment”. (Picture Source: UB Small Built Works Program)